

AUDIT REPORT NO. 67-2
FEBRUARY 1967

MANAGEMENT AUDIT OF KULA SANATORIUM

A REPORT TO THE GOVERNOR AND THE
LEGISLATURE OF THE STATE OF HAWAII



SUBMITTED BY THE LEGISLATIVE AUDITOR OF THE STATE OF HAWAII

THE OFFICE OF THE LEGISLATIVE AUDITOR

The office of the legislative auditor is a public agency attached to the Hawaii State legislature. It is established by Article VI, Section 8, of the Constitution of the State of Hawaii. The expenses of the office is financed through appropriations made by the legislature.

The primary function of this office is to strengthen the legislature's capabilities in making rational decisions with respect to authorizing public programs, setting program levels, and establishing fiscal policies and in conducting an effective review and appraisal of the performance of public agencies.

The office of the legislative auditor endeavors to fulfill this responsibility by carrying on the following activities.

1. Conducting examinations and tests of state agencies' planning, programming, and budgeting processes to determine the quality of these processes and thus the pertinence of the actions requested of the legislature by these agencies.
2. Conducting examinations and tests of state agencies' implementation processes to determine whether the laws, policies, and programs of the State are being carried out in an effective, efficient and economical manner.
3. Conducting systematic and periodic examinations of all financial statements prepared by and for all state and county agencies to attest to their substantial accuracy and reliability.
4. Conducting tests of all internal control systems of state and local agencies to ensure that such systems are properly designed to safeguard the agencies' assets against loss from waste, fraud, error, etc.; to ensure the legality, accuracy and reliability of the agencies' financial transaction records and statements; to promote efficient operations; and to encourage adherence to prescribed management policies.
5. Conducting special studies and investigations as may be directed by the legislature.

Hawaii's laws provide the legislative auditor with broad powers to examine and inspect all books, records, statements, documents and all financial affairs of every state and local agency. However, the office exercises no control functions and is restricted to reviewing, evaluating, and reporting its findings and recommendations to the legislature and the governor. The independent, objective, and impartial manner in which the legislative auditor is required to conduct its examinations provides the basis for placing reliance on its findings and recommendations.



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FOREWORD

This report incorporates our findings and recommendations resulting from our management audit of Kula Sanatorium held during the summer of 1966. The audit was conducted pursuant to the authority granted to the office of the legislative auditor by article VI, section 8 of the Constitution of the State of Hawaii and chapter 2, title III of the Revised Laws of Hawaii 1955. This is one of a continuing series of management audits through which we attempt to assess whether the laws, policies, and programs of the State are being carried out in an effective, efficient and economical manner.

We have endeavored, in this report, to objectively and candidly present our views on the management problems of Kula Sanatorium and to offer constructive recommendations for their resolution. Lest our intent be misconstrued, we wish to make clear that we offer this report in a positive spirit of rendering assistance to the hospital's management in its continuing efforts toward management excellence. We are hopeful, therefore, that all who are affected by this report receive our comments and recommendations in this light and thus take full advantage of a frank assessment by an objective and independent agency.

We have included in this report problems that seem to be of minor financial consequence when viewed within the context of Kula Sanatorium. They are discussed herein, however, because they tend to take on major proportions when viewed on a statewide basis. These discussions, therefore, are presented for the guidance of not only Kula but for all state and local agencies. In this way, we have hoped to expand the impact of this audit report beyond the limited confines of a small hospital. Some of the topics of statewide interest and pertinence are as follows:

**PART I
INTRODUCTION AND BACKGROUND
INFORMATION RELATING TO THE PROGRAMS
AND MANAGEMENT OF KULA SANATORIUM
CHAPTER 1
INTRODUCTION**

In January of 1966, the department of budget and finance of the State of Hawaii issued a report on its findings and recommendations resulting from its audit examination of the operations of Kula Sanatorium. We reviewed that report in terms of its pertinency in identifying the major management deficiencies extant at the subject institution and in recommending practical solutions to them.

We are in general accord with the findings and recommendations made by the department of budget and finance. However, we are of the opinion that there are areas where the report did not clearly identify nor fully explore the bases and implications of the management problems and deficiencies at Kula Sanatorium. In addition, we noted that there are certain management deficiencies and problems which were not discussed in the budget and finance report. In view of our limited but major differences with the department of budget and finance report, we found it necessary and timely to conduct our own independent study of

Kula Sanatorium's financial and management practices.

OBJECTIVES OF THE STUDY

Our study had these objectives:

- (1) To evaluate Kula Sanatorium's progress in implementing the recommendations of the department of budget and finance as contained in its audit report.
- (2) To identify, evaluate, and report on the deficiencies in the existing policies and practices of Kula Sanatorium.
- (3) To recommend specific actions as appropriate to correct these deficiencies in fiscal and management practices and otherwise to promote effective management of the institution.

SCOPE AND APPROACH OF THE STUDY

Our efforts were not intended to duplicate the study of the department of budget and finance. Thus, although our study generally considered the broad range of existing management practices,

detailed evaluations were made only on selected problems, policies and practices not covered or covered only in a limited fashion in the audit report of the department of budget and finance.

SPECIAL FACTORS

We note two recent developments which the reader should bear in mind as he reads this report.

(1) A new Act 97 contract between the State and the county of Maui is being prepared for the fiscal year ending June 30, 1967. Our study was based on the contract in force.

(2) The present superintendent of Kula Sanatorium will be resigning from his position in the near future for health reasons. Our comments relative to this position are still pertinent regardless of who the incumbent is.

ORGANIZATION OF THIS REPORT

This report is organized into three major parts.

Part I consists of this introduction (chapter 1), a brief description of each of the four patient care programs of Kula Sanatorium (chapter 2) and some background information on the roles of the managing committee, the county of Maui and the State of Hawaii in the management of Kula Sanatorium (chapter 3). Chapters 2 and 3 contain matters which we believe are necessary to an understanding of this report.

Part II (chapter 4) describes the audit of the department of budget and finance and the efforts made to date by the sanatorium to implement the recommendations made in the audit report. Chapter 4 includes summary comments as well as general comments on each specific recommendation.

Part III (chapters 5 to 8) presents our evaluation and recommendations regarding specific institutional, fiscal and management problems.

Part IV contains a "summary" of this report.

CHAPTER 2 A DESCRIPTION OF HOSPITAL PROGRAMS

Kula Sanatorium and General Hospital is a government-operated, long-term care institution located at Kula in the county of Maui. It was first established in 1910, at a time when tuberculosis was a major cause of death in the Territory of Hawaii. Initially, it was called the "Maui County Farm and Sanitarium", and its purpose was to isolate and to provide care and treatment to persons afflicted with the dreaded disease. Today, Kula Sanatorium is a multiple-program institution which provides tubercular and non-tubercular long-term hospital care as well as acute illness care. The following briefly describes these varied programs.

TUBERCULOSIS PROGRAM

From its inception in 1910 through 1959, Kula Sanatorium served almost exclusively as a tubercular hospital. At times during this period, most notably in the 1930's, even with the construction of a 200 bed hospital in 1936, its T.B. patient load was at a capacity level. In

later years, improved treatment techniques drastically reduced the need for lengthy hospitalization. As a result, the T.B. in-patient census began to decline, and, by 1958, the hospital was experiencing a 50 per cent bed vacancy rate. Today, the T.B. patient load constitutes only 25 per cent of the total hospital beds.¹

This program at Kula Sanatorium is financed entirely by state appropriations. Under Act 90, SLH 1949, all tubercular patients are entitled to free hospitalization.

¹For fiscal year 1966-67, a total of 165 beds are allocated to direct patient care as follows: Sanatorium proper - T.B. (40), psychiatric (50), chronic illness (60); Kula General Hospital (15). The remaining bed spaces equivalent to 50 beds in the sanatorium and 5 beds in the K.G.H. are set aside for recreational patient activity and other uses.

CHRONIC ILLNESS PROGRAM

This program was initiated in 1959 under authorization of Act 153, SLH 1959. The act permits the use of tuberculosis treatment funds for the admittance and care of indigent and medically indigent persons suffering from chronic diseases. Although Act 153 is silent on the matter, the hospital has admitted non-indigents as well as indigents to this program.²

As reflected in Table I, this program is characterized by its (a) high occupancy rate, (b) low patient turnover, and (c) long duration of patient hospitalization. The services of this program have been consistently in great demand. On August 1, 1966, for instance, all 60 beds allocated to this program were in use and nine persons were on the waiting list for admittance.

²A review of patient accounting records on August 2, 1966, indicated that there were 12 patients in this program who were not indigents or medically indigents.

Although financed from state appropriations, unlike the T.B. program, the chronic illness program recovers a portion of its operating costs from the patients and the department of social services. Non-indigent patients are charged the daily rates set by the hospital. For each indigent or medically indigent patient, the department of social services pays the daily rate set by contract between the department and the hospital.

PSYCHIATRIC CARE PROGRAM

This program began in 1960, as an offshoot of Act 153, SLH 1959. The First State Legislature in 1960, in a conference committee report, expressed the intent that the department of health may place in T.B. hospitals selected mental health patients from the State Hospital, if the T.B. hospitals consent to such an arrangement and can care for patients within their appropriations.

Presently, 50 beds are allocated to this program. Professional psychiatric services are provided by a psychiatrist of the department of health. All other patient care services, including psychiatric nursing, treatment of medical disabilities and activity therapy, are furnished by the sanatorium. All program costs, except the cost of the psychiatrist, are assumed by the sanatorium and are budgeted together with the T.B. program.

GENERAL HOSPITAL PROGRAM

Kula Sanatorium also operates a 20-bed capacity, acute care facility, called the "Kula General Hospital." Physically, the facilities are located adjacent to the main Kula Sanatorium structure and consists of a single-story, wooden building. The general hospital services the medical needs of the residents in the Kula area. While the origin of this program is obscure, it has been reported that general, medical and surgical services to non-tubercular patients were

provided even before 1930, when the sanatorium was basically a long-term care, tubercular institution.³

Program activities include acute illness and obstetrical hospital care; clinical services, such as X-ray and laboratory; and emergency ambulance services.

With the exception of public welfare clients, all patients of Kula General Hospital are considered to be private patients under the care of their own attending doctors and are individually responsible for hospital fees and charges. Hospital expenses incurred by welfare clients, including physician services, are paid for by the department of social services under contractual arrangements with Kula Sanatorium.

³Kula Sanatorium, "Program Evaluation and Statement of 5-Year Program Goals for Kula Sanatorium," August 30, 1965, p. 9.

In the past, the county was financially responsible for this program. In addition to recoveries from patient charges, the program was financially supported by the county through (a) county allocation of state general hospital subsidies and (b) county subsidy to cover program deficits. On July 1, 1965, this county responsibility was transferred to the State by Act 97, SLH 1965.

The following table provides some program data, reflective of experiences during fiscal year 1965-1966, which help to illustrate some basic characteristics of each of the four patient care programs conducted and administered by Kula Sanatorium and General Hospital.

CHAPTER 3
HOSPITAL MANAGEMENT

Table I
Bed Allocation and Utilization Experience by Programs
During Fiscal Year 1965-1966^{a/}

	<u>Tuber- culosis</u>	<u>Psychi- atric</u>	<u>Chronic Illness</u>	<u>Kula General Hospital</u>
No. of Beds Allocated	45	45	60	20 ^{b/}
Av. Daily Census	40	31	62 ^{c/}	5
Tot. Patients Admitted	31	14	34	256
Tot. Patients Discharged	37	11	10	254
Program-Wide Av. Length of Stay (Days)	445	808	583	6.8

^{a/} Estimates as of June 15, 1966, as reported in Kula Sanatorium's "Operational Expenditure and Program Plans for Fiscal Year 1966-1967." See footnote 1 for bed allocation plan for 1966-1967.

^{b/} Excludes six bassinets for infant care.

^{c/} This apparent overcapacity usually results when both the patient discharged and his replacement are reported in the patient census on the same day.

PRIOR TO ACT 97

Prior to the enactment of Act 97, SLH 1965, three governmental bodies shared responsibility in the overall management and operations of Kula Sanatorium--the managing committee of Kula Sanatorium, the county of Maui and the State of Hawaii. This section examines the role of each governmental unit and the relationship among the three as they existed prior to Act 97. This discussion is of more than historical interest, despite the passage of Act 97 and the take-over of the hospital functions by the State, for two reasons. First, both the managing committee and the county are still active in the management of the sanatorium because of the state-county contract entered into under Act 97. Second, this orientation is necessary to an understanding of some of the problems examined in this report, since those problems arose, in the main, prior to Act 97.

1. The role of the managing committee:
The direct management of Kula Sanatorium was vested in a managing committee created by Act 78, SLH 1933. This committee was composed of five members who served without pay for four-year terms. The members were appointed by the chairman of the Maui county board of supervisors, with the approval of the board. The statute assigned to the managing committee

"full management and control of Kula Sanatorium, the improvements thereto and the maintenance and equipment thereof . . . and the full control of the expenditure of all money made available by law or otherwise for the improvement, maintenance and equipment of the sanatorium." (Section 148-25, RLH 1955, as amended.)

It was empowered to select its own chairman; to establish rules and regulations for the conduct of its business and the business of Kula Sanatorium; to maintain a special fund for all money made available for its use; to hire the employees of the hospital and to fix their salaries;

and to examine, approve and direct the payment of due claims.

By virtue of this broad delegation of statutory powers, Kula Sanatorium was accorded a "semi-autonomous" status within the Maui county governmental structure. As such, it was not subject to the administrative control of the county government except for specific "housekeeping" functions vested in the county by statute. Under these conditions, the managing committee could and did exercise broad, independent, discretionary authority in managing the affairs of Kula Sanatorium. These powers, conferred upon the managing committee in 1933, remained essentially unchanged until passage of Act 97 in 1965.

2. The role of the county: The involvement of the board of supervisors of the county of Maui in the general management of the sanatorium was limited to (a) appointing the members of the managing committee, (b)

receiving regular reports from the committee, (c) providing certain central staff services, and (d) providing financial support.

The county possessed no authority in the direct managing of the hospital. Administrative policies issued by the board of supervisors for the guidance of county agencies did not generally apply to Kula Sanatorium. For example, when the county began its bulk gasoline purchasing program, the sanatorium was invited but not directed to participate.

The central staff services required by law to be furnished by the county were as follows:

- . The county attorney acted as the legal counsel to the managing committee (section 148-25, RLH 1955, as amended).
- . The county auditor conducted periodic audits of the hospital (section 144-58, RLH 1955, as amended) and prepared and issued warrants for the sanatorium as directed by the managing committee (section 148-25, RLH 1955, as amended).

- . The county civil service department administered the county civil service laws, rules and regulations as they pertained to the hospital employees (section 3-62, RLH 1955, as amended).

The financial responsibility of the county consisted of appropriations for the general hospital program. Once appropriated, however, the county had little control of the funds since these appropriations were often made to finance program deficits. The managing committee exercised the real financial control through its power to allocate and utilize the resources as it saw fit.

3. The role of the State: The primary role of the State was that of making available to the hospital the land needed for its physical facilities and of providing financial support for the tuberculosis and the chronic illness programs. Over the years, the State assigned a total of about 390 acres of its lands to the county of Maui and Kula Sanatorium for sanatorium and farm purposes. Additionally, every year since 1910, the State appropriated funds to

Kula Sanatorium for either, or both, operating costs and facility improvements. Since 1949, when the means test for tuberculosis hospitalization was eliminated, the extent of the State's financial support to Kula Sanatorium amounted to almost full subsidization of its operations. Even the general hospital program, which was then financed by patient charges and county appropriations, was being indirectly supported in part by the State through its statewide hospital subsidy program.

The relationship between the State and the sanatorium was basically one wherein the State "purchased" medical and hospital services from the sanatorium. Thus, the degree of control exercised by the State was generally limited to budgetary matters. As a general rule, once appropriations were made and allotted to the sanatorium, the administration and control of these funds were vested solely in the managing committee, subject only to limited budgetary control by the State's central budget agency.

UNDER ACT 97

The respective roles of the managing committee, the county of Maui and the State in the management of Kula Sanatorium were significantly altered by Act 97, SLH 1965. The act fixed the responsibility for "the planning, construction, improvement, maintenance and operation of public hospitals and other public health and medical facilities . . ." in the State government.

Pursuant to the act, by an executive order, dated July 20, 1965, the governor assigned this hospital function to the State department of health. Act 97 provided that the State department to which the governor assigns this function "shall succeed to all the rights and powers exercised, and all of the duties and obligations incurred by the counties in the exercise of the functions transferred, whether such powers, duties and obligations are mentioned in or granted by law, contract, or other document . . ." In the opinion of the State attorney general, by reason of the executive

order, "all of the powers in respect to county hospitals, formerly lodged in the several managing committees were effectively transferred to the Department of Health" ⁴

Except for a proviso in Act 97, Kula Sanatorium would today be under the direct management of the director of the State department of health. The proviso authorized the governor to enter into contracts with the several counties to provide for the uninterrupted continuation of services during fiscal year 1965-1966. Act 14, SLH 1966, authorized the governor to re-enter into the contracts with the several counties for another year ending June 30, 1967.

Under the contract between the State and the county of Maui, the county agreed to

⁴Department of the Attorney General, State of Hawaii, memorandum 65-17, "Subject: The role of the county hospital managing committees under Act 97, Session Laws of Hawaii 1965," dated May 31, 1966.

operate the public hospitals, including Kula Sanatorium, in the same manner and to the same extent as existed prior to the effective date of Act 97. By reason of this contract provision, the managing committee of Kula Sanatorium continues to exist. In its memorandum, the State attorney general ruled that "the managing committees may properly perform their duties as heretofore existing, except as those duties may have been altered by the Act 97 contracts." ⁵ But, the existence and powers of the managing committee are now derived from the contract and not from the prior statutory provisions. No longer does the managing committee of Kula Sanatorium exist as a semi-independent policy body.

Act 97 and the contracts thereunder provide both the State and the county opportunities for far greater and more direct involvement in the management

affairs of Kula Sanatorium than either had ever experienced before. The degree and the manner in which that opportunity has been exploited is the subject of inquiry in a subsequent chapter.

⁵Id.

**PART II
THE DEPARTMENT OF BUDGET AND
FINANCE'S AUDIT OF KULA SANATORIUM
CHAPTER 4
THE AUDIT, AND KULA SANATORIUM'S
PROGRESS IN IMPLEMENTING THE AUDIT
RECOMMENDATIONS**

In 1965, the department of budget and finance of the State of Hawaii undertook a comprehensive evaluation of the management and operations of Kula Sanatorium and General Hospital. The results of this study were presented in its "Report of a Financial and Management Audit of Kula Sanatorium", dated January 7, 1966. This chapter describes the nature of the report and reviews the progress made by Kula Sanatorium in implementing the recommendations contained in the report.

DESCRIPTION OF THE AUDIT

The audit was undertaken as part of an overall review of the current role and operations of tubercular hospitals as requested by House Resolution No. 46, 1965 State legislature, and as directed by the governor. Its scope broadly encompassed (1) the analysis of the institution's fiscal policies, financial records and accounting procedures; and (2) the analysis of the management and operations of institutional programs, services and facilities. Among others,

it covered subjects specified in House Resolution No. 46, such as justification of programs and services; cost allocations; perquisites and contracts; current and planned use of facilities and the disposition of revenues. The study commenced in June 1965 and extended through October of that year.

As noted in the final report, the study was limited by one important factor. Since the study was done during the formative stages of the revised state-county relationships under Act 97, the impact of the act on the operations of Kula Sanatorium was not readily foreseeable. Therefore, the recommendations of the study focused on the internal affairs of the institution and only selective references were made to Act 97 and its effects on state-county-hospital relationships.

IMPLEMENTATION OF AUDIT RECOMMENDATIONS

We find that Kula Sanatorium has failed to follow up effectively a number of

major recommendations made by the department of budget and finance, particularly those recommendations relating to personnel and property management.

Table II summarizes the progress achieved by Kula Sanatorium in implementing each recommendation. The information reported was initially obtained from a written progress report, dated May 2, 1966, rendered by the chairman of the managing committee of Kula Sanatorium to the State director of finance. These data were then updated and verified during field visits to Kula by our staff in the following months of June and August.

In view of the extensiveness of the comments contained in Table II, the following should be helpful in identifying some of those more significant recommendations, the implementation of which is lagging.

1. General management: The recommendations pointed out the need for clearer delineation and clarification of

managerial responsibilities and the need for systematic documentation of institutional policies and procedures. In consonance with these recommendations, institution-wide administrative policies and procedures are being compiled into manual form to be presented to the managing committee for its consideration and adoption. No completion date has been set for this project, although it was indicated that completion is anticipated before the end of this calendar year.

2. Financial administration: The audit recommended the return to the State of unexpended balances from prior CIP projects. On this matter, the sanatorium was authorized by the department of accounting and general services to retain a portion of the unexpended balance to complete a current project. However, the balance or the sum of \$640 in the hospital's capital improvement fund which was credited to two completed projects, and which Kula Sanatorium was prepared to remit to the State in May, 1966, has not yet been returned to the State.

3. Purchasing and inventory: Although some procedural changes were made as recommended, action on the more significant proposals for program improvement has been deferred, mainly on the premise that the sanatorium lacks skilled personnel to implement the audit recommendations. Proposals for the centralization of institutional buying and the consolidation of storekeeping activities are among those deferred. It was reported that the sanatorium intends to work towards this centralization and consolidation, if and when it acquires a new purchasing agent position. Although the proposed consolidated system does require higher level skills, it should not preclude the development of interim plans if the hospital accepts the basic purposes and objectives of the recommendations. Total reliance on the acquisition of additional staff would probably cause an indefinite postponement to improve the overall institutional supply system.

4. Personnel administration: The audit recommendations generally fall into one

of three categories--policy documentation, employee perquisites, or physicians' employment contracts. Progress has been made in policy documentation; but, specific recommendations for the reappraisal of management policies affecting the administration of employee perquisites and physicians' contracts have not been effectively pursued. For example, the managing committee adopted a comprehensive "perquisite policy" in October, 1965, which represented a major effort to document guidelines for administering perquisites granted to hospital employees. Some of the policies incorporated in this document are not in accord with audit recommendations, and there is little indication that concerted effort has been made to correct these discrepancies. Moreover, while it is reported that the physicians' employment contracts are "under review," we find no evidence of any supervised review of these contracts. In addition, no evaluation has yet been made of mileage data for automobile allowances, although a staff study was directed by the managing committee in April, 1966.

5. Program and supporting services:

The sanatorium has been generally receptive to the many recommendations made for program and supporting services and has proceeded to effect changes in its plant maintenance, food service, nursing and related paramedical services in accord with the recommendations. Other proposals, however, have been regarded as requiring time for full implementation, as follows:

- The proposal for joint laundering with Maui Memorial Hospital has been deferred pending a detailed staff study by Maui Memorial Hospital to determine the feasibility, costs, equipment needs, and other pertinent aspects of the proposal.
- A request for funds to conduct a master planning and land use study did not receive legislative approval. As an alternative, preliminary discussions were held with representatives of the department of accounting and general services to explore the availability of the latter in providing technical assistance.
- The proposal to increase the staffing ratio of nurse aid positions is being implemented as staff attrition permits.

- The proposal to convert some of the beds of the T.B. wards to chronic illness care is under study.

Recommendations:

A more effective and consistent follow-through on the various recommendations of the department of budget and finance is needed. Without such follow-through, important recommendations may well be forgotten and buried without adequate management review. As we indicate in chapter 5, the State department of health and the county of Maui have far greater responsibility now for the effective and efficient administration of Kula than before Act 97. Our recommendations, therefore, are directed to the State department of health and the county of Maui, as well as to the managing committee of Kula.

We recommend:

1. The State department of health and the county of Maui, through the managing committee of Kula Sanatorium, act

without delay to develop and carry out an action program to effect those recommendations of the department of budget and finance which are as yet unmet, as supplemented by the findings and recommendations presented in this, our report.

We further recommend the following actions be taken to assist in the development and execution of this action program.

2. The managing committee should (1) identify the problems which have tended to impede progress; (2) develop operational plans outlining tentative priorities, schedules for implementation, specification of problems requiring policy direction, etc.; (3) identify the skills necessary to carry out the recommendations and evaluate staff capabilities with regard to these needs; and (4) direct the planning, execution and evaluation of the action program.

3. The department of health, in concert with the county of Maui, should (1) review and approve the operational plans for implementing recommendations; (2) arrange for technical resources beyond the present staff capabilities of the hospital; (3) require periodic progress reports; and (4) generally provide policy guidance on matters beyond the authority delegated to the managing committee.

TABLE II
KULA SANATORIUM'S PROGRESS STATUS IN IMPLEMENTING
THE AUDIT RECOMMENDATIONS OF THE DEPARTMENT OF BUDGET AND FINANCE
(Status as of August 1, 1966)

Audit Recommendations	Comments on Implementation
<u>GENERAL MANAGEMENT</u>	
1. Require explicit managing committee approval before effecting any changes in organization.	A hospital policy and plan on position control has been developed to meet these situations.
2. Review the scope of authority delegated to the hospital superintendent and prepare a summary policy statement which delineates the matters which the managing committee desires be brought to its attention for consideration and action.	Specific policy statements are being drafted for inclusion in the new policy manual. (See next comment.)
3a. Compile all standard operating and administrative policies into one reference manual for staff information and to facilitate policy development and revision.	Present administrative policies and procedures, as well as new recommended policies, are being compiled into manual form for consideration by the managing committee. Project completion tentatively set for late this year.
b. Develop standard instructions for the maintenance of "lettergrams" files for the guidance of all hospital units.	Instructions for the use and disposition of lettergrams are included in the draft of the policy and procedure manual.
4. Review the powers and functions assigned to the managing committee under section 148-25, RLH 1955, as amended, as part of the overall review of laws relating to the implementation of Act 97, SLH 1965.	No action required at this time. (See the memorandum of May 31, 1966, office of the attorney general, pertaining to the status of the managing committee under Act 97.)

Audit Recommendations	Comments on Implementation
<u>FINANCIAL ADMINISTRATION</u>	
1. If Kula Sanatorium is not transferred to the State in the immediate future the managing committee should seek answers to the question as to whether the chronic illness program is a state or county responsibility.	Unlike previous years, the chronic illness program is now budgeted as a state program and is subject to central budgeting controls.
2. Strongly consider involving, to a greater degree, key program administrators into pertinent aspects of management, as, for example, in the budgeting process.	Kula concurs with this approach.
3. Allocate costs to all programs in direct proportion to services received.	The cost allocation plan used last year has been refined. Budget request presentations for FY '66-'67 reflect detailed program cost data.
4a. Strengthen internal control over cash receipts and disbursements by separating the operational duties from the record-keeping duties relating to both hospitals and non-hospital funds.	Effective May 1, 1966, reassignment of duties made to strengthen internal controls, including the business procedures of the occupational therapy fund. The latter is now handled jointly by the business office and the occupational therapist.
b. Provide for stronger safeguards of collections by the hospitals.	Intact deposits of collections being carried out for patient trust funds.
5. Provide for the proper accounting of employee meal tickets.	A deferred revenue account established to account for sold but unused tickets.
6. Eliminate unnecessary re-copying and duplication in recording.	Procedural revisions made as recommended.

Audit Recommendations	Comments on Implementation
7. Discontinue the practice of permitting hospital employees to purchase drugs and meal tickets on credit.	Cash and carry policy instituted for meal and drug purchases by employees. (Payroll deduction is permitted.)
8. Maintain and control petty cash fund for freight charges at the business office.	By action of the managing committee on June 3, 1966, the petty cash fund maintained by Kula's freight agent was recalled. It is now administered by the hospital's business office.
9. An unexpended balance of \$4,717.02 in the capital improvement fund account should be returned to the state.	The department of accounting and general services has authorized retention of some of this sum for a current project. However, excess funds from completed CIP projects have not been returned as yet.
<u>PURCHASING AND INVENTORY</u>	
1. Prepare a manual which will clearly outline the specific responsibilities of the purchasing activity and which will detail the purchasing procedures of the hospital.	General procedural and policy guidelines are being drafted for the policy and procedure manual.
2. Consolidate the various purchasing systems under strong central control.	No action to date. Kula indicates the need for hiring a purchasing agent to acquire the level of skill desired to implement this recommendation.
3. Consider entering into cooperative purchases with Maui Memorial Hospital.	Some informal talks held with Maui Memorial Hospital but no concrete action taken.
4. Strengthen internal controls over inventories by separating the receiving, storing and issuing functions from the recording function.	The hospital's supply system remains basically unchanged wherein the accounting for and issuance of supplies are handled by the same individual.

Audit Recommendations	Comments on Implementation
5. Provide for the proper control and accountability of inventory issuance forms.	Prenumbered forms now used when issuing storeroom supplies.
6. Institute periodic physical counts.	Adopted as a matter of policy.
7. Consider the consolidation of storeroom activities.	No action to date. (See previous comment on 2 above.)
8. Establish a definite policy with respect to obtaining competitive bids.	A policy statement is incorporated in the draft policy and procedure manual clarifying situations subject to competitive bidding.

PERSONNEL ADMINISTRATION

1. Retain the personnel function in the business office as it is presently constituted.	No action required.
2a. Review the minutes of the managing committee and compile all current personnel policies as have been adopted.	Being done in connection with preparation of the policy and procedure manual.
b. Prepare and maintain a complete personnel policy manual for internal operations.	Same as preceding comment.
3. Review the special employment contracts of the general superintendent and the resident physician-surgeon for reconsideration of: a) the need for a contractual relationship; b) present salaries; c) perquisites granted; d) part-time private practice; and e) the need for reimbursement of expenses incurred and attributable to private medical practice.	This matter reported to be under review. Although discussions have been held concerning the status of the physicians' contracts, systematic reviews in depth of present contracts have not been completed.

Audit Recommendations	Comments on Implementation
4. Terminate the sanatorium's contract with the veterinarian upon phasing out the dairy operation.	Veterinarian contract terminated as of April 30, 1966.
5a. Living Quarters:	
(1) Establish reasonable rental charges for living accommodations granted to sanatorium personnel, with the exception of the general superintendent, resident physician-surgeon, and psychiatrist; and such personnel in the surgery, medical laboratory and X-ray units who enter into an agreement to provide scheduled stand-by and emergency services in exchange for living accommodations.	By action of the managing committee on October 12, 1965, a "perquisite policy" was adopted which specifies guidelines on such employee perquisites as housing, meals, laundry, telephone and use of vehicles. With respect to recommendations 5a(1) and 5a(2), the policy: (1) Sets rental charges, but the rents are made applicable to only new employees. Some officers are exempt by reason of their duties.
(2) Establish a policy of restricting, in the future, sanatorium-furnished household equipment to a water heater, stove, and refrigerator.	(2) Does not contain standards for furnishing single family dwellings. Policy relating to linen is, however, mentioned.
(3) Establish a reasonable rental charge on the facility known as "Dobashi Store."	Although some informal discussions have been held with the proprietor, no action has been taken on the question of rental.
(4) Provide for more effective control and accountability over the staff housing program.	"House rules" for occupants of government quarters not compiled as yet. Occupants are generally permitted leeway in the use of such quarters.

Audit Recommendations	Comments on Implementation
(5) Consider eliminating or converting older facilities for other sanatorium uses.	Recently, certain cottages were being considered for use by the psychiatric care program to help patients adjust to independent living. The general policy, however, is to attrition employee dormitory housing privileges.
b. Employee Meals	
(1) Discontinue the provision of free meals to the general superintendent and resident physician-surgeon.	Reported to be under review. No change from prior practice.
(2) Reappraise meal prices charged against visitors of patients.	Reported to be under review. No change from prior practice.
c. Laundry Services	
(1) Discontinue the practice of laundering personal work clothing and uniforms at the sanatorium's expense.	Reported to be under review. Employee uniforms (nursing care and kitchen personnel) are laundered free of charge. The "perquisite policy" states, however, that " . . . no personal clothing or work uniforms shall be laundered at the expense of the hospital."
(2) Develop a charge schedule for laundry services provided for the convenience of employees.	The perquisite policy specifies that a fee schedule should be developed. However, none has been developed to date.
d. Residential Telephones	
Consider the installation of PBX local in the residence of the X-ray technician in lieu of the present private line so that comparable provisions are attained between all personnel residing in staff residences.	Under the "perquisite policy" the hospital pays 50% of the X-ray technician's private telephone in lieu of a PBX local which is not connected to his home.

Audit Recommendations	Comments on Implementation
e. Car Allowances	
Accumulate detailed data on actual mileage allocable to official sanatorium business to determine the justification of present car allowances granted to the general superintendent, resident physician-surgeon, and assistant hospital administrator.	The managing committee, on April 12, 1966, authorized a staff study regarding automobile allowances. So far, comprehensive mileage data have not been gathered for evaluation purposes.
<u>HOUSEHOLD AND PROPERTY</u>	
1. Consider reducing the landscaped area of Kula Sanatorium in order to correspondingly reduce the manpower required to maintain the present grounds.	"Gang" type operations now in use for groundskeeping. However, landscaped areas have not been reduced in size as recommended.
2. Conduct a cost study relating to the feasibility of maintaining a dual laundry system.	Statistics being accumulated to permit comparative study.
3. Explore the possibility of having its laundry processed by Maui Memorial Hospital.	A preliminary study was made by MMH of Kula's proposal for joint laundry operations. A staff report by MMH in May, 1966, concluded that a more detailed study is needed before economic feasibility can be determined.
4. The role of the building and grounds foreman should be more clearly defined.	Guidance on this matter is being prepared for inclusion in the policy and procedure manual.
5. Start preparing a maintenance and replacement plan for its physical structures.	The request for CIP funds for a facility planning and land use study was denied by the Legislature. Preliminary

Audit Recommendations	Comments on Implementation
6. In view of the cessation of the farm operations, review land area requirements and declare lands and equipment surplus to its needs.	discussions held with representatives of the department of accounting and general services for technical assistance in land use planning. See above comments. Dairy stock, equipment and facilities have been already disposed by auction. Alternate uses for surplus lands under consideration.

FOOD SERVICE

1. Report and budget for raw food cost for all meals served at the institution.	The employee meal rate was increased from 30¢ to 55¢ effective January 1, 1966. The "perquisite policy" calls for an annual study of raw food costs.
2. Improve the system of expenditure status reports to reduce costs.	More detailed expenditure reporting now in effect.
3. Review food purchase practices for opportunities to reduce costs.	No immediate action required. Operational practices under review.
4. Consider the possibility of reducing staff by providing for more flexibility in the work assignments of kitchen helpers, dining room attendants, and pantrymen.	No immediate action required. Operational practices under review.

NURSING (ADMINISTRATION)

1. Additional administrative support should be given to director of nursing.	The supervising nurse position filled by intra-departmental promotion. It is assigned to assist the director of nursing in the overall administration of the nursing program.
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Audit Recommendations	Comments on Implementation
2. The in-service instructor position should be abolished following the reassignment of training duties to the position described above.	Subject position abolished in May, 1966.
3. The evening and night shifts' nursing services responsibility for Kula Sanatorium should be assigned to the newly-recommended evening and night head nursing positions, respectively.	Requests to reallocate two RN positions to head nurse submitted to the county civil service department on July 27, 1966, for its action.

NURSING (SURGICAL SERVICES)

Kula Sanatorium should explore the possibility of obtaining greater utilization of the operating room nursing personnel.	Operating room nurses also assigned to provide vacation and other relief in ward nursing activities.
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KULA GENERAL HOSPITAL PROGRAM

1. The managing committee should closely scrutinize the need to maintain 20 beds at Kula when the daily patient census has been running between 5 and 7.	Program plans for FY '66-'67 based on 15 beds. Proposal to further reduce program level to 5 beds under consideration.
2. The amount of nursing care provided per patient should be reviewed.	Under consideration.

CHRONIC ILLNESS PROGRAM

1. Change the present practice of admission by establishing procedures which give admission priority to the indigent patients; reassess the need	Priority still based on date of referral. A review of the waiting list as of August 1, 1966, showed 9 applicants of which one was DSS certified.
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**PART III
FINDINGS AND RECOMMENDATIONS ON
SELECTED PROBLEMS REVIEWED**

INTRODUCTORY COMMENTS

Audit Recommendations	Comments on Implementation
for admitting non-indigent persons and initiate action to amend Act 153 to authorize such admissions if needed.	
2a. The director of nursing should look into the possibility of reducing as many practical nurse positions as feasible and replacing them with nurse aid positions.	Two vacant practical nurse positions were reallocated to nurse aid effective March 1, 1966. Additional staff changes to be effected as staff attrition permits.
b. The director of nursing should look into the possibility of assigning some of the lower level duties now being performed by the professional nurses to the practical nurses.	Under consideration. A general review of nursing program being made to relate staffing needs to changing patient population.
3. Evaluate the need for patients to have a more continuing program of physical therapy services for better rehabilitation of chronic disease patients, or request a full-time therapist position to be established.	A new physical therapist position, authorized in the '66-'67 budget, is in the recruitment process. As an interim measure, a physical therapist was hired under special contract on a part-time basis.
4. Continue all efforts to get a social worker position authorized within the table of organization.	A new medical social worker position authorized in the '66-'67 budget was approved by the managing committee on July 12, 1966, for filling by provisional appointment.
5. Consider utilizing empty beds as a result of declining tuberculosis census for the chronically ill.	Kula cites the physical layout of the TB floor as a limiting factor. It has, however, a plan under consideration which could add up to 9 more beds to the chronic illness program.

Previous chapters presented historical and other relevant background information concerning the programs and the roles of the State and county in the management of Kula Sanatorium, and of recent operational and administrative changes made pursuant to the audit recommendations of the department of budget and finance. In the following chapters, we examine specific problems and issues reflected by the practices of Kula Sanatorium. As appropriate, recommendations for legislative and executive consideration are presented.

Before we begin our discussion, we make some preliminary comments concerning the approach and scope of our examination.

(1) Our study, of course, concentrates primarily on specific institutional problems of Kula Sanatorium. However, in many instances, the problems reviewed are not unique to Kula and our recommendations are applicable to other institutions and governmental agencies. In such instances, our discussions are broad enough to apply to the various

state government agencies and programs generally.

(2) Under Act 97, the State has pre-empted the function of operating public hospitals, and the contracts between the State and the various counties are essentially measures to ensure the uninterrupted continuation of services. In view of the temporary nature of the contractual arrangement, our comments relative to the "Act 97 contracts" are only pertinent so long as the contractual method is used to implement Act 97. Except with reference to the "Act 97 contracts," our comments on the problems and conditions at the sanatorium are otherwise pertinent, regardless of the means by which the sanatorium is managed.

(3) In view of the fact that the county of Maui, and not the managing committee of Kula Sanatorium, is responsible for the execution of the "Act 97 contract" as it pertains to the operation and management of Kula Sanatorium, we have addressed our comments to the county rather than the managing committee.

Similarly, many recommendations are addressed to the department of health since it has been assigned by executive order of the governor to administer the "Act 97 hospitals." At times, other departments of the state government are also called upon to exert their efforts to resolve problems arising in their assigned functional areas.

(4) As stated before, it was not our intention to repeat the findings and recommendations covered in the audit report of the department of budget and finance. However, we do discuss in this part some of the subjects covered in the department of budget and finance's audit report; we do so only in instances where our findings add materially to those of the department of budget and finance or where we believe the recommendations should be stated more specifically. On the other hand, a number of topics presented here were developed from our own evaluation and were not previously reported.

In view of the diversity of topics, the problems presented are grouped into major categories as follows:

- Chapter 5 - The State's Powers under Act 97 Contracts
- Chapter 6 - Institutional Personnel Management
- Chapter 7 - Institutional Financial Management
- Chapter 8 - Institutional Property Management.

CHAPTER 5 THE ACT 97 CONTRACT AND ITS EFFECT ON THE STATE'S POWER OF ADMINISTERING KULA SANATORIUM

The contract executed by the State of Hawaii and the county of Maui pursuant to Act 97 is a comprehensive document which outlines the powers, duties and responsibilities of each contracting party in the administration of certain public functions, including the public hospitals. Our concern here is with how the Act 97 contract affects the powers of the State in the management of Kula Sanatorium. Our observations are necessarily relevant to all public hospitals in the county of Maui, and, perhaps, to all public hospitals in the State.

CONTRACT LIMITATIONS ON STATE'S POWER OF ADMINISTRATION OVER KULA SANATORIUM

Act 97, SLH 1965, and the subsequent action of the governor "effectively transferred" all the powers of the managing committee of Kula Sanatorium to the department of health. The contract entered into by the State and the county of Maui requires the county to maintain and operate Kula Sanatorium "in the same manner and to the same extent as . . . performed by it prior to the effective

date of Act 97," except as otherwise provided in the contract. By this provision, both parties agreed to continue the pre-existing policies and practices of Kula Sanatorium, except to the extent that they are altered by the contract. The contract impliedly recognizes that the obligations of the county can best be carried out by the existing managing committee and tacitly acknowledges the continuing, direct supervisory authority of the committee in the management of Kula.

Although the general, supervisory authority is left in the managing committee, the contract reserves certain powers in the State to direct and control the affairs of the hospital. Strong and almost plenary powers are reserved in the State over expenditures and capital improvement constructions. All expenditures of Kula are subject to the approval of the State, through the quarterly allotment system. All CIP constructions, except those in progress, are under the direct supervision of the State.

The State, however, reserves little in the nature of administrative powers to control the internal management operations and procedures of the sanatorium. Only the following administrative powers are reserved and granted to the State director of health:

- To approve or disapprove the filling of any vacancy on the managing committee.
- To approve or disapprove the hiring of new officers and employees that are necessary to fill vacancies and new positions.
- To approve or disapprove any changes in existing policy, relative to the government or administration of the hospital.
- To receive copies of minutes of all meetings of the managing committee and of all rules, regulations, policies, directives and statements of operating procedure of the hospital, an inventory of all assets and property of the hospital, the hospital's accounting procedure, and other information.

While the contract grants to the State director of health the power to approve or disapprove changes in policy which affect the operations of the sanatorium

and the hiring of new personnel, it does not permit the State health director to initiate, or direct changes in the operations and management of the hospital. The counties should, of course, be allowed flexibility in the direct management of the hospitals. However, we believe that the contract terms should not limit the authority of the State in formulating policies and standards applicable to all public hospitals. We believe the State should be allowed some latitude in initiating and providing policy direction to the public hospitals on matters not specifically covered in the contract, and particularly those matters which affect program costs or the achievement of statewide objectives in public health services.

There are, for example, policy directives issued by the governor relating to the administration of employee perquisites, the effectuation of changes in organization plans, the development and implementation of a statewide information system, and others, which are presently available for the guidance of

all State departments. These or other executive policies could be readily extended and made applicable to the public hospitals to provide common "ground rules" for all public programs administered by the State. Similarly, the director of health, in his pursuit of the goals of the department of health, may need to exert influence to assume the orderly and coordinated development and management of the various public health programs, including public hospitals, throughout the State. In order to provide this leadership, the director of health should possess authority to establish basic policies. He should, for example, be able to set general program standards; to clarify the organizational relationships among the various public health organizations serving the counties; to instruct public hospitals on federal aid matters; and to generally oversee the total range of public health services of the State. In essence, we believe that the limitations imposed upon the State under the present terms of the contract prevent the State from effectively

discharging its supervisory responsibilities under Act 97.

It may, perhaps, have been the intent of the contract to reserve in the State a veto power only over those hospital actions which may be taken during the life of the state-county contract and which may adversely affect the State when it assumes full responsibility of the hospital. If such were the case, there would have been little need to retain broad administrative powers in the State since the life of the contract was presumably intended for one year only. The retention of power in those few areas where the need was obvious probably would have been adequate for so short a transitional period.

However, in light of Act 14, SLH 1966, which authorized the governor to re-enter into contracts with the several counties for another year, and in light of a possible extension of the contracts for yet another year, we believe that the State should seek to increase its participating role in the management of

county hospitals. By this, we do not intend that the State exercise complete administrative control over all operational aspects of hospital management. The counties should continue to provide immediate direction over these institutions. Rather, we believe that the State, through the director of health, should retain adequate powers to permit it to promulgate policies of statewide concern. With this added authority, the State and the director of health would be better able to cope with situations which necessitate changes in the operation and management of public hospitals from time to time.⁶

Recommendation:

We recommend that the State department of health, in cooperation with the State attorney general, seek to include in the Act 97 contract with the county of Maui a reservation of such powers as may be necessary to permit the State director of health to institute administrative policies and standards for the operation and management of public hospitals. Such reservation of power should be included in the contract for fiscal year ending on June 30, 1967, and in all future contracts.

However, inasmuch as Act 97 contemplates the eventual assumption of direct responsibility of all public hospitals by the State, our recommendations to correct any such deficiencies are directed to the State department of health as well as to the county. It is intended that the State director of health will exercise his influence and what little authority he now possesses to insure the correction of the deficiencies which we note in this report.

STATE'S POWER OF REVIEW OF HOSPITAL POLICIES

Article V of the contract states, in part, that "the county shall not authorize or permit the governing board of any county hospital to make or adopt any change in policy, relative to the government or administration of such county hospital, without the prior written approval of the State Director of Health."

In violation of this provision, Kula Sanatorium effected new and revised policies on a number of occasions without the prior written approval of the director of health. The following are cases in point.

- On October 12, 1965, the managing committee adopted comprehensive policies for the administration of various employee perquisites.
- On May 1, 1966, a policy became effective which authorized mileage reimbursement for the emergency use of personal vehicles on official business.

- On June 9, 1966, a policy became effective which discontinued the extension of credit in the sale of meal tickets to employees. All purchases thereafter were to be made by cash or payroll deduction.

Unquestionably, all of the above constitute "policy," inasmuch as they establish or revise instructions of a continuing nature, setting forth the courses of action to be taken under given conditions.

The foregoing examples point up some significant shortcomings in the present method of reviewing proposed policy changes. These shortcomings, in effect, nullify the basic intent and purposes of the review process. The present review system relies totally on the initiative of the hospital. It is incumbent upon the hospital to notify the department of health in advance of its intentions. If it fails to do so, the department of health would not know of any impending changes to existing policy. In the examples above, even the county had no prior knowledge of the

⁶In this report, we touch upon various internal, operational and management procedures and practices of Kula Sanatorium, which are not necessarily of the kind that should be subject to statewide policies. Since the county has the contractual responsibility for the maintenance and operation of the hospital, it would appear that the county should be primarily concerned with correcting deficiencies which may exist in such internal procedures and practices.

CHAPTER 6 INSTITUTIONAL PERSONNEL MANAGEMENT

intended changes, even though under the Act 97 contract the managing committee is an agent of the county. While Kula's adoption of policy changes generally appear in the minutes of the managing committee meetings, the mere reporting of such an action in the minutes does not constitute "prior" approval as intended by the contract provision. We note further that the task of carrying out this review function is made even more difficult in Kula's case because, in many instances, the hospital itself has not documented its current policies.

Recommendations:

We recommend:

1. The State director of health, through the respective counties, insist on strict compliance by the managing committee of every public hospital with the directives contained in the Act 97 contracts which require every public hospital to:

(a) compile and forward to the State director of health, copies of all

policies, regulations, directives and statements of operating procedure of the hospital; and

(b) forward all contemplated changes in hospital policies to the State director of health for prior written approval.

2. The State director of health distribute to every public hospital copies of the State and department of health's policies, regulations, directives and statements of procedure so that these may serve as guidelines to the hospitals in the making of future changes in or in the formulation of new policies by the hospitals.

There are two broad categories of employees at Kula Sanatorium: contract employees and regular employees. Contract employees are those hired under special contracts and include the superintendent and the resident physician-surgeon. All other employees are regular employees. The conditions of employment of contract employees are governed by their contracts. The conditions of employment of regular employees are prescribed by statute.⁷ The difference in the nature of the hire requires us to treat the two groups of employees separately in our discussion of Kula's personnel management problems.

⁷Section 148-25, RLH 1955, as amended, which grants to the managing committee of Kula full authority over the hire and fire of its employees was passed in 1933. The State civil service statute was first enacted in 1939. In the opinion of the county attorney for the county of Maui, section 148-25 was effectively modified by the civil service statute, and Kula's regular employees are subject to the civil service rules and regulations.

The first two sections of this chapter concern regular employees. The third section deals with the problems of contract employees.

REGULAR EMPLOYEES' PERQUISITES

"Perquisites" means those things furnished or services rendered to an employee, as incidental to employment and in addition to his regular salary or wages, which have value to the employee because the furnishing of those things or the rendering of those services reduces the employees' personal expenses.⁸ The reduction in personal expenses is a gain or profit to the employee.

Often the term "perquisites" is used synonymously with "free privileges."

⁸See "Administrative Policy for Administration of Employee Perquisites," Governor's Administrative Directive No. 7, October 7, 1963.

This is an erroneous usage of the term. An employee realizes a gain or profit not only when things are furnished or services are rendered at no cost to him. He also realizes a gain or profit when things are furnished or services are rendered at a charge which is less than the charge he would have to pay if he had to secure them on the open market. Thus perquisites are things furnished or services rendered at no cost to him or at a cost to him which is less than market value.

In the past, at one time or another, Kula's employees received housing, milk and milk products, medical care, laundry service and other benefits at no cost to them. The trend over the past decade has been toward the elimination of "free" perquisites, and the reduction in the number and kinds of perquisites, both free and non-free, which are available to Kula's employees. Among the perquisites still available to Kula's employees, both free and non-free, are meals, housing (including utilities) and laundry service.

We examined Kula's policy and practices concerning each of these perquisite items to determine: (1) whether or not any of these perquisite items--meals, housing and laundry--should continue to be made available to Kula's employees; (2) whether or not there are any circumstances which justify making any of these perquisite items available to any of Kula's employees at no cost; and (3) whether or not, where applicable, a "reasonable value" is being charged the employees for the perquisite items.

1. Statutory and policy references. A brief summary of the State statutes on perquisites and of the State and hospital perquisite policies is necessary. This summary will provide a general framework which will be helpful in understanding the perquisite problems existing at Kula.

a. Statute. The basic law governing the administration of employee perquisites is set forth in section 4-12, RLH 1955, as amended. It reads,

"Each department shall determine, subject to the approval of the chief executive officer and under such directives as he may issue, the reasonable value of allowances rendered to employees in the form of quarters, heat, light, household equipment, maid service, laundry service, or other perquisites at the expense of the government but not for the convenience or benefit of the government and cause the reasonable value of such allowances to be deducted from the compensation of such employees...."

The statute is concerned only with the question of when charges for perquisites should be assessed against the employees. It is silent on the question, when, if at all, perquisites, free or not free, may be made available to employees.

While this report is not concerned specifically with it, we note that even where the cost of the perquisites is borne by the government, the cost of each perquisite item should be noted for accounting purposes. We note, further, that the statute provides for "reasonable value" when the perquisites

are not for the convenience or benefit of the government. "Reasonable value" is not the same as "market value." It is usually less than "market value."

b. State policy. The State policy on perquisites is set forth in Governor's Administrative Directive No. 7, entitled, "Administrative Policy for Administration of Employee Perquisites," dated October 7, 1963. The State policy (1) spells out the conditions which must exist before perquisites, such as meals, housing and laundry services, may be made available to employees; (2) defines what is meant by "convenience or benefit of the government" as that phrase is used in section 4-12, RLH 1955, as amended, and specifies when employees may be granted perquisites at no cost; and (3) provides broad guidelines in establishing the "reasonable value" of meals and laundry services which section 4-12 requires to be paid by employees when the perquisites are not for the convenience or benefit of the government.

c. State department of health policy. On October 23, 1964, the State department of health issued its revised policy on employee perquisites, applicable to all employees of the health department. The policy generally follows the State policy. In addition, it establishes the rates to be charged for employee's living quarters, on the per bed and per room basis.

d. Kula's policy. On October 12, 1965, the managing committee of Kula Sanatorium adopted its "Perquisite Policy," dated September 14, 1965. Kula's policy, in general, follows the format and the language of both the State and the health department's policies. In several respects, however, it violates the intent of the State policy. We will examine these in the subsequent portions of this section.

2. Meals

a. Availability to employees. Kitchen facilities are a necessary part of Kula's normal operations. As such, it is readily accessible to the employees

of Kula who must eat somewhere during their normal work day. So long as meals are prepared as part of the institution's normal operation, there is no reason why meal service should not be available to the employees, provided it is convenient to do so.

b. With or without cost to employees. Kula's policy is consistent with section 5-77, RLH 1955, as amended, which authorizes free meals to employees when emergency work precludes the enjoyment of the normal meal period or when overtime work is performed without a 24-hour notice and the employee is unable to go home for his meals. In all other cases, employees are required to pay for meals taken at the sanatorium.

c. Reasonable value. Kula's policy provides that "meal charges shall be based on the cost of raw food." The policy sets the meal rate at 55 cents per meal, effective January 1, 1966, and provides for an annual review and adjustment, where necessary, of the raw food cost. In our opinion, the setting of

meal rates at "raw food cost" is not in keeping with State policy. The State policy provides,

"Meal charges should be based on the cost of raw foodstuffs until adequate cost data can be accumulated to determine the total allocable cost of producing meals." (Emphasis added.)

The intent of the State policy is, then, that "raw food cost" should be the beginning, but only the beginning. It requires the accumulation of cost data so that the total cost of producing meals may be properly allocated to the meals taken by employees. Kula has not accumulated this cost data to properly determine the "reasonable value" of the meals consumed by its employees.

In this connection, we note that the department of health's policy sets an arbitrary 40 cents per meal for all meals consumed by employees at all State-owned facilities. We do not believe that the cost of meals at all institutions is necessarily the same.

One incidental aspect of Kula's meal practice should be mentioned. As a gesture of courtesy, Kula authorizes free meals to State and county employees from other agencies who happen to be doing business at the hospital during meal periods. We find no valid justification for this practice since they are not required to have their meals at the hospital by reason of their official duties. We believe that these individuals should be responsible for purchasing their own meals. Government employees may be reimbursed for the cost of meals from their respective employers if conditions outlined in section 5-77 apply to the circumstances of the meals consumed.

3. Laundry service

a. Availability to employees. Laundry facilities, just as kitchen facilities, are a part of Kula's normal operations. However, the facilities at Kula handle only such items as towels and pajamas that require only washing and folding.

All other items that require starching, pressing and dry cleaning are sent to a commercial laundry in Wailuku.

The department of budget and finance in its audit report noted the heavy reliance placed by Kula on commercial laundry services, and recommended that Kula explore the possibility of operating a laundry jointly with Maui Memorial Hospital which has a fully-equipped facility.

So long as Kula operates only limited laundry facilities, the use thereof cannot conveniently be extended to its employees who generally require the laundering of their personal clothes and work uniforms, which are starched, pressed and dry cleaned. The State policy provides,

"Laundry services may be extended to employees when the existence of government laundry facilities makes it convenient to provide such services."

Laundry facilities of the kind needed to launder employees' personal clothes and work uniforms do not exist at Kula.

b. With or without cost to employees.

Whether or not the employees should be charged for laundry services is a question which has applicability only if laundry facilities of the kind required by the employees exist at Kula. Assuming that it does, both the State and Kula's policies are clear that "no personal clothing or work uniforms shall be laundered at the expense of the hospital."

c. Reasonable value. Both the State and Kula's policies state,

"Where laundry services are provided as a convenience to the employee, such service should be based on a reasonable charge schedule."

As long as Kula does not have its own laundry facilities of the kind required to launder the employees' personal

clothing and work uniforms, and so long as all hospital laundry requiring starching, pressing and dry cleaning must be sent to a commercial laundry, the cost of laundering any employee's clothing and work uniform picked up by the hospital and sent to the commercial laundry should be paid for by the employee at the rate charged by the commercial laundry. To charge less would mean that the employee's clothing would be laundered at the hospital's expense, in violation of both the State and Kula's policies.

We note that despite Kula's policy on laundry, in practice, the personal uniforms of registered nurses, practical nurses and kitchen personnel are still being laundered at no cost to the employees.

4. Housing. Kula's policy regarding the furnishing of housing facilities to its employees leaves much to be desired. It is confusing, discriminatory and inconsistent in its statements and application.

a. Availability. The State policy provides that living quarters may be provided government employees:

"a. When it is necessary because of geographic isolation and extreme inadequacy or absence of private housing facilities, or

"b. When it is necessary to acquire actual additional service which, due to the character of the employment, may be required at any hour of the day or night; or

"c. When it is necessary to meet emergencies involving the care and preservation of government property and the safeguarding of human life."

Currently, Kula Sanatorium maintains four dormitories for single, unmarried employees and several family cottages. The dormitories and cottages are made available to the following regular employees:

Dormitories

Male Kitchen employees
("kitchen boys")

Male ward employees ("ward boys")

Female ward employees ("ward girls")
Registered nurses

Single family cottages

Assistant hospital administrator
X-ray technician
Senior medical laboratory technician
Seamstress

For purposes of our discussion, the above-listed employees are grouped thus: (1) Stand-by employees--the senior medical laboratory technician, the X-ray technician and surgery nurses; (2) Other employees (married)--the seamstress and the assistant hospital administrator; and (3) Other employees (single or unmarried)--kitchen boys, ward boys, ward girls, and registered nurses other than surgery nurses.

(1) Stand-by employees. Kula's policy makes housing facilities available to the X-ray technician, the senior medical laboratory technician and surgery nurses on the second condition spelled out in

the State policy, that is, "it is necessary to acquire actual additional service which, due to the character of the employment, may be required at any hour of the day or night." These employees do perform stand-by services at all hours of the day and night. Their presence on hospital grounds is essential to the hospital's operations. Thus, the extension of housing facilities to them is proper.

(2) Other employees (married). Kula's policy extends cottage living quarters to the assistant hospital administrator and the seamstress, but for different reasons. The assistant hospital administrator is permitted living quarters on the third condition enumerated in the State policy; that is, it is "necessary to meet emergencies involving the care and preservation of government property and the safeguarding of human life." We find that this condition does not apply to the assistant hospital administrator. The nature of his duties does not make it necessary that he

reside at the hospital to meet emergencies involving the care and preservation of government property or the safeguarding of human life. Nor is he required to provide regular and scheduled stand-by services. In fact, the assistant hospital administrator maintains his usual residence in Wailuku and commutes between his Wailuku home and the hospital. He rarely uses the living quarters assigned to him on the hospital grounds. Thus, the actual practice negates the reason cited in Kula's policy to justify the extension of housing privileges to him.

Kula's policy cites "extreme inadequacy and absence of private housing facilities" as the basis for extending family living quarters to the seamstress. This reason does not seem to square with the facts. Apparently, Kula's married employees have little difficulty finding private housing; practically all of them commute to work from outlying areas. As we point out later, housing for married couples is less acute or critical

than housing for single persons. There is, thus, little justification for making hospital sponsored housing available to the seamstress. Kula's policy recognizes this. It expressly provides that the housing facilities now used by the seamstress will be discontinued when she retires or terminates her employment with the hospital. We believe that the housing privilege now enjoyed by the seamstress should be discontinued with reasonable speed, and that the discontinuance of that privilege should not be dependent upon her retirement or the termination of her employment.

(3) Other employees (single or unmarried). All of Kula's four employee dormitories are expressly reserved for and used by single or unmarried employees. None of these present occupants (other than registered surgery nurses) qualify for housing facilities under either conditions "b" or "c" of the State policy; that is, the responsibilities of none of them require that they perform stand-by services or that they

be readily available to meet emergencies involving the care and preservation of government property and the safeguarding of human life. If any of these single employees is to qualify for housing privilege, that privilege must be grounded on condition "a"--that is, hospital sponsored housing must be "necessary because of geographic isolation and extreme inadequacy or absence of private housing facilities." Kula Sanatorium attempts to do just that. We find, however, that the sanatorium's policy and practices with respect to the extension of housing facilities to single employees are deficient.

First, Kula's policy is discriminatory. It discriminates between the unmarried nurses and the other unmarried employees. It provides that nurses are to be extended housing privileges because of "geographic isolation" and "extreme inadequacy or absence of private housing facilities." Housing privileges, however, are extended to the other unmarried employees simply on the ground

of "extreme inadequacy or absence of private housing facilities." As we explain later, the omission of "geographic isolation" with respect to these other employees is intended to distinguish them from the nurses for the purpose of granting free housing to the latter, but not to the former. We can see no reason why "geographic isolation" should apply to the nurses, if it is not applicable to the other single employees.

Second, "geographic isolation", which is cited to justify the extension of housing privileges to the nurses, may once have aptly described Kula Sanatorium; but that description does not apply today. The community of Kula is no longer as isolated geographically as it once was. Improvements in highways and modes of transportation have made Kula Sanatorium more readily accessible to urban and suburban areas of Maui. It is not uncommon for employees of the hospital to commute to work from various parts of the island. Under these

conditions, "geographic isolation" is not a pertinent factor today to justify making housing available to any of Kula's single employees.

Although the hospital is no longer "geographically isolated," there is perhaps something to be said for the "inadequacy or absence of private housing facilities" for single employees. Generally, it appears that married employees are able to find private housing within commuting distance of the hospital. But, unmarried employees are said to encounter some difficulty in finding private housing in the vicinity of or within a reasonable commuting distance from the sanatorium. The State policy, however, does not permit living quarters to be made available simply on the basis of "inadequacy or absence of private housing facilities." It requires that the inadequacy or absence be coupled with "geographic isolation" and that it be "extreme." "Geographic isolation" no longer exists; and the inadequacy or absence of private housing facilities

for single employees can hardly be described as "extreme," especially when other employees commute to work from various parts of Maui.

Kula's policy provides that housing for the nurses shall be "discontinued" and housing for the other single employees shall be "discontinued and attritioned" as the "incumbents retire or terminate their employment with the hospital." This declaration tacitly recognizes that "geographic isolation" does not exist and that the "inadequacy or absence" of housing for unmarried employees is not necessarily "extreme." At the same time, it reveals the hospital's concern that single employees may find it difficult to find private housing in the vicinity of the hospital and that these employees may not continue working at the hospital if they must commute from outlying areas. Thus, the hospital's policy takes a middle ground and permits single employees, who were living in hospital-sponsored quarters at the time of the adoption of the policy to continue

to do so, but at the same time ostensibly rules out living quarters for any future, single employee.

The root of Kula's problem is that it considers the State policy as inflexible and incapable of change. It thus attempts to use the condition enumerated in the State policy to justify its actions, when justification perhaps lies elsewhere.

We know of no concerted effort by Kula Sanatorium to survey the availability of private housing for and the housing preference and attitudes of unmarried employees to determine whether or not there are reasonable grounds (other than those set forth in the State policy) to extend hospital-sponsored, housing facilities to these employees. We believe that such a survey should be conducted. Although it need not be an in-depth study, the findings should be documented. And, if the hospital finds that there are compelling reasons, other than those contained in the State policy, for the

extension of housing facilities to single employees, it should seek either an exception or amendment to the State policy.

Third, although Kula's policy, as written, rules out the extension of living quarters to single employees hired after the adoption of the policy, the hospital has nonetheless extended dormitory accommodations to a new employee. This experience, of course, accents the apparent difficulties which the hospital faces with respect to housing for single employees.

b. With or without cost to employees. The State policy permits free housing only when one or both of the following two conditions exist:

"a. When necessitated by isolated conditions of employment and when the freedom of choice of an employee is highly restricted as a result of such geographic condition; or

"b. When an employee is required to render actual services on a scheduled or constantly recurring

basis after normal working hours in exchange for government quarters, as provided for under Section 5-72(j), RLH 1955, as amended."

Kula's policy uses these conditions to justify free housing for some of its employees. Our findings follow.

(1) Stand-by employees. Kula's policy provides free housing for the X-ray technician, senior medical laboratory technician and surgery nurses who perform stand-by services. Free housing for these employees is properly justified under condition "b" of the State policy.

(2) Assistant hospital administrator and registered nurses (other than surgery nurses). Kula's policy extends free housing privileges to the registered nurses and to the assistant hospital administrator on the grounds of "isolated conditions of employment." This condition is not cited for any of Kula's other employees. We believe that this selective use of policy criterion

to justify free housing to only certain employees and not to all employees is discriminatory and unfair. There is no substantial difference between registered nurses, the assistant hospital administrator and other employees in their requirements for housing. Kula tacitly recognizes this for its policy provides that housing facilities for both nurses and other employees shall be terminated as "incumbents" retire or are separated from service to the hospital. If "isolated conditions of employment" is indeed a valid consideration for justifying free housing, which we do not believe to be so, then it should be a condition of equal applicability to all other employees since the place of employment is the same for all employees. We find, therefore, that "isolated conditions of employment" is not a valid reason to support the extension of free housing privileges to employees of Kula Sanatorium.

We note further that this extension of rent-free privileges to registered

nurses and the assistant hospital administrator cannot be effectively justified on other grounds. Neither the registered nurses (other than surgery nurses) nor the assistant hospital administrator provide regular stand-by services; thus, condition "b" of the State policy is not applicable. Moreover, as we noted earlier, the assistant hospital administrator is not required to maintain residence on hospital grounds (as evidenced by his commuting to work from Wailuku); and even if we assume that he is entitled to housing because his presence is needed on hospital premises to respond to emergencies, this is insufficient under the State policy to justify the extension of such housing privileges without rental charge. Thus, his free housing privilege cannot be based on the need for his ready availability to meet emergencies at the hospital.

In general, we conclude that registered nurses and the assistant hospital administrator are not restricted in their

choice of residence by any of Kula's operational requirements, and that their residency on hospital property is a matter of personal choice to suit their own convenience and not the convenience of the hospital. The extension of free housing to these employees is, therefore, not justified.

(3) Kitchen boys, ward boys, ward girls and the seamstress. Kula's policy expressly charges a "nominal" monthly rental of \$15 per bunk or bed in dormitories occupied by the kitchen boys, ward boys and ward girls, and \$20 per room for the cottage occupied by the seamstress. However, in practice these charges are not being collected because Kula has exempted from paying rentals all employees who were occupying dormitory facilities and the cottage at the time the policy was adopted in October 1965. Apparently Kula is aware of the discriminatory nature of its policy which gives favored treatment to registered nurses who occupy dormitory facilities and has attempted to minimize

the inequity by simply not collecting the rentals, which the policy charges, from the kitchen boys, ward boys, ward girls and the seamstress who were in occupancy of their quarters on the date of the adoption of Kula's perquisite policy.⁹ This practice, of course, has led to further inequities, since Kula has not hesitated to collect from kitchen boys, ward boys, and ward girls who commenced their occupancy of dormitories after the adoption of the policy.¹⁰

Notwithstanding these inequities, we find no reasonable grounds to exempt these employees from paying rentals for the use of dormitory or cottage facilities. None of them provides scheduled stand-by services to justify

free housing under condition "b" of the State policy. And, as in the situations described for registered nurses and the assistant hospital administrator, their residency on hospital property is for their own convenience and benefit and not the convenience or benefit of the hospital.

c. Reasonable value. In defining how the "reasonable value" of housing facilities should be calculated, the State policy provides no guidelines. Kula's policy sets the following charges "to cover the costs of lodging and utilities."

	<u>Quarters</u>	<u>Monthly Charges Including Util.</u>
Ward Girls	Bunk in Cottage	\$15
Ward Boys	Bunk in Cottage	\$15
Kitchen Boys	Bunk in Cottage	\$15
Seamstress	2-Bedroom House	\$40
Storekeeper	2-Bedroom House	\$40

Note: For the ward girls, ward boys and kitchen boys, laundry costs for hospital-owned bed linen and blankets are included in the monthly charges. For the seamstress and the storekeeper, bed

⁹Under this practice, about 20 employees receive free living accommodation.

¹⁰One employee moved into one of the dormitories subsequent to the adoption of the policy and is required to pay rent.

linens are not furnished and laundry costs are not included in the monthly charges.

Registered nurses and the assistant hospital administrator are not included in the schedule. This is because the policy specifically exempts them from the payment of rental. The registered nurses occupy beds in dormitories, and the assistant hospital administrator is provided a two-bedroom cottage. Under the schedule above, the value of the nurses' quarters, including utilities is \$15 per month and the value of the assistant hospital administrator's cottage is \$40 per month.

The above schedule is comparable to that set forth in the perquisite policy of the State department of health, thus:

Single room with community bath	\$15 per month
Two-bedroom unit	\$35 per month

We do not believe that these rental charges are sufficiently "reasonable", as provided in section 4-12, RLH 1955, as amended. Reasonable rental is required since none of the housing facilities furnished the regular employees, including the registered nurses and the assistant hospital administrator, except the stand-by employees, is for the convenience or benefit of the government. Reasonableness of the rentals depends on the age, size and construction of the building, the utilities furnished, and the prevailing rental of comparable facilities in the community, among other factors. The schedule does not take all of these into account.

For example, the electricity cost alone for the cottage used by the assistant hospital administrator is an average of \$5.69 per month--and the assistant hospital administrator uses his cottage only occasionally. Based on the average monthly cost as shown in Table III, it would not be unreasonable to estimate an annual cost of over \$2,000 just to

provide electricity to the eight single-family cottages occupied by employees and other persons. When other utility costs are considered (e.g., water, telephone, electricity for the employee dormitories) the total commitment and expenses assumed by the hospital to support its housing programs would probably be of significant proportions.

TABLE III

Bi-Monthly Electricity Costs for Single-Family Cottages

	Nov. 18 to Jan. 17	Jan. 17 to Mar. 17	Mar. 17 to May 16	Average Monthly Cost
Superintendent	\$ 89.04	\$101.03	\$ 25.59	\$ 35.94
Resident Physician	65.96	65.63	61.78	32.23
Assistant Hospital Administrator	12.35	10.76	11.00	5.69
Sr. Med. Lab. Tech.	46.74	49.75	46.32	23.80
X-ray Technician	43.69	46.69	54.35	24.12
Storekeeper ^{a/}	1.37	--	--	--
Dobashi Store	44.11	41.15	39.93	20.87
Psychiatrist ^{b/}	<u>52.05</u>	<u>55.72</u>	<u>48.29</u>	<u>26.01</u>
	\$355.31	\$370.73	\$287.26	\$168.66

^{a/} Retired. Quarters converted to other uses.

^{b/} Employed by the department of health but is provided quarters in exchange for psychiatric services.

Source: Billings of the Maui Electric Company, Ltd. (Each cottage is metered separately.)

d. Stand-by housing. Under both the State policy and Kula's policy, housing is authorized for employees required to perform stand-by duties. The State policy provides that such housing may be offered free to such employees.

"When an employee is required to render actual services on a scheduled or constantly recurring basis after normal working hours in exchange for government quarters, as provided for under Section 5-72 (j), RLH 1955, as amended."

Kula's policy authorizes free housing, subject to the provisions of section 5-72(j), to the following employees who are required to perform stand-by duties: surgery nurses, the senior medical laboratory technician, and the X-ray technician. Currently, none of the surgery nurses occupies hospital quarters, although both the senior medical laboratory technician and the X-ray technician do.

Section 5-72(j), RLH 1955, as amended, provides:

"An employee who, by agreement with the head of his department, performs stand-by or emergency service in excess of his normal hours of work in exchange for accommodations provided him for the convenience of the government, shall not be entitled to overtime credit for such service except for emergency service rendered on his scheduled day off."

This section of the law should be read in conjunction with section 5-76, on stand-by time pay:

"Any employee of the State or any county, or independent board or commission thereof, who is on stand-by duty after his normal hours of work, or on weekends or holidays, shall, for each day on which he renders such service, be paid, in addition to his basic compensation, an amount equal to five per cent of his daily rate of compensation. An employee shall be deemed to be on stand-by duty when he is assigned by the head of the department or other superior to remain at home or at any other designated place for a specified period for the purpose of responding to calls for immediate service. The fact that an employee may be called to duty in cases of emergency shall not, unless such employee is on stand-by duty, entitle such

employee to the additional five per cent compensation; but, if called to duty, he shall be entitled to overtime compensation."

The provisions of the two sections may be summarized thus:¹¹

- For each day that an employee is required to perform stand-by duties, he is to be paid a premium of five per cent of his daily pay rate.
- If, while on stand-by, the employee is required to respond to an emergency, he is to be credited with overtime.
- If, however, the employee occupies government quarters, under agreement to perform stand-by duties in exchange for such quarters, he is not entitled to stand-by premium or overtime credit for responding to an emergency while on stand-by. He is entitled to receive overtime credit only if he performs emergency service on his scheduled day off.

Kula's policy is in agreement with the foregoing summary.

As far as we can ascertain, there are no formal, written agreements between the senior laboratory technician and the X-ray technician and the hospital to exchange housing for stand-by services. Such agreements, however, can be implied. The two employees' duties require stand-by services, and both occupy hospital quarters. Presumably, both were, and are, aware of the provisions of Kula's policy. Thus, neither the senior laboratory technician nor the X-ray technician should be entitled to premium pay or overtime credit for stand-by or emergency services performed except on his scheduled day off.

We find, however, that in violation of the State statute and Kula's own policy, both technicians have been credited with overtime, regardless of whether or not the overtime was worked on their scheduled day off.

¹¹The State's personnel policies are generally in accord with this summary. See State Personnel Manual, chapter B-3, sections 8.304b(3) and 8.311.

Recommendations

With respect to regular employees' perquisites, we recommend:

Meals

1. The State department of health review and revise its perquisite policy so that proper guidelines are set to enable public institutions under the jurisdiction of the department to establish reasonable rates for meals furnished employees.

2. The State department of health and the county of Maui, through the managing committee of Kula Sanatorium, direct Kula's staff to make an immediate study of the costs of preparing meals at Kula, and upon the completion of such study, revise, as needed, the meal rate charged Kula's employees, so that the rate will properly reflect the total allocable cost of producing meals. The department of accounting and general services should render all such assistance as may be required in this cost allocation study.

3. The State department of health and the county of Maui, through the managing committee of Kula Sanatorium, take proper measures to insure the discontinuance of the practice of providing free meals to employees of other government agencies on business at Kula.

Laundry services

4. The State health department and the county of Maui, through the managing committee of Kula Sanatorium, discontinue the cleaning of employees' personally-owned work clothing and uniforms at the expense of the hospital; and further, that employees reimburse the hospital for the actual cost charged by the commercial laundry for the cleaning of personally-owned clothing.

Housing

5. The State department of health and the county of Maui direct the managing committee of Kula Sanatorium to phase out or convert to program-oriented uses all employee cottage facilities, except

those set aside for the quartering of employees required to perform stand-by duties on a regular basis.

6. The State department of health and the county of Maui, through the managing committee of Kula Sanatorium, survey housing conditions of communities within reasonable commuting distance from the hospital to ascertain the existence, extent and operational implications of housing shortages for single male and female employees and the need for hospital sponsored housing facilities for these employees.

7. Pending the termination of all operationally non-essential housing facilities, the State department of health and the county of Maui, through the managing committee of Kula Sanatorium, provide for and insure the collection of rentals for the use of the dormitories and cottages by all regular employees, including the registered nurses and the assistant hospital administrator, but excepting the senior

medical laboratory technician and the X-ray technician who occupy their premises in exchange for performing stand-by and emergency services.

8. The State director of health and the county of Maui direct the managing committee of Kula Sanatorium to reassess the rentals now being charged the employees for living quarters and to establish reasonable rates, taking into account the age, kind and size of the quarters, the cost of utilities, repair and maintenance costs, fire insurance premium costs, and the rentals being charged for comparable quarters in the community. The State department of accounting and general services should render such assistance as necessary in the establishment of reasonable rentals.

9. The State department of health and the county of Maui, through the managing committee of Kula Sanatorium, execute a written agreement whereby the senior medical laboratory technician and the X-ray technician will agree to render

stand-by and emergency services on a regular basis after normal working hours, in exchange for rent-free living quarters.

10. The State department of health and the county of Maui direct the managing committee of Kula Sanatorium to terminate the granting of overtime credits to the senior medical laboratory technician and the X-ray technician for stand-by and emergency services rendered by them on other than their regularly scheduled day off.

ADMINISTRATION OF REGULAR EMPLOYEES' VACATION

The entitlement to and the administration of employee vacation credits are governed by the laws of the State and the civil service rules and regulations of the respective counties. Pursuant to these basic conditions, each department in turn develops its own internal procedures and operational policies for administering the vacations of its employees.

Our review of Kula's vacation administration practices points out significant deficiencies which have caused (1) the unnecessary forfeiture of vacation credits by some of its employees; and (2) the unauthorized granting to an employee of vacation which was not actually earned.

1. Vacation forfeitures. Section 5-30, RLH 1955, as amended, allows government employees to earn vacation credit at the rate of one and three-quarter working days for every month of service. Generally, an employee may not accumulate and carry over to succeeding years vacation credits in excess of 15 days each calendar year, and he may not accumulate vacation credits in excess of 90 days at the end of any calendar year. The law, however, anticipates the need for management latitude, especially in cases where an employee is needed at his job and time cannot be arranged for him to take his vacation. Section 5-30, thus, permits management to authorize an employee to carry over vacation credits in

excess of 15 days and allows management to pay, in cash, vacation credits which have accumulated at the end of any calendar year in excess of 90 days.

At Kula, due to management oversight, in calendar year 1965, four employees apparently lost vacation credits which accumulated in excess of 15 days, and four employees forfeited vacation credits which accumulated in excess of 90 days. In both situations, Kula's management failed to give prior approval for the accumulation of vacation credits, or to insure cash compensation as applicable. We believe that the major deficiency which led to the forfeitures was the lack of adequate administrative supervision over employee vacations. The employees' vacation status was not compiled until April, 1966, more than three months after the close of the calendar year. By then, this information was not readily usable for administrative action since all necessary adjustments should have been taken prior to the close of the calendar year. Even if this information was known to

supervisors before the close of the year, the fact is that follow-up was not made to correct the situation then. To avoid such inadvertent omissions in the future, Kula's management should issue clear instructions to the staff requiring timely review and corrective actions by supervisors well in advance of the close of each calendar year.

2. Granting advance vacation. Rule 2.7 of the county of Maui's civil service rules and regulations expressly states that ". . . vacation, which has not been earned, shall not be granted in advance."¹² In violation of this rule, Kula granted one employee ten and one-half days of vacation in excess of what was actually earned. It appears that the employee had been injured on the job and was receiving workmen's compensation

¹²County of Maui, "Rules Relating to Vacation and Sick Leave for Officers and Employees of the County of Maui," effective November 26, 1963.

benefits during the ten and one-half days that he was out of work. Kula placed the employee on "vacation with pay" status, when it should have put him on "leave without pay" status. This problem arose because of management's failure to apply properly the county civil service rules relating to vacations and leaves.

Recommendations

We recommend:

1. The State department of health and the county of Maui direct the managing committee of Kula Sanatorium to:

(a) instruct its line supervisors to review the vacation status of assigned personnel at or about the beginning of the last quarter of each calendar year;

(b) effect appropriate rescheduling of vacations as necessary so that accumulation of excess vacation credits and unnecessary forfeitures at the end of the year may be avoided;

(c) institute procedures whereby advance authorization can be secured in proper cases to allow employees to carry forward excess vacation credits into the following year;

(d) instruct the hospital business office to screen, before the close of each calendar year, employee vacation records to pick out the exceptional cases of vacation credit accumulation for management attention and action; and

(e) refer the case of the employee who received unearned vacation to the county attorney and the county civil service department for appropriate action to recover the compensation improperly paid.

2. The county of Maui civil service department take such steps as necessary to insure full understanding of and compliance with the civil service rules and regulations by Kula Sanatorium's management and personnel.

PHYSICIANS' EMPLOYMENT CONTRACTS

Kula Sanatorium's two staff doctors, the superintendent and the resident physician-surgeon, are employed under separate contractual agreements with the managing committee. Current contracts have been in force since September 1, 1964. Both contracts are based on the provisions of section 3-61(1), RLH 1955, as amended, which exempts from the county civil service,

"Positions filled by persons employed on a fee, contract or piecework basis who may lawfully perform their duties concurrently with their private business or profession or other private employment, if any, and whose duties require only a portion of their time, where it is impracticable to ascertain or anticipate the portion of time devoted to the service of the county and such fact is certified to by the director of the county civil service/;"

A similarly-worded exemption is found in section 3-20(n), which applies to the State civil service.

Specific terms of each contract include stated monthly compensation; authorization to engage in part-time private practice; free housing, including utilities and kitchen equipment; flat, monthly, automobile allowances; flat-work laundry services; yard and maintenance services; entitlement to continued membership in the State retirement system; and vacation and sick leave privileges under applicable provisions of chapter 5, RLH 1955, as amended.

In consideration for the above, the superintendent and the resident physician-surgeon have respectively agreed to provide all necessary medical and surgical services to patients whose hospitalization is paid from State or county funds, or both, giving them priority over the physicians' own private patients. They further agreed "to comply with applicable provisions of Chapter 5, RLH 1955, as amended." The administrative duties and responsibilities of the superintendent are not specified; but, it is generally understood that he shall

be in overall charge of the hospital under the immediate direction of the managing committee.

Both contracts have no termination date, although they do provide for renegotiation by either party upon 60 days' written notice. The contracts also provide for termination for reasons such as incompetency, negligence, irresponsibility, incapacity, and for other causes specified in section 64-7, RLH 1955, as amended (relating to revocation or suspension of licenses to practice medicine).

1. Physicians' employment status. Section 3-61(1), RLH 1955, as amended, under which the physicians' contracts were executed, essentially governs the engagement of services of persons who are independent or self-employed contractors. The words, "persons employed on a fee, contract or piecework basis who may lawfully perform their duties concurrently with their private business or profession," imply that the

contract employee has a business of his own and that the government, if it contracts for his services, becomes but one of his business clients. The government pays for his services, not in salary, but at a specified fee or a total contract price or an agreed per unit price.

Thus, a person hired by "fee contract" is not a government employee in the usual sense. The usual employer-employee relationship does not exist between the government and the contractor. Being a contractual arrangement, the government can expect only those services, and the independent contractor can expect only that remuneration, which are specifically set forth in the contract. The usual benefits granted to government employees do not, therefore, automatically apply to those under contract. The memorandum of the county attorney of the county of Maui to Kula Sanatorium, dated August 27, 1963, bears this out. In the memorandum, the county attorney said,

"in hiring a person on a fee basis, such person does not become an employee of the State or political subdivision, and consequently does not enjoy any of the rights or privileges extended to persons hired on some other method...."

Although the physicians are hired on contract, in practice, there is a considerable amount of confusion in the treatment accorded them. They are at times treated as if they are regular, part-time employees; at other times, they are treated strictly as contract employees. There is a tendency to accord them fringe benefits and privileges which are generally reserved for regular employees only; at the same time, there is a tendency to shield the physicians from those restrictions which are imposed on regular employees. These tendencies, of course, work to the benefit of the physicians.

In the following sections, we examine some of the problems which arise from this treatment accorded the physicians.

2. Physicians' non-contractual benefits.

Although the physicians' contracts are silent on the matter, the following benefits, which are reserved for regular, government employees, are granted to the physicians:

- Social Security Tax - The State presently contributes the employer's share of this tax for both physicians at the rate of 4.2 per cent of the maximum taxable earnings of \$6,600 or approximately \$277 a year for each physician.¹³
- Hawaii Public Employees Health Fund - The State contributes \$10 per month or \$120 per year, for each of the physicians, both of whom are presently enrolled in the health fund. One physician is enrolled for dental benefits for which the State pays \$1.40 per child per month.¹⁴

¹³As reported in budget estimates available through the department of budget and finance, State of Hawaii.

¹⁴Information received from the Hawaii public employees health fund, department of budget and finance, State of Hawaii.

We do not believe that an extension of these benefits to the physicians is legal. The payment of the physicians' social security taxes and the enrollment of the physicians in the State health fund are attempts to treat the physicians as regular employees of the State.

It seems that the above practices evolved from the long and continuous tenure of the doctors at the hospital which tended to obscure their status as independent contractors. It was generally assumed that they qualified to participate in employee benefit programs; and Kūla Sanatorium's exercise of discretion was not usually questioned, since it enjoyed a semi-independent status with broad management authority. But, the basic fact remains that the physicians were hired and retained through the years under fee contracts, and under the provisions of law, they are not entitled to the rights and privileges of regular government employees.

3. Physicians' contractual benefits.

We do not question the power which the managing committee possessed under section 148-25, RLH 1955, as amended, to enter into contracts with independent contractors, where the conditions enumerated in section 3-61(1), RLH 1955, as amended, existed. Nor do we question the general authority, which it had, where such contracts were proper, to negotiate the terms and conditions of the contracts. However, we do question the reasonableness and propriety of some of the benefits which the contracts extend to the physicians. These benefits, and the reasons for our reservations, are discussed below.

a. General comments. The question of the propriety of granting certain entitlements in fee contracts was raised some time ago, but was not conclusively answered. In October 1961, the personnel director of the county of Maui requested the advice of the State attorney general as to whether or not a contractual employee may be granted benefits of a regular employee, such as

sick leave, vacation, membership in the retirement system, etc. The State attorney general failed to respond. As a result, the issue remains unresolved. However, the department of the attorney general did return a copy of a physician's contract with an "approved as to form" notation inscribed on it. In addition, the county of Maui personnel director issued a certificate approving the exemption of the physicians from civil service. Both of these actions were erroneously interpreted by Kula Sanatorium as a validation of the contents of the contract.

"Approved as to form" notation, inscribed by the attorney general or the county attorney on any employment contract, certifies that the document contains the necessary elements to be a binding and enforceable contract. It does not imply approval of the specific terms contained in the contract. Discretion as to the specific conditions of the contract is generally left to the contracting agency. The certification

of the personnel director, as required for special employment contracts executed under section 3-61(1), merely certifies the individual's exemption from civil service and does not signify approval of the terms and conditions of the contract.¹⁵ Therefore, we do not agree that the certifications of either the attorney general (as to the contract form) or the personnel director (as to exemption from civil service) constituted unequivocal approval of the specific benefits and privileges expressed in the physicians' contracts.

b. Vacation and sick leave. The physicians' contracts provide for vacation and sick leave benefits as set forth in chapter 5, RLH 1955, as amended. The contracts, however, do not specify

¹⁵This interpretation of the nature and scope of the certification is explained in Correspondence No. 313:24d of the department of the attorney general to the department of civil service, county of Maui, dated May 25, 1956.

whether partial or full credits may be earned. The practice has been to grant these physicians maximum vacation and sick leave credits comparable to that earned by regular, full-time State and county employees.

We do not believe that a person hired by fee contracts should be allowed vacation and sick leave privileges. As we pointed out earlier, a contract employee is actually a private, self-employed, business operator, who performs government service concurrently with his private business. As such, he generally schedules his own vacation and makes such arrangements as necessary in the event of his illness. The contractor's anticipated vacation is, indeed, a factor to consider in determining the fee or contract price. But, it is not proper to grant to the contract employee vacation and sick leave privileges, as if he were a regular government employee.

Even if vacation and sick leave privileges may properly be included in the

physicians' contracts, we do not believe that the granting of the privileges in full is justified, since the physicians provide only part-time services. The granting of full vacation and sick leave privileges to the physicians constitutes an unfair practice. Regular employees get only partial privileges, if they work part-time.

c. Retirement benefits. The physicians' contracts guarantee the physicians rights of membership in the State employees' retirement system. We do not believe that the managing committee of Kula Sanatorium ever had the authority to issue such guarantee. The authority to determine membership eligibility is vested in the board of trustees of the State employees' retirement system, under the provisions of chapter 6, RLH 1955, as amended. Furthermore, we do not believe that the employment status of the physicians can be equated with that of regular government employees to enable the physicians to gain membership in the retirement system.

d. Perquisites. The contracts provide the physicians with the following perquisites--free housing, including utilities and kitchen equipment, flat work laundry services, yard and maintenance services and monthly automobile allowances.

In a subsequent chapter, we discuss the propriety of granting the physicians flat, monthly, automobile allowances. We acknowledge that housing may be made available to the physicians, consistent with both the State and Kula's perquisite policies, which provide that living quarters may be made available "when it is necessary to meet emergencies involving . . . the safeguarding of human life." Both physicians, under their contracts, are subject to call at any time to perform emergency medical services. We further acknowledge that laundry services may be made available to the physicians, to the extent that Kula's own laundry facilities are able to provide such services. We do not believe, however, that either of these

services should be available at no cost to the physicians. Our reasons follow.

(1) Housing. Under the State perquisite policy, living quarters, which may be provided because of the necessity "to meet emergencies involving the safeguarding of human life," are not authorized to be provided without charge.

Kula's perquisite policy seeks to justify the granting of free housing to the superintendent and the resident physician-surgeon on the grounds of "isolated condition of employment" and "restrictions on the doctor's freedom of choice" as a result of such isolation. As we noted with respect to Kula's regular employees, the phrases, "isolated conditions of employment" and "restrictions on the freedom of choice," no longer aptly describe the conditions at Kula.

As to the resident physician-surgeon, Kula's policy adds the further rationale that the doctor needs "to respond and to meet medical emergencies at any hour of

the day or night." The policy equates this need to "stand-by" services. We cannot agree that this rationale justifies free living quarters for the resident physician-surgeon. He (and also the superintendent) was hired by contract to provide precisely that very service--"to respond and to meet medical emergencies at any hour of the day or night." It was, ostensibly at least, because of this inability to say exactly when his medical services would be required that led to his contractual employment under section 3-61(1), RLH 1955, as amended. That statutory provision, it will be recalled, permits contract employment when the duties of the persons engaged "require only a portion of their time" and "where it is impracticable to ascertain or anticipate the portion of time devoted to the service of the county." Thus, the fee provided in the contract already compensates the doctor for being on call at any time to meet medical emergencies.

(2) Laundry service. The granting of free laundry services violates Kula's own perquisite policy, which requires all employees, without distinction, to pay for laundry services. The laundry services promised in the physicians' contracts are solely for the personal benefits of the physicians and bear no relationship to the duties required of them. The contractual provision grants to these physicians privileges which regular employees are not entitled to enjoy. As such, it is discriminatory and unfair to the other employees of Kula.

(3) Meals. Although not provided in either of the physicians' contracts, both the superintendent and the resident physician-surgeon have been enjoying free meals at the sanatorium, while all regular employees are required to pay. The granting of free meals to the physicians violates both State policy and Kula's own policy and is an unwarranted discrimination in favor of the physicians against all other employees at Kula.

Neither the conditions of employment nor the nature of the duties required of the physicians justify the granting of free housing, free laundry services or free meals to them. All of these services are solely for the benefit of the physicians and, as such, the physicians should be required to pay a "reasonable value," determined in the same manner as for other, regular employees of Kula.

4. The contract fees or compensation.

Although the superintendent and the resident physician-surgeon are hired for part-time services, their contract fees (or compensation) are more comparable to those of a full-time, regular employee. Since 1964, the superintendent has received a monthly salary of \$1,728 (or \$20,736 annually), which is more than the salary paid to the administrator of the Hawaii State Hospital, who is a regular, full-time employee of the State. The resident physician-surgeon is compensated at \$1,528 monthly (or \$18,336 annually), which is nearly equivalent to the salary paid to a

regular government employee on Step L-2, at Salary Range 31. In addition, the perquisites and fringe benefits which are provided free to the superintendent and the resident physician-surgeon are valued as follows:

<u>Item</u>	<u>Super-intendent</u>	<u>Resident Physician-Surgeon</u>	<u>Comments</u>
Value of housing (mo.)	\$100.00	\$70.00	As reported for social security purposes
Value of meals (mo.)	7.00	7.00	As reported for social security purposes. Based on old rate of 30¢ per meal
Value of laundry services	(un-determined)	(un-determined)	Includes household linen
Automobile allowance (mo.)	100.00	75.00	Given regardless of actual mileage
Employer contribution to social security and State retirement system	--	--	Same as government employees
Vacation and sick leave	--	--	Same as government employees

The audit report of the department of budget and finance recommended that the salaries and other compensation granted the physicians should be re-evaluated for consistency with the hiring policies of the department of health. We agree that such evaluation is necessary. We

believe, however, that any evaluation of the physicians' compensation for part-time services should be preceded by an examination of whether or not one or both of these physicians should be hired under the civil service rules and regulations on a full-time basis. We

believe, further, that if one or both of these physicians are retained on a part-time basis, some standards must be established to permit a meaningful evaluation of the reasonableness of the compensation to be paid for such part-time services. In the subsequent sections, we discuss both of these questions.

5. Full-time versus part-time. One of the main features of the physicians' contracts is the permission granted them to engage in the private practice of medicine, concurrently with their public duties. This means that the services contracted for by the hospital were not intended to be full-time services. In our opinion, the position of the superintendent of the hospital should be a full-time position, to be filled according to the civil service rules and regulations. We do not believe that the position of the resident physician-surgeon should be made a full-time position at this time.

a. The superintendent. We believe that the superintendent should be a full-time, regular employee of the hospital for the following reasons.

• Among the duties of the superintendent are those of administering the affairs of the hospital, serving as the medical director of the hospital, and providing medical services. The responsibility of administering the affairs of the hospital itself is a recurring and daily responsibility. He has direct supervision over all personnel and daily management of the hospital. As medical director, he is in charge of the welfare of all patients confined to the hospital. As a physician, he is required to render such medical services as needed at any time of the day or night. The nature, scope and volume of duties required to be performed by the superintendent lead us to believe that Kula Sanatorium needs a full-time superintendent.

• Section 3-61(1), RLH 1955, as amended, which governs the hiring of persons by fee contract is basically applicable to services which are so sporadic and special in nature that they are not obtainable under other means of hiring. The duties of the superintendent, however, are not of that kind. His duties are such that his full attention to the hospital is in the best interest of the public.

• Kula Sanatorium is a multiple-care hospital. It has a number of different programs which require attention and administration. The federal "Medicare" programs are having a broadening effect upon the hospital's services. Kula is a 165-bed hospital with an average patient, daily census of 138. The size of the hospital, the program and operational needs of the institution, and the changing scope and character of the hospital all point to a full-time superintendent.

• The level of compensation now being paid the superintendent for part-time services compares very favorably with, if not exceeds the compensation paid to full-time professional medical personnel at other hospitals administered by the department of health.

• The presence in the hospital of at least one full-time physician will alleviate to some extent the problems of priority created by the present employment contracts which permit both the superintendent and the resident physician-surgeon to engage in private practices of medicine. The employment contracts state that the physicians will give priority of service to government patients over their own private patients. In practice, this requirement is difficult for the physicians to adhere to and cannot be guaranteed. For instance, if the services of a physician

are required by both public and private patients at the same time, the physician would be professionally bound to render his services to the patient who needs his help most. His determination of priority in such instance cannot depend on whether the patient is a government patient or a private patient. Converting the superintendent's position to that of a full-time, regular employee of the State will insure the presence of at least one physician to care solely for the needs of government patients and thus help alleviate some of the problems of priority caused by the current physicians' contracts.

b. The resident physician-surgeon. Available facts do not indicate a need to place the resident physician-surgeon on a full-time, regular employee status. Currently, the duties of the resident physician-surgeon are confined to providing medical services. While his medical services may be required at all hours of the day or night, his continued presence in the hospital is not required, even during the normal eight-hour day. For this reason, we do not recommend a full-time status for the resident physician-surgeon at this time.

6. Standards for evaluating reasonableness of compensation. So long as either or both of the physicians are retained on a part-time basis, there is need for some standards to evaluate the fairness of the compensation paid to them. Under the present contracts, the specific number of hours the physicians are expected to devote to hospital duties are not defined, and the proration of their time between hospital duties and their respective private medical practices is determined entirely by the physicians themselves. The management of Kula Sanatorium neither directs nor controls, to any significant degree, the manner and extent to which physician services are to be provided the hospital.

Ostensibly, of course, the inability to ascertain or anticipate what portion of the physicians' time will be required for hospital duties led to their engagement under section 3-61(1), RLH 1955, as amended. However, it appears to us that the time which the physicians spend in rendering their services to the

hospital can be ascertained to some extent. For example, some duties are required daily, such as the rounds which the physicians make to check on the inpatients, and the time required to complete the rounds can be determined; some other duties, such as surgery, although not required daily, nevertheless occur with sufficient frequency that the time spent on such duties can be reasonably estimated. Currently, the management of Kula is unaware of how much time is spent by the physicians in rendering the various services to the hospital.

Of course, a measurement of the time spent by the physicians on hospital duties will not reveal the quality of services being rendered; nor will it necessarily be precise and reflect the exact experiences. However, preciseness, though desirable, is not always possible.

The data, thus secured, can be translated into the minimum operational and program requirements of the hospital for physicians' services. The minimum

requirements of Kula can then be compared with the minimum requirements of other public hospitals in the State, and the amount of compensation being paid by such other hospitals for full-time and part-time physicians can be used meaningfully to evaluate the reasonableness of the fees being paid to Kula's two physicians.

Recommendations

Our review strongly suggests the need for the immediate re-evaluation of the employment status, compensation, employment factors and other pertinent aspects of the present employment contracts of Kula's two staff physicians.

We recommend:

1. The State department of health seek immediate legal clarification from the State attorney general to determine:

(a) whether or not section 3-61(1), RLH 1955, as amended, permits the hiring

of Kula's superintendent and resident physician-surgeon on a fee contract basis, in the light of the duties required to be performed by them;

(b) the employment status of persons hired by "fee" contracts;

(c) the extent to which, if any, the benefits accorded by law to regular employees--State payment of social security taxes, membership in the Hawaii public employees' health fund, sick leaves and vacations, membership in the State employees' retirement system, and perquisites--may be enjoyed by persons employed by fee contracts, if such benefits are not specifically mentioned in their contracts of employment; and

(d) whether or not any of these benefits may be granted to contract employees by the terms of the contracts.

2. Upon the rendering of a legal opinion by the State attorney general, the department of personnel services, State

of Hawaii, develop administrative guidelines with respect to:

- (a) the circumstances under which fee contracts may be used;
- (b) the types of employee benefits which may properly be included and which should be excluded from fee contracts; and

(c) the types of employee benefits to which contract employees would be entitled, even if the fee contracts are silent on the matter. The guidelines should be distributed to all State departments and agencies and to the respective county civil service departments

3. The State department of health and the county of Maui, direct the managing committee of Kula Sanatorium to:

- (a) identify the minimum operational and program requirements of Kula Sanatorium for physicians' services;

(b) compare Kula's minimum requirements with those of other public hospitals in the State under the jurisdiction of the department of health and ascertain whether such other hospitals are meeting their minimum requirements by hiring full or part-time physicians and at what compensation or fee; and

(c) examine the contract fees now being paid to Kula's physicians and to revise such fees, as necessary, so that they will be consistent with the compensations or fees being paid to physicians at other public hospitals under the jurisdiction of the State department of health. All special employment requirements and conditions should be considered in establishing, and reflected in the fee, to avoid separate specifications of them in terms of "benefits" or "added remuneration." The State department of health should render its assistance to the managing committee in accomplishing this task. The contract fees for physicians' services at Kula should be subject to the approval of the State director of health.

4. The State department of health and the county of Maui direct the managing committee of Kula Sanatorium to recruit immediately a superintendent for Kula on a regular, full-time basis, through the civil service recruiting channels.

5. Upon the rendering of the legal opinion by the State attorney general, the establishment of guidelines by the department of personnel services, and the establishment of reasonable contract fees for physicians' services at Kula, all as outlined in the above recommendations, the State department of health and the county of Maui, through the managing committee of Kula Sanatorium, should terminate the existing resident physician-surgeon's contract (and the superintendent's contract, if it has not been previously terminated by reason of the hiring of a full-time superintendent), by giving the required 60-day notice, and enter into a new contract (or contracts, if there is need to retain a part-time superintendent, pending the recruitment of a full-time superintendent).

Such new contract should accomplish the following, where legally permissible:

- (a) Identification in the contract of the physician as an independent contractor.
- (b) The non-responsibility of the government to pay any portion of the physician's social security taxes.
- (c) The non-membership of the physician in the State employees' retirement system and the Hawaii public employees' health fund.
- (d) The non-entitlement of the physician to the usual vacation and sick leave benefits enjoyed by regular employees.
- (e) The payment by the physician of reasonable rental for housing which may be made available to him in accordance with current State perquisite policy, and the payment by the physician of a reasonable charge for all meals taken

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by him at the hospital. No laundry services should be made available for personal clothing, except at actual cost.

(f) Reimbursement to the physician of actual costs incurred by him in the performance of his duties, such as automobile allowance on the mileage basis.

(g) The payment of a reasonable compensation to the physician, which is consistent with the hiring policies of the State department of health.

(h) Duration of the contract not to exceed two years. Of course, immediately upon the rendering of the legal opinion by the State attorney general, all practices ruled illegal should immediately cease, notwithstanding the fact that all other recommendations may not as yet have been implemented. The State director of health and the county of Maui should insure that all illegal practices are terminated at once.

MONTHLY AUTOMOBILE ALLOWANCES

Under present policies, State and county employees who require use of their personal motor vehicles for official government business are compensated for this use by either (1) reimbursements based on mileage, or (2) flat monthly allowances. Generally, the latter is granted only in exceptional cases as authorized by the board of supervisors for county agencies or by the director of finance for State agencies.

At Kula Sanatorium, the managing committee, acting under the general powers delegated to it by section 148-25, RLH 1955, as amended, has granted flat monthly automobile allowances to the following: (1) the superintendent at \$100 per month; (2) the resident physician-surgeon at \$75 per month; and (3) the assistant hospital administrator at \$75 per month. The allowances for the first two employees are set forth in their respective contracts of hire; the allowance for the assistant hospital

administrator has been authorized administratively by the managing committee.

All other employees of the hospital who require the use of their personal vehicles for official hospital business are reimbursed on a mileage basis at the rate of \$.12 per mile for the first 400 miles and \$.10 per mile for every mile in excess thereof. These rates are the same as those established for State employees by section X(b) of regulation 11, rules and regulations of the State comptroller, as amended on August 1, 1965.

The department of budget and finance, in its audit report, stated that it could not determine the reasonableness of the flat allowances granted to the superintendent, the resident physician-surgeon and the assistant hospital administrator, in the absence of detailed data on actual mileage actually incurred by these officials on official sanatorium business. It recommended, therefore, that mileage records be maintained in

sufficient detail and length of time to enable proper evaluation of the car allowances. Pursuant to this recommendation, the managing committee in April, 1966, directed a staff study of present monthly automobile allowances. Our examination has disclosed that the staff has made no progress on this matter.

We agree that transportation expenses incurred in the official business of the hospital are legitimate expenses of the hospital, and the employee incurring such expenses should be reimbursed. In our opinion, however, (1) the monthly car allowances granted to the superintendent, the resident physician-surgeon and the assistant hospital administrator should be discontinued, and they, like all other hospital employees, should be placed on a per mileage basis; and (2) even if the granting of monthly car allowances to these three officials can be justified, the amounts now allowed are excessive. Our reasons follow.

1. Necessity for flat allowances.

Under both State and county policies,

the allowance of flat monthly amounts for automobile expenses is granted only in exceptional cases. On the State level, generally, flat allowances have been granted only to department heads and their first deputies or first assistants. Other State employees are either reimbursed on a mileage basis or have the use of government vehicles when local travel is required. Generally, those allowed flat allowances are officials, who by the nature of their duties and responsibilities, use their private automobiles so extensively on official business that it is administratively impracticable to separate the public use from the non-public use of their personal vehicles. We do not find that this condition exists for the superintendent, the resident physician-surgeon and the assistant hospital administrator of Kula Sanatorium. Their duties are largely confined to the hospital and entail but limited or predictable trips outside the hospital premises. For example, the superintendent and the assistant hospital administrator make

trips to Wailuku to confer with officials on hospital matters, and the superintendent travels to outlying districts to conduct T.B. outpatient chest clinics. But, these trips are either infrequent or predictable.

2. Amount of allowances. As far as we can ascertain, there has never been a systematic study of automobile usage to enable anyone to evaluate, objectively, the fairness of the amount of the allowances granted to the superintendent, the resident physician-surgeon and the assistant hospital administrator. Our analysis indicates, however, that the allowances for these three employees exceed their requirements for travel on official hospital business. For example, using the mileage rates adopted by the sanatorium for its general employees, a person receiving a \$75 per month automobile allowance would need to make round trips between Kula and Wailuku (which are about 25 miles apart) on every alternate working day in order to accumulate mileage equivalent to the

allowance amount. Regular duties of the superintendent, the resident physician-surgeon and the assistant hospital administrator do not require travel to this extent.

In expressing our views, we are mindful that the flat monthly automobile allowances to the superintendent and the resident physician-surgeon were probably included in their respective employment contracts to induce these two officials to accept contractual employment with the hospital. Nevertheless, it should be noted that these automobile allowances are specifically delineated in their contracts as "allowances" and not as salaries or contract fees. "Allowances" should not be equated with salaries or fees. Salaries and fees are basic compensation paid for the services of the employee; allowances are given to reimburse the employees for expenses incurred incidental to the performance of their services. Thus, allowances should be reasonably related to actual expenses.

Recommendations:

1. The flat monthly allowances granted to the superintendent, the resident physician-surgeon and the assistant hospital administrator be discontinued and all employees at Kula, both regular and contractual, be reimbursed on a mileage basis for the use of their private automobiles in the performance of their official duties. The State director of health, the county of Maui and the managing committee of Kula Sanatorium, should delete all flat allowances for automobile expenses from the current contracts of hire and from all future contracts of hire of the superintendent and the resident physician-surgeon.

2. If flat automobile allowances are granted to any employee, such exceptions should be made subject to the approval of the director of finance. The director of finance should approve only those requests for such exceptions where the allowance requested bears some

reasonable relationship to the actual expenses incurred by the employee in the use of his private automobile for official hospital business.

MISCELLANEOUS REVENUES

Kula Sanatorium derives miscellaneous income from various sources. Like other public institutions, Kula secures commission income from vending machine concessions and public telephone pay stations. In addition, at Kula, income is generated from the sale of silver residue obtained from the processing of exposed X-ray films. The disposition of these miscellaneous income, earned during the eleven-month period from July 1965 to May 1966, is indicated in the chart below.

<u>Source</u>	<u>Amount</u>	<u>Disposition</u>
Commission from telephone pay stations	\$ 24.80	General fund
Commission from cigarette vending machine	74.89	Patients' ass'n. fund
Commission from soft drink vending machine	209.45	Patients' ass'n. fund
Proceeds from sale of silver residue	--	X-ray technician

Three aspects of the miscellaneous income received by Kula require examination: (1) the use and disposition of the commission income; (2) the use and disposition of the income from the sale of silver residue; and (3) accounting and reporting of all miscellaneous income.

1. Use and disposition of commission income. All commissions generated from the use of space in public buildings for private business purposes constitute public funds. Thus, commissions derived from vending machines and telephone pay stations placed in buildings controlled by Kula Sanatorium are public funds. At Kula, commissions earned from telephone

pay stations are treated as government realizations and are deposited in the State general fund. However, the commissions earned from vending machines are deposited into the patients' association fund for use by the patients for their association activities. The latter instance raises a question concerning the legality of the disposition of the commissions.

This problem is not unique to Kula. Public institutions and agencies throughout the State, which control public buildings, do from time to time permit the installation of vending machines and telephone pay stations within the

buildings. Commissions so derived are disposed of and used in various ways. Some, like Kula, use the income for the benefit of patients; others use it for employees' socials and the like. In every case, the question is whether or not disposition of the commissions, other than a deposit into the State's general fund, is legal.

We do not question the therapeutic value of patients' activities or the morale building factors of employees' socials. But, there is neither a statute nor governmental policy which permits such non-operational uses of what otherwise are public funds. It would appear that inasmuch as the commissions from vending machines constitute State funds, some statutory authority must be found and governmental policy should be formulated to permit earmarking of the income for use by patients and employees.

2. Use and disposition of proceeds from the sale of silver. In the process of developing exposed X-ray films, residue

of silver settles in the solution tank. This residue is a marketable product which can be sold for profit to mainland processors. The X-ray technician, unknown to the officials of Kula, through his own resourcefulness, has collected and sold the residue to mainland processors for his personal profit. The amount he actually receives from such sales is unknown, although we are informed that the amount is not substantial.

Except for the resourcefulness of Kula's X-ray technician, the residue would be washed down the drain in the normal course of developing the X-ray films. Nevertheless, the residue is collected from films owned by the hospital, and technically at least, the exposed and developed films constitute public property. Income derived from the use of public property is public funds, and any use of public funds for a personal, private purpose is constitutionally prohibited.

The practice of collecting silver residue and selling it to mainland processors is not uncommon at institutions which do much X-ray film processing. The problem is that the institutions, like at Kula, have been unaware of this practice and have never established any policy regarding the collection and sale of the residue. We are informed that collection of the residue involves but minimal amount of time or expense.

We believe that management at Kula, and at other public institutions which process X-ray films, should establish a policy making the collection of silver residue a part of the X-ray technician's duties and direct the disposition of all revenues from the sale of the residue into the State general fund.

3. Accounting and reporting of miscellaneous income. Kula has not accounted for nor reported the receipts from the vending machines and the sale of silver residue to the appropriate State authorities as required by law. Kula is not

alone in failing to account for and report all of its income from these sources. Other institutions likewise fail to account and report.

Three sections of the Revised Laws of Hawaii 1955, as amended, are applicable.

a. Section 35-14.8, RLH 1955, as amended, requires that "all state funds shall be deposited in the state treasury." Since all of the miscellaneous income received by Kula are public funds, all of them should be deposited in the State treasury.

b. Section 35-14.5, RLH 1955, as amended, requires that all funds, including special funds, be budgeted. The section expresses a legislative intent, thus:

"The purpose of $\sqrt{\text{sections 35-14.5 to 35-14.8}}$ is to place all special funds under legislative and executive budgetary control in the same manner as the general fund, with the exception of those funds subject to applicable federal laws or regulations

and payments on principal and interest on revenue bonds."

Under this section, all miscellaneous income derived from vending machines and sale of public property are required to be reported and budgeted and made subject to the allotment procedure set forth in chapter 35, RLH 1955, as amended. Such reporting and budgeting are required, even if it is assumed that under some statutory authority, the income received from the vending machines may be used for or by the patients' association. Patients' activities, if indeed they serve some usefulness in the rehabilitation and morale of the patients, should be a program specifically budgeted for in the appropriations made to the sanatorium.

c. Section 35-14, RLH 1955, as amended, requires that all moneys received by public officials and public institutions and agencies be reported to the State comptroller. The section reads,

"All state officers, departments, boards, bureaus, commissions or agencies collecting or receiving any moneys not required by law to be deposited in the state treasury shall report to the comptroller all such receipts and disbursements on account thereof not later than the tenth day of each month on such forms and under such rules and regulations as may be prescribed by the comptroller."

This section was specifically intended to require the reporting of all funds received by a public officer or public institution, regardless of whether or not such funds constitute "State funds." Thus, even if the disposition of the miscellaneous income for patients or other purposes is legal, the receipt of such income should nevertheless be reported to the State comptroller.

It would appear that the department of budget and finance and the department of accounting and general services should take steps to insure that all miscellaneous income received by Kula and other public agencies be properly accounted

for, reported and budgeted in compliance with the provisions of the statutes.

Recommendations

We recommend:

1. The State director of health and the county of Maui, through the managing committee of Kula Sanatorium, make the collection of silver residue a part of the duties of the X-ray technician and direct that all income received from the sale of the residue be deposited in the State general fund. We further recommend that the State comptroller insure compliance with this recommendation that the proceeds be deposited in the State general fund.
2. If statutory authority can be found, the director of finance and the State comptroller issue policies outlining the conditions under which income from vending machines and telephone pay stations may be set aside in special funds and the purposes for which such funds may be used.

3. If statutory authority cannot be found for permitting the creation of special funds wherein the receipts from vending machines and telephone pay stations may be credited, the director of finance and the State comptroller, if they, in their judgment, believe the creation of such special funds to be necessary, prepare recommended legislation for passage by the State Legislature at its next session in 1967. In preparing such recommended legislation, the director of finance and the State comptroller may wish to consider, where desirable and legally permissible, the inclusion of provisions which would make the creation of such special funds retroactive so that all income received from the miscellaneous sources in the past may be properly credited and all past uses of the income properly debited to the newly-created special funds.

4. In the absence of any current statutory authority permitting the creation of special funds to which the various miscellaneous income received by Kula and

other public agencies and institutions may be credited, the State comptroller issue a directive terminating all special uses of such income.

5. Whether or not special funds are allowed, the State comptroller issue directives and take necessary action to insure that all State funds collected by Kula and all public agencies and institutions are properly deposited in the State treasury.

6. Even if special funds are allowed, the director of finance require that all income received from various miscellaneous sources by Kula and other public agencies and institutions and the use thereof be budgeted and be placed under executive and legislative budgetary controls as provided in section 35-14.5, RLH 1955, as amended.

7. The State comptroller issue a directive requiring the immediate reporting by all public agencies and institutions of all miscellaneous income now being

received by such agencies and institutions, whether or not such income constitutes State funds, and upon receipt of such reports, take such steps as may be necessary to terminate any unlawful use of such income.

OCCUPATIONAL THERAPY FUND

The occupational therapy fund is a non-hospital asset which was established in the early 1930's to help finance the patients' occupational therapy activities. Through the use of the fund, the patients are able to purchase needed materials with which they manufacture and sell handicraft products. For many years up until April 1963, the fund was financed largely by assessing a 10 per cent or 20 per cent surcharge on the gross earnings received by the patients upon the sale of their handicraft products. The surcharges collected from the patients were as much as \$778 in 1951 when an average of 28 patients per month participated in the business operation. In 1962, however, the number of patients

participating had declined to an average of five per month and surcharges of only \$57.27 were credited to the fund. In April 1963, the practice of assessing surcharges ceased. Since then no income has been earned by the occupational therapy fund, although it is still in operation. Today, it serves only as a revolving fund to accommodate both patients and employees who desire to purchase occupational therapy supplies on a reimbursement basis.

We find that the occupational therapy fund has outlived its usefulness and that there are accounting and bookkeeping deficiencies in the management of the fund.

1. Deficit financing. In recent years, the fund has been experiencing increasing difficulty in meeting its financial obligations. From time to time, the hospital has been finding it necessary to expend budgeted program funds to make up the deficits in the occupational therapy fund and to maintain its solvency.

In 1965, the Maui county auditor's examination of this fund (covering the period from May 6, 1964, to January 31, 1965) disclosed outstanding accounts payable of \$1,075.94; accounts receivable of \$215.99; and a checking account of \$220.85. In effect, this operation did not have sufficient funds to meet its financial obligations. Subsequently upon authorization of the managing committee, a sum of \$505.75 was expended from budgeted program funds to pay a portion of the outstanding accounts payable, although the hospital was not legally responsible for the debts of the fund.

In fiscal year 1965-1966, the fund incurred more than \$300 in expenses over and above the income it received as recoveries of costs. This deficit added to the carry-over expenses from prior years amounted to roughly \$782 in outstanding expenses at the end of July 1966. The status of this fund as of July 31, 1966, is reflected below.

	<u>Income</u>	<u>Expenses</u>
Balance as of 6/30/65	\$ 231.20	\$ 691.79
Totals for 13-month period, July 1965 - July 1966	<u>1,433.31</u>	<u>1,755.38</u>
Totals as of July 31, 1966	\$1,664.51	\$2,447.17
Outstanding Expenses as of July 31, 1966		<u>\$ 782.66</u>

Although the occupational therapy fund was once an important factor in the conduct of the occupational therapy program, its usefulness has diminished with the loss of income which kept it self-sustaining during much of its prior history. We should note that the occupational therapy fund is but one of two funding sources of the hospital's occupational therapy program. The other source is the operating budget which finances the staff salaries, administrative overhead and, additionally, provides funds for certain patient activities including film rental, TV repairs, holiday decorations and crafts and recreational supplies. In the light of the deficit condition of the

occupational therapy fund and the existence of other budgeted funds for the hospital's therapy program, we find it advisable that this non-hospital occupational therapy fund be discontinued.

2. Accounting and bookkeeping deficiencies. Until recently, the occupational therapy fund was managed entirely separate from the regular business operations of the hospital. This was understandable, since the fund was not a hospital asset. The occupational therapist, as custodian of the fund, exercised sole discretion in the accounting of the fund, subject only to occasional cash audits by the office of the county auditor.

Effective this past May, however, new fiscal procedures were instituted which gave the hospital business office a participating role in the accounting of the fund. This new procedure arose because of the increasing use of the program budgeted funds to make up the deficits in the occupational therapy fund. The following deficiencies are noted in the present arrangement.

a. Under the new procedure, the respective responsibilities of the business office and the occupational therapist are diffused, and neither one assumes full accountability for the proper administration of the funds. As a result, fiscal controls over program finances are not effective. For instance, all monthly statements are routed to the business office for payment. But the business office does not have records of the accounts receivable and thus has no knowledge of anticipated income. These records are kept and maintained by the occupational therapist. Thus the business office cannot effectively estimate

the funds available to meet program encumbrances. This matter of control is made more difficult because the occupational therapist may make purchases without regard to the availability of funds. As a consequence, the business office on some occasions has had to defer payments on some charges against the occupational therapy fund because of the lack of funds.

b. The new procedure has failed to review and revise old practices which do not meet current management and operational needs. For example, the occupational therapist is still required to maintain a considerable amount of records. She is required to keep individual patient and employee accounts and to record on each account each purchase and payment for supplies made by the patient or employee and to reconcile the accounts periodically. This requirement is both tedious and time-consuming. Another old practice which still continues is the failure to take periodic inventories of the craft supplies on hand.

Consequently, supplies purchased with public and non-public funds have lost their identity. The above-mentioned deficiencies are serious enough to warrant close management attention. The seriousness is accentuated by the use in recent years of predominantly public funds.

Recommendations

We recommend:

1. The occupational therapy fund be phased out. In place thereof, so much of the public funds budgeted for patients' rehabilitative program at Kula should be set aside and used for the purchase of supplies to be re-sold to the patients for their own use in the manufacture and sale of handicraft products. All such re-sale to patients should be on a cash basis, unless the patient is covered by contract rates which include occupational therapy supplies. Funds recovered from the patients on the re-sale should be reported and deposited in the State's

general fund, in the same manner as are other recoveries of the hospital. The State director of health and the county of Maui, in cooperation with the State director of finance and the State comptroller, should take immediate steps to implement this recommendation.

2. In conjunction with the above, the State director of health and the county of Maui, and the State comptroller, establish the mechanism for and insure the taking of annual inventories of supplies and the reconciling of inventories with sales to account for expenditures.

3. The State director of health and the county of Maui, with assistance from the State director of finance, establish budget controls to be exercised by the business office at Kula Sanatorium. All record-keeping functions should be assigned to the business office to avoid diffusion of responsibility.

4. The State director of health and the county of Maui, through the managing

committee of Kula Sanatorium, issue directives prohibiting the use of hospital patient craft supplies by anyone other than the patients. The re-sale of occupational therapy supplies to employees should be discontinued.

CHAPTER 8
INSTITUTIONAL PROPERTY MANAGEMENT

USE OF PUBLIC PROPERTY FOR PRIVATE
BUSINESS MANAGEMENT

The facilities of Kula Sanatorium are currently being used, rent-free, for two private business purposes. First, a former patient at Kula operates a private, retail general store, known as the "Dobashi Store," in one of the cottages owned by the hospital. The store started as a canteen in the 1920's, but since 1930, the store has been run for the personal profit of the present proprietor. Second, the superintendent and the resident physician-surgeon use the hospital facilities to engage in private practices of medicine. The two patient examining rooms of the outpatient clinic are used by the two physicians daily, at regularly-scheduled hours. Although the outpatient clinic is not intended for the exclusive use of the two physicians, nevertheless, it has been used daily, regularly and continuously by them for at least the past 15 years.

Neither the Dobashi Store nor the superintendent nor the resident physician-surgeon has any written contract with the hospital permitting the use of hospital premises for their private businesses. The superintendent's and the resident physician-surgeon's contracts of hire do not mention this privilege at all. This use of hospital premises for private businesses is a practice of long standing and is rooted in history, custom and tradition.

We examined this long-standing practice to determine its validity in the light of: (1) the State constitutional provision prohibiting the use of public property for private purposes; (2) the State statute relating to real property taxes; and (3) the State statute relating to concessions on public property.

1. The State Constitution and the use of public property for private purposes. The department of budget and finance, in its audit report, recommended that Dobashi Store, the superintendent and

TABLE IV

PATIENT EARNINGS FROM OCCUPATIONAL THERAPY ENTERPRISES
OCCUPATIONAL THERAPY DEPARTMENT, KULA SANATORIUM
(1951 through 1965)

Year	Patient Gross Earnings	Surcharge Deduction for OT Fund	Deductions (Materials, Etc.	Patient Net Earnings	Av. No. of Partic- ipating Patients per Mo.
1951	6,261.52	778.25	1,359.21	4,124.06	28
1952	5,535.65	627.57	1,559.52	3,348.56	24
1953	4,183.10	483.51	1,251.22	2,448.37	22
1954	3,655.02	397.73	1,145.29	2,112.00	22
1955	4,662.85	500.53	1,329.09	2,833.23	23
1956	3,347.42	325.77	862.58	2,159.07	24
1957	3,370.21	348.10	879.16	2,142.95	23
1958	3,972.66	378.45	1,176.58	2,417.63	18
1959	4,680.38	442.45	1,041.21	3,196.72	14
1960	3,700.15	347.34	945.65	2,407.16	13
1961	1,770.25	138.36	516.50	1,115.49	7
1962	695.95	57.27	204.23	434.45	5
1963 (Jan. to Apr.)	148.70	12.24	3.62	132.84	6
1964	No earnings indicated.	--	--	--	--
1965	No earnings indicated.	--	--	--	--

Source: Compilation of monthly reports of patient earnings, occupational therapy department, Kula Sanatorium.

Note: Last recorded payments to patients were in April, 1963 verified from payroll clearance records of the business office.

the resident physician-surgeon be charged rental for use of hospital facilities. We agree.

While there is no general State law which expressly prohibits the rent-free use of public property for private businesses, article VI, section 6, of the Constitution of the State of Hawaii provides:

"No tax shall be levied or appropriation of public money or property made, nor shall the public credit be used, directly or indirectly, except for a public purpose"

Even the most liberal interpretation of this constitutional provision would prohibit the use of public property for private profit, without the payment of rental or without some benefit to the public. Neither the Dobashi Store nor the private medical practices of the superintendent and the resident physician-surgeon, in themselves, can be said to serve a public purpose and thus justify the use of Kula's

facilities without the payment of rental.

In addition, whenever public property is used, rent-free, for private business purposes, it generally occurs under express statutory authority. For example, the blind and visually handicapped persons are permitted rent-free concession spaces in public buildings by section 7-20, RLH 1955, as amended. Lessees of public lands are sometimes permitted to occupy their premises without payment of rental under the provisions of section 103A-6, RLH 1955, as amended, which authorizes the board of land and natural resources to reduce or waive lease rentals for limited durations when substantial improvements are required to be placed on the leased lands.

We can find no similar statutory basis upon which the rent-free privileges to Dobashi Store, the superintendent and the resident physician-surgeon can be justified. Kula's extension of this privilege to the three individuals is

said to be premised on the general powers of the managing committee under section 148-25, RLH 1955, as amended, to exercise full management control over the properties and improvements of Kula Sanatorium. We cannot agree. In the first place, even if section 148-25 did provide the basis in the past, it no longer does, because Act 97 effectively nullified section 148-25. In the second place, all government agencies are subject to the land laws of the State in the management of public lands placed under their control. There is no provision in our land laws (chapter 103A, RLH 1955, as amended) which authorizes the rent-free use of space at Kula. As mentioned earlier, section 103A-6, RLH 1955, as amended, provides for the rent-free use of public lands only when the lessee is required to place substantial improvements on the leased lands, and then, only for a limited duration.

The termination of the rent-free use of hospital facilities by Dobashi Store, the superintendent and the resident

physician-surgeon and the imposition of reasonable rental violate no vested rights of any of the parties, since none of them is currently entitled to the free use of space by any contract.

2. Real property tax laws. Under the State's real property tax laws, the Dobashi Store and the superintendent and the resident physician-surgeon are subject to real property taxes in proportion to the area used by them in their private businesses. None of the parties concerned has ever paid the taxes.

Section 128-22, RLH 1955, as amended, provides that:

"Real property belonging to the State or any county, or belonging to the United States and in the possession, use and control of the State, shall be taxed on the fee simple value thereof, and private persons shall pay the taxes thereon and shall be deemed to be the 'owners' thereof for the purposes of this chapter, in the following cases:

". . . .

"(4) Such property where the occupancy by the tenant has continued for a period of one year or more, whether such occupancy has been on a permit, license, month to month tenancy, or otherwise, shall be fully taxable to the tenant after the first year of occupancy"

On June 27, 1966, we requested the advice of the State director of taxation as to the applicability of the aforementioned provisions to the retail operation of Dobashi Store and the private medical practices of the superintendent and resident physician-surgeon. By memorandum dated July 12, 1966, from the department of the attorney general to the director of taxation, a copy of which was transmitted to us, we were advised that the retail store, the superintendent and the resident physician-surgeon are liable for real property taxes assessed on so much of Kula's premises occupied or used by them in their private businesses. We were further advised by the director of taxation by memorandum dated July 29, 1966, that necessary assessments will be made, effective January 1, 1967.

3. State concession laws. The law relating to the granting of concessions in public buildings is contained in chapter 7B, RLH 1955, as amended. The provisions of the chapter are applicable to all "concessions" which is defined in section 7B-1.5 as follows:

"The grant to a person, partnership, corporation or joint venture, the privilege to conduct operations which are essentially retail in nature, involving the sale of goods, wares, merchandise or services to the general public, such as restaurants, cocktail lounges, soda fountains, retail stores and parking lots in or on improvements constructed by or owned by any government agency."

The retail store operation clearly falls within the definition above. Private medical practices by the superintendent and the resident physician-surgeon, however, do not. The discussion which follows, therefore, is confined to the Dobashi Store.

We find that the privilege of operating Dobashi Store on the Kula hospital

premises is in violation of the State's concession laws. Section 7B-1, subsection (a), RLH 1955, as amended, provides:

"No concession or concession space to sell goods, wares, merchandise and services . . . in any building or any land owned or under the jurisdiction of the State or any county or any independent board, commission, bureau or agency of the State or of the various counties, except as . . . enumerated in subsection (b), shall be leased, let, licensed, rented out, assigned or disposed of either by contract, any person, firm, or corporation, except under contract let after public advertisement for sealed tenders in the manner provided by law"

Subsection (b) of section 7B-1 exempts from the bidding requirement certain concessions. Among the exempt concessions are those "set aside without charge." Technically, it would appear that Dobashi Store falls within this exempt category since its occupancy of hospital premises is without charge. However, it is our view that this

exemption, "concessions set aside without charge," does not excuse Dobashi Store from the bidding requirements set forth in subsection (a). We cite the following in support of this view.

a. The nature of business of Dobashi Store--selling "goods, wares and merchandise"--is precisely the kind of business made subject to the concession law. It is unlike those other businesses--ground transportation, lei vendors, airline operations and coin-operated vending machines--which the statute specifically exempts. There are no apparent, special circumstances which require an exempt treatment for the proprietor of Dobashi Store. He is not in the same category as blind vendors who are expressly excused from the concession law.

b. When the concession law was first enacted in 1959, it exempted from the bidding requirement only those spaces set aside for the following: handicapped persons; blind persons, any

department, bureau, organization or municipal or political subdivision of the federal, territorial, municipal or county governments.¹⁶ In 1962, the law was amended to increase the list of exempted concessions. "Concessions set aside without charge"¹⁷ was one of those added. In our review of the records, we found no clear indication of the legislature's intent in adding this particular exemption. We note, however, that this exemption was added to the statute together with those exemptions included primarily to alleviate problems encountered in the awarding of concessions within the Honolulu international airport complex (e.g., ground transportation services, lei vendors, airlines and aircraft operations, coin-operated vending machines, except coin-operated insurance vending machines).

c. If this exemption is literally construed, it can effectively limit the usefulness of the concession law. It can, for instance, enable any governmental agency having jurisdiction over a public building to circumvent the bidding requirement by simply not charging rental. We do not believe that such literal interpretation was intended. In general, the concessions exempted from competitive bidding are very specifically defined. The only exception is "concessions set aside without charge." It is our belief that "concessions set aside without charge" was intended to mean "concessions set aside without charge under statutory or lawful authority." Construed thus, since there is no legal basis upon which Dobashi Store has been permitted to operate without payment of rental, the store is not exempt from the bidding requirements.

Recommendations

Based on our study of the use of hospital premises for private business

purposes by Dobashi Store, the superintendent and the resident physician-surgeon, we recommend:

1. The State director of health and the county of Maui, through the managing committee of Kula Sanatorium, set reasonable rentals to be charged Dobashi Store, the superintendent and the resident physician-surgeon for use by them of hospital premises in the conduct of their private businesses. In setting such rentals, all relevant factors should be considered, including the space dimensions, structural conditions of the premises, age of building, income derived from the private business, and the prevailing rentals for similar spaces for similar businesses in the community of Kula.

2. The State director of health and the county of Maui let concession space to Dobashi Store only after complying with the bidding requirements of chapter 7B, Revised Laws of Hawaii 1955, as amended.

3. The State legislature amended section 7B-1(a)(5), Revised Laws of Hawaii 1955, as amended, which now exempts from the bidding requirement of the statute concessions on public property "set aside without any charge," so that only those concessions set aside without any charge in accordance with statutory or legal authority would be exempt from the bidding requirements.

4. The board of land and natural resources issue appropriate directives to all public agencies indicating the requirements of law and its rules and regulations with regard to the setting of reasonable rentals and the letting of concessions on properties situated on the public lands of the State.

5. The board of land and natural resources maintain a current inventory of all concessions let and other arrangements made permitting the use of public lands and buildings for private purposes and conduct periodic and regular evaluation of all such agreements made for

¹⁶Act 245, Session Laws of Hawaii 1959.

¹⁷Act 5, Session Laws of Hawaii 1962.

conformity with the stipulations of law and its rules and regulations.

6. The director of taxation issue appropriate directives to all public agencies indicating the requirements of law and its rules and regulations with regard to the applicability of the real property tax laws to public property used for private purposes.

We make no recommendations with respect to the payment of real property taxes by Dobashi Store, the superintendent and the resident physician-surgeon, arising from their use of public property for private business purposes, inasmuch as the director of taxation has expressed his intentions to this office of assessing such taxes commencing January 1, 1967.

USE OF THE HOSPITAL PHARMACY FOR PRIVATE MEDICAL PRACTICE

The department of social services is responsible for the medical care and

treatment of welfare clients. It has appointed a number of private doctors as "government physicians" to provide these medical services. The superintendent of Kula Hospital, as a part of his private medical practice, serves as the government physician for the Kula District. Like all government physicians, the superintendent is paid a monthly stipend (which is readjusted annually according to the number of patients treated) which includes a cash allowance for drugs.

A government physician generally treats his welfare patients in his private medical office. When drugs are prescribed for his patient, the government physician pays for the drugs out of his cash allowance, and if the cash allowance is insufficient, the government physician pays for the drugs out of his own pocket. If a welfare patient requires hospitalization, he is sent to a government designated hospital. At the hospital, the cost of caring for the welfare patient, including any cost of drugs dispensed at the hospital, is paid

for by the department of social services on a per diem basis.

In the case of the superintendent of Kula Sanatorium, since his private medical office is in the hospital, he treats his welfare patients at the hospital's outpatient clinic, and the patients are known as "outpatients." Kula Hospital is also a government hospital, and if the superintendent's welfare patient requires hospitalization, the patient is placed in Kula. As an "inpatient" at Kula, the welfare client's hospital expenses, including drugs dispensed to him while an "inpatient," is paid for by the department of social services. However, whenever a welfare client is treated by the superintendent as an "outpatient," the cost of drugs is supposed to be borne by the superintendent.

The drugs which the superintendent prescribes for his welfare "outpatients" are purchased from the pharmacy at Kula Hospital. The superintendent and the hospital have entered into an arrangement

under which the superintendent has assigned his monthly drug allowance to the hospital. In turn, the hospital pharmacy dispenses pharmaceuticals as prescribed by the superintendent.

Two important issues are raised by this arrangement between the superintendent and the hospital. They are as follows:

1. Cost of drugs. It would appear that the purpose of the arrangement made by the superintendent and the hospital is to facilitate the payment of drugs prescribed by the superintendent and dispensed by the pharmacy for the superintendent's outpatient welfare patients. As such, as the drugs are dispensed, the superintendent's cash allowance is to be debited with the cost of the drugs. Any deficiency in his cash allowance account is to be made up by the superintendent out of his own pocket.

An examination of the pharmacy records for fiscal years 1964 and 1965 reveals, however, that the cost of drugs

prescribed by the superintendent and dispensed by the pharmacy to the superintendent's welfare outpatients has not been fully paid. In both fiscal years, the cost of drugs exceeded the amount of the cash allowance as follows:

	Cost of Drugs at <u>50% Mark-Up</u>	Cash Allowance Assigned to <u>Hospital</u>
1964-1965	\$130.15	\$ 57.30
1965-1966 (through June 18)	267.48	140.50

There is no record showing that the superintendent ever made up the balance apparently owing to the hospital pharmacy. The drug costs shown above reflect the standard mark-up charged to all outpatients. Even if it were adjusted to actual costs, the reimbursement would still be insufficient to recover the cost of the drugs dispensed to the superintendent's welfare patients. In effect, the hospital has been diverting budgeted program funds to subsidize some of the costs of the superintendent's private medical practice.

2. Special privilege. The arrangement between the superintendent and the hospital constitutes a special privilege extended to no other government physician. Other government physicians must generally stock and supply their own drugs or arrange with private pharmacies for the purchase of the drugs needed in the care and treatment of their welfare patients. In either case, government physicians often incur costs over and above the drug allowances given them by the department of social services. The superintendent's arrangement with the hospital saves the superintendent inventory costs and permits him an unlimited use of the pharmacy at no cost, except to the extent of his drug allowance received from the department of social services. Fairness dictates that the superintendent be charged not only for the full cost of the drugs dispensed by the hospital pharmacy to his welfare patients, but also a reasonable charge for the privilege of using the hospital's pharmacy to fulfill his needs as a private physician.

Recommendations

We recommend:

1. Kula Sanatorium recover from the superintendent the full cost of all drugs dispensed by the hospital pharmacy to the superintendent's welfare patients. The State director of health and the county of Maui, in cooperation with the department of accounting and general services, should institute such steps to insure this recovery.

2. The State director of health and the county of Maui, through the managing committee of Kula Sanatorium, assess the superintendent a reasonable charge for the use of the hospital pharmacy in the practice of private medicine. This charge may be included in the reasonable rental to be charged the superintendent for the use of hospital space in his private practice of medicine.

EMPLOYEE DORMITORY MANAGEMENT

As indicated earlier in our discussion of the hospital's perquisite policy, Kula intends to eventually close down the two men's dormitories and one women's dormitory as present occupants retire or terminate their employment with the hospital. No definite timetable has been set for the closing of these dormitories since the present policy is based on attrition.

Occupancy levels, as shown below, suggest that the hospital can accelerate the closing of its dormitories by consolidation.

	Room Capacity	Occupancy on 6/20/66
Men's dormitory (kitchen emp.)	10 ^{a/}	6
Men's dormitory (ward emp.)	-- ^{b/}	5
Women's dormitory	14	4
Women's dormitory (registered nurses)	13	1

^{a/} Semi-privacy provided by wooden partitions.

^{b/} Open bunk arrangement.

**PART IV
MANAGEMENT AUDIT OF
KULA SANATORIUM
SUMMARY OF FINDINGS AND
RECOMMENDATIONS**

The registered nurses' dormitory can amply accommodate the four occupants of the women's dormitory. Similarly, occupants of the men's dormitories can be housed in one building. We find no valid cause to rely strictly on attrition which unnecessarily prolongs the closing of individual dormitories. In some cases, the structures are so deteriorated that it would be more economical to close them down entirely.

Recommendation:

We recommend that under the direction of the State director of health and the county of Maui, the managing committee of Kula Sanatorium accelerate the phasing out of the employee housing program by consolidating the housing of various employees who presently occupy the several dormitories.

In January 1966, the State department of budget and finance issued a report on its audit examination of Kula Sanatorium. We are in general accord with the findings and recommendations contained in the report. However, we found it desirable, necessary and timely that we conduct our own independent study of Kula Sanatorium for two reasons: (1) the department of budget and finance did not explore fully the bases and implications of certain management problems and deficiencies; and (2) its report did not discuss certain other problems and deficiencies existing at Kula.

Our efforts were not intended to duplicate the study of the department of budget and finance. Rather, our study was conducted to accomplish these purposes: (1) to evaluate the sanatorium's progress in implementing the recommendations of the department of budget and finance; (2) to identify, evaluate, and report on selected problems and deficiencies in Kula's management policies

and practices not covered or covered only in a limited fashion in the department of budget and finance's report; and (3) to recommend specific corrective actions as necessary.

I. BACKGROUND INFORMATION

KULA'S PROGRAMS

Kula Sanatorium began as a tubercular hospital. Today, it is a multiple-program institution, and its programs include: (a) tuberculosis care, (b) chronic illness care, (c) convalescing psychiatric care, and (d) general medical hospitalization. The tuberculosis and psychiatric care programs are wholly financed by the State; and chronic illness and general hospital programs charge daily rates to patients to recover operating costs. The charges to chronic illness and general hospital patients who are indigents and medically indigents are paid for by the department of social services. All other inpatients are required to pay their own costs.

KULA'S MANAGEMENT

Prior to the enactment of Act 97, SLH 1965, the managing committee of Kula Sanatorium exercised independent powers and full management control over Kula Sanatorium. Neither the State nor the county possessed management authority over the hospital. The role of the State was limited to making public lands available for the sanatorium's use and to provide financial support. The role of the county was restricted to providing "housekeeping" services, such as legal advice and financial assistance.

Act 97 transferred to the State the full responsibility over all public hospitals. The State has, in turn, contracted with the county of Maui, whereby the county has agreed to manage and operate Kula Sanatorium. The county is authorized to discharge its obligations through the managing committee. The managing committee, however, is now an agent of the county and no longer possesses the powers it formerly had. Those powers

are now vested in the State department of health to which the governor assigned the functional responsibility for all public hospitals.

In view of these changes, our findings and recommendations are directed mainly to the county of Maui and the State department of health.

II. KULA'S PROGRESS IN IMPLEMENTING THE RECOMMENDATIONS OF THE DEPARTMENT OF BUDGET AND FINANCE

The department of budget and finance made a number of recommendations in its audit report of January 1966 to improve the fiscal, personnel and property management practices of Kula. Some of these recommendations have been implemented by Kula. We find, however, that Kula Sanatorium has failed to follow up effectively on a number of major recommendations, particularly those relating to employee perquisites, physicians' employment contracts and property management.

Recommendation:

The State department of health and the county of Maui, through the managing committee of Kula Sanatorium, should develop and execute a plan of action to implement those recommendations of the department of budget and finance, as supplemented by our findings and recommendations, which Kula Sanatorium has not yet fulfilled. The plan should contain a schedule of implementation, the order of priority in which the recommendations should be implemented, an evaluation of capabilities, and policy guidelines. The department of health, in concert with the county of Maui, should assist in the development of the plan of action, arrange for technical assistance, where needed, and review, approve and supervise the implementation of the plan.

III. THE STATE'S POWERS UNDER ACT 97 CONTRACTS

The contract executed by the State of Hawaii and the county of Maui pursuant

to Act 97 outlines the powers, duties and responsibilities of each contracting party in the administration of public hospitals, including Kula Sanatorium. While it is a comprehensive document, there are several deficiencies which we believe reduce the effectiveness of the State's authority in administering the affairs of the hospital.

CONTRACT LIMITATIONS ON STATE'S POWER OF ADMINISTRATION OVER KULA SANATORIUM

In the present contract, the State of Hawaii and the county of Maui have generally agreed to continue the policies and practices of Kula Sanatorium as they existed prior to the effective date of Act 97, except to the extent that they are altered by the contract. The contract reserves to the State little in the nature of administrative powers to control the internal management of the sanatorium. Although the contract empowers the State director of health to approve or disapprove changes in institutional policies and the hiring of new

personnel, it does not permit the director to initiate or direct desired changes in the internal operations of the hospital.

If the contract were to be in force for a short duration only, there probably would be little need to retain such powers in the State. However, in light of Act 14, SLH 1966, which authorizes the governor to extend the contract for a year, and the possibility that the contract may be extended yet another year, it is desirable that power be reserved in the State director of health to initiate, institute or direct changes in Kula's internal management policies and practices. Such reservation of power is necessary to foster development of uniform hospital procedures throughout the State, and to enable the director of health to correct deficiencies in procedures which violate the law or State policy or which lead to inefficiency and waste.

Recommendation:

The State department of health and the State attorney general should include a reservation of power in the State director of health to initiate and direct changes in the internal, management operations of public hospitals in the contracts now being negotiated with the counties and in all future contracts.

STATE'S POWER OF REVIEW OF HOSPITAL POLICIES

Notwithstanding that provision of the contract, which requires that all changes in hospital policy be subject to the prior written approval of the State director of health, there were instances when this procedure was not followed. There are two principal shortcomings in the present policy review procedure. First, the system relies totally on the initiative of the hospital. If it fails to give advance notice to the county and the department of health of its intentions to revise policies, neither would

have knowledge of changes in policy. Second, the review function is made more difficult to carry out because the sanatorium has not documented its current policies. Consequently, the nature and impact of policy changes are not readily discernible.

Recommendations:

1. The State director of health, through the respective counties, should insist on strict compliance with the contract provisions which require every public hospital to compile and forward to the director of health copies of all policies, regulations, directives and statements of operating procedures, and to forward all contemplated changes in hospital policies for prior written approval.
2. The State director of health should distribute to every public hospital copies of the State's and department of health's policies, regulations, directives and procedures so that they may serve as

guidelines in the making of hospital policies.

IV. INSTITUTIONAL PERSONNEL MANAGEMENT
REGULAR EMPLOYEES' PERQUISITES

Currently, the regular employees at Kula Sanatorium enjoy the following perquisites: meals, housing (including utilities) and laundry services. The allowance of each of these perquisite items was evaluated in the light of present statutes and policies to determine (1) whether or not it should continue to be made available to Kula's employees; (2) whether or not it should be made available at no cost to the employees; and (3) where the employees are charged, whether or not the charges are reasonable.

1. Meals. Both the State (governor's administrative) policy and Kula's policy allow the employees to take their meals at the institution, inasmuch as kitchen facilities exist as a necessary part of

Kula's operation. However, since the meals are furnished for the convenience of the employees, and not the government, the State statute requires that the employees pay "reasonable value" for the meals. Kula's policy charges 55 cents per meal, based on raw food cost. We do not believe that this is in keeping with the State policy which requires that "reasonable value" be determined on the basis of total allocable cost of producing meals.

Recommendations:

The State director of health and the county of Maui should direct the managing committee to conduct a study immediately to determine the cost of preparing meals and to revise the per meal charges to reflect the total cost. The managing committee should also be directed to terminate the present practice of providing free meals to visiting State or county employees. The State department of health should review its own perquisite policy which

now establishes an arbitrary 40 cents per meal for all institutions so that its policy will be consistent with that of the State's.

2. Laundry services. Kula's laundry facilities do not launder clothes which require starching, pressing and dry cleaning. All such pieces are taken to a commercial laundry. The personal clothing and work uniforms of employees at Kula are at present laundered at the commercial laundry at the hospital's expense. This is in violation of both the State's and Kula's own policies.

Recommendation:

The State department of health and the county of Maui should direct the managing committee to discontinue immediately the practice of laundering employees' personal clothing and work uniforms at no cost to the employees and to charge the employees the actual cost assessed by the commercial laundry.

3. Housing. The State policy states that housing accommodations may be made available by the hospital to its employees if any of the following conditions exist: (a) geographic isolation and extreme inadequacy or absence of private housing facilities; (b) the presence of an employee on the hospital premises is necessary to meet emergencies; (c) stand-by services are rendered by employees. The State policy further provides that housing may be made available free only when either condition (a) or (c) exists.

Kula's policy purports to conform to the requirements of the State policy. However, it indiscriminately uses the separate sets of conditions enumerated in the State policy to justify making housing available to all of its employees now living on the hospital grounds and to further justify making housing available free to some employees but not to others. Moreover, in practice, Kula violates its own policy and arbitrarily fails to collect rentals from any of its

employees, except those who secured housing after the adoption of its policy.

We do not believe that the condition of "geographic isolation and extreme inadequacy or absence of private housing facilities" exists at Kula. Today's modern means of transportation and improved highways place the hospital in close proximity to urban centers such as Wailuku, the county seat, which is only 25 miles away. This condition, therefore, does not justify making housing available free to the assistant hospital administrator and the single, registered nurses, who currently enjoy free housing privileges.

The second condition cited in the State's policy--the need for the presence of an employee to meet emergencies--does not apply to any of Kula's employees, except the laboratory technician and the X-ray technician. None of the other employees' duties require their presence on the hospital premises. Hence, the granting of housing privileges to the

assistant hospital administrator on this ground is without substance.

Both the laboratory technician and the X-ray technician perform stand-by services after normal hours of work. Thus, under the third condition enumerated in the State policy, both of them may be granted housing accommodations. Further, the housing accommodations may be granted free, provided the free housing is exchanged for such stand-by duties. Both the laboratory technician and the X-ray technician today enjoy free housing. However, contrary to the State policy and in violation of statute, they are also receiving overtime credits for emergency work performed while on stand-by.

The rentals established by Kula's policy to be charged the occupants of the various housing facilities are not reasonable, since all factors, including the cost of furnishing utilities, have not been considered in determining the rentals.

Recommendations:

The State director of health and the county of Maui, through the managing committee of Kula Sanatorium should:

1. Phase out the employees' family cottage facilities with reasonable speed, except those set aside for quartering employees required to provide stand-by duties on a regular basis; and further, survey the availability of private housing within commuting distance of the hospital to substantiate the need for Kula to continue providing dormitory facilities for single and unmarried employees.
2. Provide for and insure the collection of rental for housing privileges from all regular employees, including the registered nurses and the assistant hospital administrator, but excepting the laboratory technician and the X-ray technician who occupy their premises in exchange for performing stand-by, emergency services.

3. Reduce to writing the agreement between the hospital and the laboratory and X-ray technicians which permits them to occupy housing in exchange for stand-by services.

4. Reassess the rental charges for living accommodations and establish reasonable rates reflecting all direct and indirect charges allocable to the maintenance and operation of the quarters.

5. Terminate the granting of overtime credits to the laboratory and X-ray technicians for services rendered by them while on stand-by.

ADMINISTRATION OF REGULAR EMPLOYEES' VACATIONS

In calendar year 1965, (1) four employees had an excess of 15 days' unused vacation credits earned in the year; and (2) four employees had more than 90 days of cumulated vacation credits by the end of the calendar year. The carrying over

of more than 15 days of unused vacation credits earned in a calendar year and the accumulation of more than 90 days by the end of any calendar year are not permitted under our statute without the prior approval or direction of the department head. The record is silent as to whether or not such approval or direction had been given in the foregoing cases. In the absence of such record, it is presumed that the excess credits were forfeited. The chief cause of these forfeitures was the lack of effective internal communication and inadequate supervisory review of employees' vacation credits.

One employee was granted vacation in excess of what was actually earned in violation of the civil service rules and regulations of the county of Maui.

Recommendations:

1. The State department of health and the county of Maui should direct the managing committee to cause supervisory

review to be made of employee vacation status at the beginning of the last quarter of each calendar year so that administrative action may be taken to reschedule vacations or to give approval, where warranted, for the accumulation of excess vacation credits. This will help to reduce unnecessary forfeitures of vacation credits. In addition, the managing committee should be instructed to institute procedures whereby advance approval can be secured to accumulate the credits.

2. The case of the employee who received unearned vacation should be referred by the State department of health and the county of Maui to the county attorney and the county civil service department for appropriate action to recover the compensation improperly paid.

3. The county civil service department should take such steps as necessary to insure full understanding of and compliance with the civil service rules and

regulations by Kula Sanatorium's management and personnel.

PHYSICIAN'S EMPLOYMENT CONTRACT

The sanatorium's superintendent and the resident physician-surgeon are employed by contracts. Under our statutes, contract employees are treated as independent or self-employed contractors. As such, they are not government employees in the usual sense and are not automatically entitled to benefits granted to regular employees. In practice, the two physicians are, at times treated as if they are regular government employees, and at other times, strictly as contract employees.

Our findings are as follows:

1. The State has improperly made contributions towards the physicians' social security taxes and their enrollment in the Hawaii public employees' health fund. Neither of these benefits is specified in the physicians' contracts.

2. The contracts grant the physicians the following benefits. We question the reasonableness and propriety of including them in the contracts.

- Vacation and sick leave: The physicians are granted vacation privileges as if they are regular State employees. Further, they are granted full vacation benefits for part-time services.
- Retirement benefits: The physicians are guaranteed membership in the State employees' retirement system, although the authority to determine membership is vested by law in the board of trustees of the State employees' retirement system.
- Perquisites: The physicians enjoy free housing, free laundry services and free meals. Free housing is based on "isolated conditions of employment," which we earlier pointed out is a condition which no longer exists at Kula. Further, free housing is granted the resident physician-surgeon on the grounds that his services are required at any hour of day or night. But, this is precisely the services contracted for by the hospital, and the nature of such services is reflected in the physician's contract fee. Free laundry services should be discontinued inasmuch as this perquisite bears no relationship

to the duties required of the physicians. The granting of free meals to the physicians is an unwarranted discrimination against all other employees of Kula who are required to pay for their meals.

3. We find that employment of the superintendent on a full-time, regular employee basis is desirable. The nature, scope and variety of the superintendent's duties, the compensation paid, the volume, scope and character of the hospital's patient care services, and the difficulties which are inherent in part-time hospital services and part-time private medical practices, all point to the need of a superintendent on a full-time basis, as a regular employee of the State. However, we do not find that a full-time status for the resident physician-surgeon is necessary at this time.

4. There is a need for the development of standards to evaluate the fairness of the fees to Kula's contract physicians. We believe that a study of Kula's operational requirements for physicians'

services should be made and compared with those of other public hospitals in the State which have full-time and part-time physicians.

Recommendations:

1. The State department of health and the county of Maui should seek legal clarification from the State attorney general regarding the employment status of Kula's contract physicians and the employee benefits to which they may be entitled by contract or by law.

2. Based on such attorney general's opinion, the department of personnel services should develop administrative guidelines with respect to the use of fee contracts and the benefits which may be contained therein, for the guidance of all State departments and agencies and the respective county civil service departments.

3. The State department of health and the county of Maui should direct the

managing committee to determine Kula Sanatorium's program and operational requirements for physician services. Such data are needed for the purpose of comparison with those of other public hospitals in evaluating the fairness of the amount of the fees paid to any of Kula's contract physicians.

4. The State department of health and the county of Maui should direct the managing committee to recruit a full-time superintendent for Kula Sanatorium through the usual civil service recruiting channels.

5. The State department of health and the county of Maui should seek a revision of the existing resident physician-surgeon's contract (and the superintendent's contract, if he is continued on a fee contract basis) to include the following, where legally permissible:

(a) Identification in the contract of the physician as an independent contractor.

(b) The non-responsibility of government for the physician's social security taxes.

(c) The non-membership of the physician in the State employees' retirement system and the Hawaii public employees' health fund.

(d) The non-entitlement to usual vacation and sick leave benefits of regular employees.

(e) Payment by the physician of reasonable charges for housing and meals taken by him at the hospital. No laundry services should be made available for personal clothing, except at actual cost.

(f) Reimbursement to the physician of actual costs incurred by him in the performance of his official duties.

(g) Payment of reasonable compensation, consistent with those paid to physicians at other public hospitals in the State.

(h) Contract duration not to exceed two years.

Of course, all practices ruled illegal by the attorney general should immediately cease, notwithstanding the fact that all other recommendations may not as yet have been implemented.

V. INSTITUTIONAL FINANCIAL MANAGEMENT

MONTHLY AUTOMOBILE ALLOWANCES

State and county policies provide that employees who require the use of their personal vehicles for official government business may receive reimbursements based on mileage. Flat automobile allowances are granted only in exceptional cases, as authorized by the board of supervisors for county agencies or by the director of finance for State agencies. At Kula Sanatorium, the managing committee has granted flat monthly automobile allowances of \$100 per month to the superintendent (by contract), \$75 per month to the resident physician-surgeon

(by contract) and \$75 per month to the assistant hospital administrator (by administrative action).

Since the duties of the superintendent, the resident physician-surgeon and the assistant hospital administrator require only limited travel, we do not believe that the granting of flat allowances is justified. Even if justified, the amount of the allowances exceeds requirements for travel on official business. Automobile "allowances" are not intended as salaries or fees, and should therefore be reasonably related to actual expenses incurred.

Recommendations:

We recommend that all flat monthly automobile allowances at Kula Sanatorium be discontinued, and that all hospital employees, regular and contractual, be reimbursed on a mileage basis for expenses incurred in the use of their personal vehicles on government business. We further recommend that flat

automobile allowances be deleted from all current and future contracts of hire of the superintendent and the resident physician-surgeon.

MISCELLANEOUS REVENUES

Income is generated at Kula Sanatorium from various miscellaneous sources, including vending machine concessions and the sale of silver nitrate residue collected by the X-ray technician when he processes exposed X-ray films. The income from neither of these sources is deposited in the State treasury. The commissions from the vending machines are credited to and used by the Kula Sanatorium patients' association, and the proceeds from the sale of the silver nitrate residue are kept by the X-ray technician for his own personal use.

We find that the uses to which the income from the two miscellaneous sources is put are illegal and that Kula Sanatorium has failed to account for and report on the receipts and disposition of the income as required by law.

1. Illegal disposition. (a) The duties of none of the employees at Kula, including the X-ray technician, require the collection of the silver nitrate residue, and, except for the X-ray technician's awareness that the residue has sales value, the residue would not be collected at the hospital. Nevertheless, the residue constitutes public property, and income derived from public property constitutes public funds. The retention of the sales proceeds by the X-ray technician for his own personal use violates our State Constitution's prohibition against the use of public funds for private purposes. (b) The commissions from the vending machines result from the use of space on public property, not otherwise allocated to a general merchandising concessionaire. As such, the commissions constitute public funds, and there must be some earmarking under legal authority to enable the use of the commissions for a special purpose. We can find no legal authority which permits the use of the commissions by the patients' association.

2. Accounting and reporting. Even if special uses of the receipts from vending machines and the sale of silver nitrate residue are authorized, Kula has violated the following two sections of the Revised Laws of Hawaii 1955, as amended: (a) section 34-14.8, which requires all State funds, whether general or special, to be deposited in the State treasury; and (b) section 35-14.5, which requires the reporting of all receipts of special funds for inclusion in legislative and executive budgets. We note, further, that if, under some legal authority, Kula is not required to deposit any of the miscellaneous income in the State treasury, nevertheless, it is in violation of section 34-15, RLH 1955, as amended, which requires every department and agency to report to the State comptroller all receipts and disbursements of funds not required to be deposited in the State treasury.

Recommendations:

There are other public agencies which now receive income from vending machines and other unbudgeted revenue sources involving the use of public property, and our findings and recommendations with respect to Kula Sanatorium are applicable to these other agencies as well.

1. The State director of health and the county of Maui, through the managing committee of Kula Sanatorium, should make the collection of silver nitrate residue a part of the official duties of the X-ray technician and require that all income derived from the sale thereof be deposited in the State general fund.

2. Where statutory authority exists, the director of finance and the State comptroller should issue policies outlining the conditions under which income from various miscellaneous sources may be set aside in special funds and the purposes for which such funds may be

used. If no such authority exists, but is desirable, the director of finance and the State comptroller should prepare recommended legislation for consideration by the State legislature at its 1967 regular session.

3. The State comptroller should issue a directive terminating all special uses of miscellaneous income by government agencies, where such uses are not authorized by law, and take such steps as necessary to insure that all State funds are deposited into the State treasury.

OCCUPATIONAL THERAPY FUND

This fund is a non-hospital, private asset which started over twenty years ago to enable Kula's patients to purchase handicraft materials in bulk. It was funded by surcharges made against the patients' gross receipts from the sale of handicrafts made by them. The fund was initially managed solely by the occupational therapist. Patient

participation in the fund dwindled over the years, and today the fund remains only to accommodate patients and employees who wish to purchase craft supplies on a cost-reimbursement basis. In recent years, the fund has consistently incurred deficits, and the hospital's budgeted, program funds have been used to maintain its solvency.

Recently, too, the hospital business office began to participate in the administration of the fund. However, despite the business office's involvement, because of the diffusion of responsibilities between the business office and the occupational therapist, the fund lacks effective budgetary, purchasing and inventory controls.

Recommendations:

1. The State department of health and the county of Maui, through the managing committee of Kula Sanatorium, should take steps to discontinue the occupational therapy fund. In its place,

hospital funds, budgeted for patients' rehabilitation program, should be used to purchase handicraft materials for re-sale to patients on a cost-reimbursement basis. The occupational therapy supplies should be re-sold only to patients and not to employees.

2. Purchases should be on a cash basis unless provided for by contract rates, and all recoveries should be deposited in the State general fund.

3. The State department of health and the county of Maui, through the managing committee, should assign all record-keeping functions to the business office and instruct the business office to take an inventory of supplies and to reconcile sales and expenditures, annually.

VI. INSTITUTIONAL PROPERTY MANAGEMENT

USE OF PUBLIC PROPERTY FOR PRIVATE BUSINESS PURPOSES

Kula Sanatorium's facilities are currently being used, rent-free for the

following private business purposes:

(1) a private person operates a general retail store, known as "Dobashi Store," in one of the cottages; and (2) the superintendent and the resident physician-surgeon maintain their offices for private medical practices in Kula's outpatient clinic. We find that these rent-free uses of hospital facilities violate (a) the State Constitution's prohibitions against the use of public property for private purposes; (b) the State statute relating to real property taxes; and (c) the State statute relating to concession on public property.

1. Constitutional prohibition. The State Constitution prohibits the use of public property except for a public purpose. We can find no public purpose to justify the rent-free use of Kula Sanatorium's premises by Dobashi Store and the two physicians. Further, the rent-free use of public property, when permitted, is generally authorized by express statutory provisions. We can find no such statutory basis for either Dobashi Store or the two physicians.

2. Real property tax laws. The State's real property tax law requires the assessment of real property taxes on a person who uses public property for private purposes in proportion to the area occupied by the private tenant. Upon our inquiry, the State attorney general ruled that the proprietor of Dobashi Store and the two physicians are liable for real property taxes assessed upon so much of the hospital premises occupied by them. Based on the attorney general's ruling, the department of taxation has indicated its intent to make the necessary assessments effective January 1, 1967.

3. State concession laws. Chapter 7B, RLH 1955, as amended, requires that concession spaces on public property be let on bids. While the private medical practices of the superintendent and the resident physician-surgeon do not fall within the definition of "concessions," the operation of a retail store by Dobashi Store clearly does. The statute exempts from its bidding requirements

concession spaces which are "set aside without charge." Since Dobashi Store pays no rental, it appears that the store space is technically exempt. But, Dobashi Store carries on precisely that kind of business for which the statute intended that space in a public building should be let only on bids. We believe the exemption applies only to concession spaces which are set aside without charge under statutory or lawful authority. So interpreted, the space used by Dobashi Store does not fall within the exemption.

Recommendations:

1. The State department of health and the county of Maui, through the managing committee of Kula Sanatorium, should immediately terminate the rent-free use of space by Dobashi Store and the superintendent and the resident physician-surgeon to carry on their private businesses. Reasonable rentals should be required of them if they continue to utilize hospital premises for private business purposes.

2. The director of taxation should issue appropriate directives to all public agencies informing them of the requirements of law, rules and regulations regarding the applicability of real property taxes on public property used for private purposes.

3. The State department of health and the county of Maui should let concession space on Kula Sanatorium's property for private, retail store purposes only after complying with the bidding requirements of chapter 7B, RLH 1955, as amended.

4. The board of land and natural resources should (a) issue appropriate directives to all public agencies regarding the setting of reasonable rentals and the letting of concessions on public properties; (b) maintain a current inventory of all concession spaces let on public lands and public buildings, and (c) conduct periodic and regular evaluation of all such concession spaces.

5. The State legislature should amend section 7B-1(a)(5), RLH 1955, as amended, so that concession spaces "set aside without charge" may be exempted from the bidding requirements only if they are so set aside by legal authority.

USE OF THE HOSPITAL PHARMACY FOR PRIVATE MEDICAL PRACTICE

The department of social services appoints physicians in private practice as "government physicians" to provide medical care to public welfare patients for a monthly stipend, which includes a cash allowance for drugs dispensed by the physicians to the welfare patients. The drug allowance in many cases is less than the physicians' actual cost, in which cases the physicians must pay the difference out of their own pockets. The superintendent of Kula Sanatorium, in his capacity as a private doctor, is a "government physician" for the Kula area. Under present arrangements, he assigns his monthly drug allowance to

the hospital, and the hospital pharmacy dispenses all drugs prescribed by the doctor for his welfare patients.

We find that (1) the allowances assigned by the superintendent to the hospital have not been sufficient to recover the cost of all drugs dispensed to his public welfare patients and the superintendent has failed to pay the difference to the hospital; and (2) this practice of using the hospital pharmacy to fill the superintendent's drug needs cuts down his cost of carrying his own inventory of drugs and constitutes a special privilege extended to no other government physician.

Recommendation:

The State department of health and the county of Maui, through the managing committee, should take steps to recover from the superintendent the full cost of drugs dispensed by the hospital pharmacy to his welfare patients; and (b) collect from the superintendent a

reasonable charge for the use of the hospital pharmacy in his private practice of medicine.

EMPLOYEE DORMITORY MANAGEMENT

The sanatorium's four employee dormitories are not fully occupied. The housing of all employees in fewer buildings will accelerate the phasing out of the employee housing program in conformity with current managing committee policy.

Recommendation:

The State department of health and the county of Maui, through the managing committee, accelerate the phasing out of the employee housing program by consolidating the housing of employees currently living in the various dormitories.

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MEMORANDA OF COMMENTS OF AFFECTED AGENCIES

This report on Kula Sanatorium was completed in December, 1966. On December 30, 1966, we distributed copies of the report to the various agencies affected by this report,¹ via a transmittal letter, a copy of which is attached as Attachment #1. Each agency was requested to submit to us its comments, if any, no later than January 30, 1967.

The following agencies submitted their responses:

State department of taxation -
(Attachment #2)
Department of civil service, county of Maui - (Attachment #3)
Kula Sanatorium - (Attachment #4)
State department of health -
(Attachment #5)

¹See p. 127 of our report for a listing of all affected agencies.

State department of budget and finance -
(Attachment #6)
State department of personnel services -
(Attachment #7)
State department of accounting and general services - (Attachment #8)

Although our transmittal letter called for the submission of responses by January 30, 1967, all responses received on or before February 7, 1967, are included in this part.

GENERAL NATURE OF RESPONSES

Except for Kula Sanatorium, the responding agencies are generally in agreement with our recommendations. Some of them express reservations with respect to the timing of the implementation of the various recommendations. The objections of Kula Sanatorium and the reservations of the other agencies are summarized below, together with our comments.

PATIENT'S CARE

Kula Sanatorium's response: Kula Sanatorium states,

"The primary purpose and the principal objective of any hospital, including this one, is to perform the best patient care possible within the limitations of available funds and staff

"Nowhere in your rather voluminous study is there any indication that the care of patient is of any concern to your staff. Myriad of administrative practices and policies is without reference to the care given the patients given to our charge. We would suggest that

a well-run, administratively sound hospital is completely meaningless if the hospital is not more concerned with its patients and their care than neat organized charts and well-written procedures."

Our comments: Our report assumes that Kula Sanatorium exists to care for patients. A hospital, however, being an organizational unit utilizing various resources--personnel, money and property --cannot properly fulfill its responsibilities without sound management policy and practices. Further, "best patient care", in and of itself, does not justify violation of law.

ACT 97 CONTRACT

Agency responses: The departments of accounting and general services and budget and finance indicate that our recommendations cannot be meaningfully implemented so long as the public hospitals are operated and managed under the Act 97 contracts. They seemingly suggest that the implementation of our recommendations should await the termination of

the contractual arrangement between the State and the county of Maui. For example, the department of accounting and general services states,

"It is evident here that administration of this hospital will continue with little or no policy change pending final conclusive legislative action to either transfer this County Hospital in its entirety to the State (along with administrative staff at the Department of Health level) or to restore all responsibility to the County of Maui.

"Until the former is accomplished, it would appear that the Department of Health can only continue to provide a minimum of service, with current known problems remaining status quo."

Our comments: We do not concur. We do not believe that implementation of our recommendations need await the termination of the contractual arrangements. This is not to say that every recommendation can be fully implemented within a short period of time. We are aware that some of the actions we recommend, especially those suggesting studies, will

require some time for completion. Nevertheless, we believe that our recommendations can and should be implemented even while the hospitals are under contractual arrangements with the county. Our reasons follow.

First, our recommendations which require "cooperation" or "assistance" of the departments of accounting and general services, budget and finance, and personnel services are those relating to problems, the resolution of which can be materially enhanced through the skills and technical knowledge of the three staff departments. Those recommendations which are directed primarily to the staff departments and the departments of land and natural resources and taxation relate to the resolution of statewide problems and the enforcement of statutory provisions which apply to both the State and the counties.

Second, the recommendations which are directed to the department of health and the county of Maui are those which deal

with specific, internal, operational and management problems of Kula Sanatorium. As we pointed out in chapter 5, at footnote 1, although the county (under the Act 97 contract) should be primarily concerned with correcting deficiencies existing at Kula, we nevertheless directed our recommendations to the department of health as well, because Act 97 contemplates the eventual assumption of direct responsibility of all public hospitals by the State.

Act 97 authorized the contractual arrangement to provide for "an uninterrupted continuation of services" pending the full assumption of responsibility by the department of health. During the period of such contractual arrangement, the department of health should exert its influence and exercise what authority it has to insure changes in the sanatorium's policies and practices so that they will conform to State policies which are applicable to all other State health institutions. To facilitate such changes, we had recommended in our report

that the contract with the county provide for more State authority in effecting policy changes.

It would appear that such preliminary work done during the contract period should facilitate the change-over when the State finally assumes full and direct responsibility of the hospital. The department of health is in accord with our views, although it expresses the feeling that "it will be a lot easier to implement state policy when the State actually takes over the active management of the public hospitals." Its response states,

"We propose in the next few months to begin preparations for direct administration. Copies of the department's perquisite policy will be distributed so the hospitals can be prepared to convert on July 1, 1967. Much of other work needs to be done such as training personnel in state accounting and payroll procedures. If the contracts are to be continued, much more time and effort will have to be spent on them to provide for stricter adherence to state rather than county rules, regulations and policies."

Third, Kula Sanatorium itself has adopted State policies. See, for example, chapter 6 on employee perquisites. As such, the State departments' interpretations and guidelines are necessary for the sanatorium to properly apply the State policies.

Fourth, we do not believe that the county of Maui alone can effectively bring about the necessary changes in the sanatorium's policies and practices. The county has, for many years, kept its hands off the internal operations of the sanatorium. The ineffectiveness of the county is illustrated in the letter of the director of the department of civil service, county of Maui (Attachment #3).

INSTITUTIONAL PERSONNEL MANAGEMENT

1. Regular employees' perquisites

Kula Sanatorium's response: Kula Sanatorium does not agree with our recommendations regarding employee housing, although it does acknowledge that

inequities do exist. Kula Sanatorium believes that free housing should be made available as a matter of "recruitment incentive" to unmarried employees.

Our comments: Such justification, of course, should be preceded by an in-depth study of the existing situation. In this connection, Kula Sanatorium has indicated that it will do such study and the department of personnel services has agreed to aid the sanatorium.

2. Full-time physicians

Kula Sanatorium's and department of health's responses: Both Kula Sanatorium and the department of health believe that both physicians (in contrast to our findings that one physician) should be on full-time basis.

Our comments: If such be the case, the statutory provision (section 3-61(1), RLH 1955, as amended) under which both physicians are currently hired is not applicable, and steps should be taken

immediately to implement our recommendations relating to placing the two positions under civil service.

Department of health's response: The department of health is of the opinion that to attract physicians of the "proper caliber" to Kula Sanatorium, the physicians, although under civil service, should be granted the "additional privilege of private practice."

Our comments: We believe that this is a recruitment problem which must be resolved within the framework of our statutes and with the cooperation and assistance of the State and county departments of personnel services.

3. Physicians' employment benefits

Kula Sanatorium's response: With respect to the benefits now enjoyed by the contract physicians, Kula Sanatorium unequivocally states that neither the attorney general nor the personnel director of Maui County advised Kula

Sanatorium. The sanatorium further states that it is not its intention to take action on the physicians' contracts at the present time.

Our comments: We believe that pending classification of the two physicians' positions under civil service, our recommendation relating to securing a legal opinion of the attorney general should be immediately implemented. We believe that this is necessary for the protection of both the hospital and the physicians concerned.

FINANCIAL MANAGEMENT

Kula Sanatorium's response: Kula Sanatorium does not agree that the profit made from the vending machine constitutes special funds of the State. It states,

"We do not concur that the profit made from the vending machine constitutes special funds of the State, and we shall investigate similar situations in other State buildings,

such as blind vendors' concessions which profits are exclusively for the use of the blind vendor."

Our comments: Our recommendations with respect to the income derived by the sanatorium from vending machines were based on statutory provisions. As pointed out in our report, we are aware that the problem of disposition of such revenues exists at other public institutions and buildings. Our recommendations are applicable equally to all of these institutions and buildings.

The income derived from vending machines placed in public buildings by the public agency in charge of the building should be distinguished from the income derived from vending machines placed in public buildings by a legally authorized concessionaire. The blind vendors are permitted concession spaces in public buildings by section 7B-1, RLH 1955, as amended. As a part of his concession, a blind vendor is allowed to place vending machines, the installation of which he, himself, contracts for with the vending

machine company. The income derived from such machines belongs to the blind vendor. No similar statutory provision exists with respect to the placement of vending machines in public buildings by the public agency in charge of the building.

PROPERTY MANAGEMENT

1. Dobashi Store

Kula Sanatorium's response: Kula Sanatorium states that there are sufficient precedents in the various departments of the State to permit the practice of letting Dobashi Store utilize rent-free space.

Our comment: We do not believe that violation of law can be justified on the basis of precedents.

2. Physicians' use of hospital space

Kula Sanatorium's response: Kula Sanatorium states,

"We disagree that the utilization of hospital facilities for private patients is not in the public interest. This policy permits the two physicians to be immediately available to the hospital at all time and also provides the residents of this district access to facilities to which they are entitled. Specifically we disagree with the statement of Chapter 8, page 89, P4 that this practice does not serve a public purpose."

Our comments: We quoted on page 45, Article VI, section 6 of the Constitution of the State of Hawaii, which prohibits the rent-free use of public property for private business purposes. We then stated,

"Even the most liberal interpretation of this constitutional provision would prohibit the use of public property for private profit, without the payment of rental or without some benefit to the public. Neither the Dobashi Store nor the private medical practices of the Superintendent and the Resident Physician, in themselves, can be said to serve a public purpose and thus justify the use of Kula's facilities without the payment of rental." (Emphasis added.)

3. Physician's use of hospital pharmacy

Kula Sanatorium's response: Kula Sanatorium states:

"We further disagree with the conclusion reached in Chapter 8 concerning the dispensing of drugs to welfare patients. The Kula Sanatorium Managing Committee does not permit the physician to retain a private supply of pharmaceuticals. The physicians take to the hospital the free drugs which they receive from pharmaceutical concerns; and while no records are available as to the monetary value of these drugs, it amounts to a considerable saving to Kula Sanatorium. In return for the privilege, Kula Sanatorium's Managing Committee has permitted the physicians the use of the pharmacy. This agreement is retroactive to 1964. The pharmacy is a profitable department of Kula Sanatorium and the State in that it lessens the amount of State subsidy."

Our comments: Kula Sanatorium misses the point of our report. All physicians, whether or not they are government physicians, receive free drug samples from various pharmaceutical concerns. Without a record of monetary value, it cannot be

said that the sanatorium realizes any savings from that arrangement under which the physician turns over his supply of free drugs.

Attachment #1

December 30, 1966

During the summer of this year, this office conducted an examination of the operations of Kula Sanatorium. Our examination was conducted pursuant to the duties and powers vested in me by Article VI, Section 8, of the Constitution of the State of Hawaii and Chapter 2, Part III, of the Revised Laws of Hawaii 1955, as amended.

I transmit herewith for your studied consideration our preliminary report entitled, "Management Audit of Kula Sanatorium." Extra copies of this report are also enclosed for use by key members of your departmental administration. The term, "preliminary," indicates that the report has not been released for general distribution. However, copies of this report have been submitted to the Governor, the Speaker of the State House of Representatives, the President of the State Senate, the County of Maui, and the State and county agencies affected by this examination.

The final report will not be released until you have had an opportunity to react to this preliminary report. If you wish to discuss the report with us, we will be pleased to meet with you on or before January 16, 1967. We await a call from your office to fix the appointment. A "no call" will be assumed to mean that a meeting is not required.

I would appreciate receiving by no later than January 30, 1967, your written comments on the recommendations directed to your department and the specific actions you have taken or intend to take with respect to each of them.

The splendid cooperation which your departmental staff has given us with respect to this audit examination is gratefully acknowledged.

Yours truly,



Clinton T. Tanimura
Auditor

JOHN A. BURNS
GOVERNOR



DEPARTMENT OF TAXATION
STATE OF HAWAII

Honolulu, Hawaii
January 17, 1967

Mr. Clinton T. Tanimura, Auditor
State of Hawaii
Iolani Palace
Honolulu, Hawaii 96813

Dear Mr. Tanimura:

SUBJECT: KULA SANATORIUM

This is in reply to your December 30, 1966 request for comments on your recent "Management Audit of Kula Sanatorium" as it relates to the Department of Taxation. Under Chapter 8, Recommendations, item 6 (page 94), you recommended that "The Director of Taxation issue appropriate directives to all public agencies indicating the requirements of law and its rules and regulations with regard to the applicability of the real property tax laws to public property used for private purposes."

For your information, upon the enactment of Act 201, passed by the 1965 Legislature and approved by the Governor on June 28, 1965, Mr. August H. Landgraf, Assistant Director, Property Technical Office, on July 22, 1965, informed the following government agencies and individuals of the provisions of the new law:

1. Department of Land and Natural Resources
2. Department of Transportation
3. University of Hawaii
4. Department of Hawaiian Homes Land
5. Department of Education
6. Mayor and Members of the City Council--Honolulu
7. Chairman and Members of the Board of Supervisors--Maui, Hawaii, and Kauai
8. Board of Water Supply

However, in accordance with your recommendations, the Department of Taxation will remind all departments of the State Government, including those above-mentioned, concerning the provisions of Section 128-22, Revised Laws of Hawaii 1955, as amended.

Attachment #2

E. J. BURNS
DIRECTOR OF TAXATION

RECEIVED

JAN 18 1967

OFFICE OF THE AUDITOR
TIME _____

Mr. Clinton T. Tanimura
Page 2
January 17, 1967

As for real property taxes on properties occupied by the Dobashi Store, the Superintendent, and the Resident Physician at the Kula Sanatorium, this will confirm the fact that as of January 1, 1967, real property taxes were assessed against these properties under the following tax keys:

2-2-04-57	Robert Dobashi
2-2-04-58	Dr. Edmund A. Tompkins and Dr. Joseph E. Andrews

Sincerely,



E. J. BURNS
Director of Taxation

cc: Mr. August H. Landgraf, Jr.

COMMISSIONERS

~~E. BAL~~
~~M. OHORI~~
~~K. KAWANAKA~~
S. Odooyan
D. Rickard
Y. Kuwae



COUNTY OF MAUI
DEPARTMENT OF CIVIL SERVICE

WAILUKU, MAUI, HAWAII
January 19, 1967

Attachment #3

PERSONNEL DIRECTOR

JAMES M. IZUMI

RECEIVED

JAN 23 1967

OFFICE OF THE AUDITOR
TIME _____

Mr. Clinton Tanimura
Legislative Auditor
State of Hawaii
Iolani Palace
Honolulu, Hawaii

Dear Mr. Tanimura:

This is in response to your letter of December 30, 1966 requesting our comments on the recommendations affecting this department contained in your Audit Report No. 66-2 entitled "Management Audit of Kula Sanatorium".

Recovery of Unearned Vacation Leave Granted - item 1 (e), page 55;
Promoting Understanding and Compliance with (Vacation) Rules &
Regulations - item 2, page 55

The Rules and Regulations on Vacation (and Sick) Leaves are prescribed by the Chairman of the Board of Supervisors, subject to the approval of the Board of Supervisors (Sec. 5-42, RLH 1955, as amended). Moreover, the responsibility for administering these rules and regulations has not been assigned to this department. In these rules and regulations, the Personnel Director is charged only with the following:

- a. Receive and investigate complaints from employees regarding crediting, granting or refusal of granting vacation (and sick) leave and making recommendations therefor to the department head concerned and/or the Chairman (Rule 5-4).
- b. Recommend changes and/or additions to the rules and regulations (Rule 5-5).

Reports on vacation leaves are made by each department to the County Auditor on such forms and such times prescribed by him (Rule 2-12), therefore, the central records and controls are in and kept by the Office of the County Auditor.

Mr. Clinton Tanimura

-2-

January 19, 1967

Attachment #4

C O P Y

Under these circumstances, it appears more appropriate that any action with regard to the recommendations on recovery of unearned vacation leave and promoting understanding and compliance with the rules and regulations be taken by the Office of the County Attorney rather than the Department of Civil Service.

We have been advised by Kula Sanatorium, however, that the case of the employee granted the unearned vacation has been settled by charging such vacation against the vacation credits earned by the employee subsequently.

For your information, the State Conference of Civil Service Commissioners and Personnel Directors at its conference held this month approved legislative proposal to transfer the promulgation and administration of vacation and sick leave rules to the several departments of civil service with the view of providing uniform application and coordination with other personnel rules and regulations prescribed by the personnel departments.

Enclosed is a copy of the Maui County Rules and Regulations on Vacation and Sick Leave and the Conference's proposed legislation to amend Sec. 5-42, RLH 1955, as amended, relating to rules and regulations on vacation and sick leave.

Guidelines for Contractual Employee Benefits - item 1 (c), page 68.

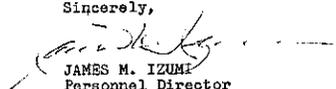
We shall be happy to assist in developing and/or administering any guidelines which may be proposed by the State for contractual employees under Act 97 contracts.

Recruitment of Superintendent - item 4, page 69.

Upon determination of the points made in the recommendations regarding the position of Superintendent of Kula Sanatorium, we will assist in any way possible to implement such determinations if the position still remains under the jurisdiction of the County of Maui.

We hope that these comments cover the recommendations cited in the report. However, if you require further comments or additional information, please notify us. Also, if we may be of any further assistance to your office, please feel free to call on us.

Sincerely,


JAMES M. IZUMI
Personnel Director

JMI/eo

Encls.

[Enclosure omitted]

Edmund Tompkins, M.D.
General Superintendent

Rikio Tanji
Assistant Hospital
Administrator

Kula Sanatorium

Help Fight Tuberculosis . It is curable

Kula, Maui, Hawaii 96790

January 27, 1967

The Honorable Clinton Tanimura
Legislative Auditor
Iolani Palace
Honolulu, Hawaii

Dear Sir:

The Managing Committee of Kula Sanatorium and General Hospital acknowledges receipt of your report. Your numerous suggestions have been studied by the Committee, and the services of the Department of Health and Department of Personnel Services were made available to the Committee in determining which of the problems discussed herein could be immediately resolved and which required additional work before an equitable solution satisfactory to both the Managing Committee and the Department of Health could be reached.

The report was excellent in that it brought clearly into focus the many problems faced by the hospital and other County hospitals in attempting to comply with State directives while operating within the historical and traditional confines of the County policy and administration.

Before going into any discussion, the problems and recommendations for solution as proposed by your staff, we believe it important that satisfactory issues and our stand on these issues be made extremely clear.

1) The primary purpose and the principal objective of any hospital, including this one, is to perform the best patient care possible within the limitations of available funds and staff. This is the purpose and objective by which this Managing Committee has been guided; and as long as there is a Managing Committee, this will be the guide for motivation and action: "to furnish the best patient care within the limitation of money and staff available."

The Honorable Clinton Tanimura
January 27, 1967
Page 2

Nowhere in your rather voluminous study is there any indication that the care of patient is of any concern to your staff. Myriad of administrative practices and policies is without reference to the care given the patients given to our charge. We would suggest that a well-run, administratively sound hospital is completely meaningless if the hospital is not more concerned with its patients and their care than neat organized charts and well-written procedures.

2) So long as the present procedure is in effect under Act 97 and the County of Maui delegates to the Managing Committee of Kula Sanatorium full authority to manage the hospital, we will continue to manage it to the best of our ability within the language of the existing contract or the next contract, whatever the terms may be. If there were inconsistencies in policies, it was because we tried to use State policies in place of our own, forgetting the uniqueness of the Kula Hospital. We will not make the same mistake twice. Our problems are especially unique because of our location, but we shall expect that not only for us but for each hospital so involved. The problems will be studied and solutions found within the context of the environmental location within which the hospital is located.

This is not to say that practices and procedures cannot be improved. They can, and we are most grateful for the assistance accorded to us in attempting to help us find solutions to our many problems in providing the best care possible to our patients.

To discuss in some detail the recommendations contained in your report and the action being taken by this Committee to implement your suggestions, we will ask your consideration of the following:

1) The Managing Committee has reviewed its policy on housing and will soon be ready to issue a new policy. At the same time we have addressed a letter to the Department of Personnel Services suggesting that a fourth basis for the granting of perquisites be included in the State's over-all policy, such being "recruitment incentive." The lack of eligible bachelors and any kind of normal social life, as far as young professional people raised in a highly industrial and educated society are used to, claims constant unrest in employment. In addition, people within the Kula District are not interested in and not qualified for hospital jobs; as a consequence, employment is generally from the lower reaches of the Island within the competition of tourist industries. More and more employees are finding employment closer to home or in jobs paying higher wages for the same amount of travel. If we are to keep our employees and secure new employees, some perquisites such as free or nominal value houses, etc., must be continued to be offered.

The Honorable Clinton Tanimura
January 27, 1967
Page 3

2) We agree that free housing should not be furnished the Assistant Administrator since his services are not required on either emergency or stand-by basis. He is primarily our business manager and fiscal officer. Nevertheless, he has not used the house provided him and we shall shortly find a better use for the house.

With regard to your recommendations on perquisites, we will do a study in depth as time permits and will adjust our policy depending upon the results of such studies and our success in getting the State to change its basis for granting perquisites. We find it necessary to state that while we do not agree with your recommendations, we thank you for bringing the inequities to our attention so that they may be considered by this Committee.

3) With regards to the contract of the Superintendent and Physician-Surgeon, we have given considerable thought to your comments in the report although we talked thoroughly with you in person. We nevertheless wish to express in writing our thinking so that there will be no misunderstanding of our position in spite of your statement that neither the Attorney General nor the personnel director of the Maui County passed upon the contents of the contract: one approving as to language and form and the other exempting it from Civil Service. Both of these departments had an obligation to advise us; neither did. Further, we were advised by legal counsel that if the right to engage in private practice were to be permitted it could be accomplished only through the use of their authority in question. Therefore, the contract and its provisions are binding upon the Managing Committee since they follow the precedent established by the County. We and the managing committee of other county hospitals are committed to follow through.

Contrary to your statement that the use of contract authority indicates intention that the service be provided on a parttime basis, Kula has always used its superintendent and physician-surgeon on a full time basis because Kula serves the needs of the upper regions of Haleakala and it is not known that there has been available to the residents of Upper Kula any physician other than that employed by the hospital. The authority to engage in private practice and the willingness on the part of the physician to do so have been a requirement.

It is not our intention to take action on the physician's contract at the present time. We firmly believe this action was taken in good faith and if the authority cited is improper, it can be said that all counties are equally guilty for using this authority.

The Honorable Clinton Tanimura
January 27, 1967
Page 4

We are exploring the possibility of establishing a civil service position and if as a result of this consideration, we will issue a certificate to fill the vacancy under Civil Service. We will again review this contract situation.

4) I have conferred with the majority of the members of the Managing Committee with regard to the findings and recommendations in Chapter 7 of your report, and the following will indicate the action taken to date of these recommendations.

For the next 3 months, beginning February 15, we will request each employee receiving mileage allowance to maintain records for us to determine whether a flat rate or a mileage rate is more advantageous to the hospital. At the conclusion of the 3-month period, we will make a further determination as to action taken.

We do not concur that the profit made from the vending machine constitutes special funds of the State, and we shall investigate similar situations in other State buildings, such as blind vendors' concessions which profits are exclusively for the use of the blind vendor.

The same review will be made with regard to the services provided the Dobashi Store (Chapter 8) and the OT Department. We believe that there are sufficient precedent in the various departments of the State to permit these practices, and if not, we can suggest an extension of the present State policy to include them.

We disagree that the utilization of hospital facilities for private patients is not in the public interest. This policy permits the two physicians to be immediately available to the hospital at all time and also provides the residents of this district access to facilities to which they are entitled. Specifically we disagree with the statement of Chapter 8, page 89, P4 that this practice does not serve a public purpose. We further disagree with the conclusion reached in Chapter 8 concerning the dispensing of drugs to welfare patients. The Kula Sanatorium Managing Committee does not permit the physician to retain a private supply of pharmaceuticals. The physicians take to the hospital the free drugs which they receive from pharmaceutical concerns; and while no records are available as to the monetary value of these drugs, it amounts to a considerable saving to Kula Sanatorium. In return for the privilege, Kula Sanatorium's Managing Committee has permitted the physicians the use of the pharmacy. This agreement is retroactive to 1964. The pharmacy is a profitable department of Kula Sanatorium and the State in that it lessens the amount of State subsidy.

The Honorable Clinton Tanimura
January 27, 1967
Page 5

Action has been taken requiring the Business Manager to bring the vacation and sick leave credits of employees up to date and to issue instructions to all supervisors to plan their vacation schedule in advance. In addition on October 30 of each year the Business Manager will be instructed to account to the Administrator for all vacation credits, and a memo will be issued to the supervisors whose employees appear to be endangered of losing their leave so that necessary action can be taken to protect them from such losses wherever possible.

Although the Department of Health has not yet written to us concerning the recommendation, No. 1, Chapter 5, we have completed in a loose binder form those written policies and procedures presently in effect at Kula. We are forwarding this compilation to the Department of Health. As new policies and procedures are ready for implementation, copy of these will be forwarded to the Department of Health for their review and approval.

May we again say that we appreciate your assistance and hope that this will be an indication of good faith on the part of this Managing Committee in its desire to effectuate changes which will be of benefit to Kula Sanatorium and in our ultimate objective of effecting best patient care possible.

Sincerely,

(SIGNED) J. WALTER CAMERON
J. Walter Cameron
Chairman, Managing Committee
Kula Sanatorium

JOHN A. BURNS
GOVERNOR



COMMISSION ON CHILDREN AND YOUTH
(ADVISORY)
EMPLOYEES' RETIREMENT SYSTEM
(ADMINISTRATIVE)
EMPLOYEES' GROUP MEDICAL AND
HOSPITAL CARE INSURANCE PLAN
(ADMINISTRATIVE)

STATE OF HAWAII
DEPARTMENT OF BUDGET AND REVIEW FINANCE
STATE OFFICE BUILDING
P. O. BOX 190
HONOLULU 10, HAWAII
February 2, 1967

Attachment #6

ANDREW T. F. ING
DIRECTOR

DIVISIONS:
BUDGET
FINANCE
MANAGEMENT SERVICES

RECEIVED
FEB 3 1967

OFFICE OF THE AUDITOR
TIME _____

Honorable Clinton T. Tanimura
Auditor of the State of Hawaii
State of Hawaii
Honolulu, Hawaii

Dear Mr. Tanimura:

This is in reply to your letter of December 30, 1966 concerning a preliminary report prepared by your office on a "Management Audit of Kula Sanatorium". We were glad to have had the opportunity to discuss with you during our meeting on January 19 several of the recommendations in the report.

I believe we are in agreement that the recommendations affecting this department, both with state-wide implications and pertaining to Kula Sanatorium in particular, will require some time to be fully implemented. In the case of vending machine revenues, as an example, it would be preferable to take a complete inventory of the number and location of vending machines on state properties and the present arrangements in the use of such earned income to determine what specific administrative or legislative action will be required. Other recommendations in the report which affect this department are specifically directed at Kula Sanatorium, and they are so intertwined with the state's contractual relationships with the County of Maui that it might be best to await the complete transfer of functions to the state, which is, as you are undoubtedly aware, a task by itself.

You may be assured that the recommendations of your report are being carefully considered. Your cooperative approach on this and other matters is greatly appreciated.

Andrew T. F. Ing
Andrew T. F. Ing, Director

JOHN A. BURNS
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF PERSONNEL SERVICES
825 MILILANI STREET
HONOLULU 13, HAWAII
February 2, 1967

Attachment #7

EDNA TAVARES TAUFARSAU
DIRECTOR OF PERSONNEL SERVICES
EDWARD L. MCINTOSH
DEPUTY DIRECTOR OF PERSONNEL SERVICES

RECEIVED
FEB 7 1967
OFFICE OF THE AUDITOR
TIME _____

Honorable Clinton T. Tanimura
Legislative Auditor
State of Hawaii
Iolani Palace
Honolulu, Hawaii

Dear Mr. Tanimura:

We have reviewed your preliminary report entitled "Management Audit of Kula Sanatorium." As you know, we are presently in the process of conducting a survey of all hospital support positions and in this connection have had occasion to study in some depth the conditions existing at Kula Sanatorium. We have consulted with the Managing Committee and the Administrator at Kula concerning those aspects of your report which relate both to the hospital and to the Department of Personnel Services.

As a result of our discussions with Kula officials, we believe that many of your recommendations are currently being implemented and that other changes in administrative policy and procedure will be effected as time permits. Many of the problems at Kula, of course, are of a historical nature and have been compounded by the shift in patient care emphasis from tuberculosis to general care.

We have been requested by the Managing Committee to review the state's policies on perquisites and we are presently in the process of making this study. In this connection, we have been advised that the practice of granting free housing to the Business Manager has been discontinued since his services are not required on either an emergency or standby basis.

We have also been advised that appropriate action has been taken requiring the Business Manager of Kula to bring the vacation and sick leave credits of employees up to date and to issue

MEMBER
Public Personnel Association
Since 1940

Honorable Clinton T. Tanimura

February 2, 1967

adequate procedural instructions to supervisors to prevent future violation of leave regulations.

You may be assured that this department will continue to work closely with management officials at Kula Sanatorium to insure proper implementation of the recommendations contained in your report and to assist them in every way possible in promoting the improvement of their personnel management policies and procedures.

Sincerely,


(Mrs.) EDNA TAVARES TAUFASAU
Director of Personnel Services

cc: Governor
Dept. of Budget & Finance
Dept. of Health
Dept. of Accounting &
General Services

JOHN A. BURNE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF ACCOUNTING
AND GENERAL SERVICES
P. O. BOX 118
HONOLULU, HAWAII 96810

January 31, 1967

FILE NO. _____

V. MARCIEL
COMPTROLLER

Attachment #8

RECEIVED

FEB 7 1967

OFFICE OF THE AUDITOR
TIME _____

Mr. Clinton Tanimura
Legislative Auditor
Iolani Palace
Honolulu, Hawaii 96813

Dear Mr. Tanimura:

This is a reply to your request for comments on the Management Audit of Kula Sanatorium.

We have reviewed the subject report and could recommend strengthening and correcting present procedures in Institutional Personnel and Financial Management. However, the present contract created by Act 97, Session Laws of 1965, between the State and the County of Maui dated July 2, 1965, spells out in Article I "that the County shall perform the following services in the same manner and to the same extent as heretofore performed by it prior to the effective date of Act 97, Session Laws of Hawaii 1955, except as otherwise provided hereinafter:

- (1) (does not apply)
- (2) the planning, construction, improvement, maintenance and operation of public hospitals and other public health and medical facilities."

Under Article V, it specifies services to be provided by the County to include Kula Sanatorium and General Hospital, then details in "D. County Hospitals. 1. The County shall not authorize or permit the governing board of any county hospital to make or adopt any change in policy, relative to the government or administration of such county hospital, without the prior written approval of the State Director of Health."

It is evident here that administration of this hospital will

Mr. Tanimura

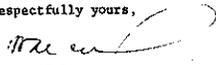
-2-

January 31, 1967

continue with little or no policy change pending final conclusive legislative action to either transfer this County Hospital in its entirety to the State (along with administrative staff at the Department of Health level) or to restore all responsibility to the County of Maui.

Until the former is accomplished, it would appear that the Department of Health can only continue to provide a minimum of service, with current known problems remaining status quo.

Respectfully yours,


V. MARCIEL
State Comptroller

cc: Director, Department of Health
Director, Department of Budget and Finance
Director, Department of Personnel Services
Kula Sanatorium
Governor John A. Burns

**PUBLISHED REPORTS
OF THE LEGISLATIVE AUDITOR**

Long and Short Range Programs of the Office of
the Auditor. Dec. 1965.

A Preliminary Survey of the Problem of Hospital
Care in Low Population Areas in the State of
Hawaii. Dec. 1965.

Examination of the Office of the Revisor of Statutes.
Audit Report No. 66-1 Jan. 1966.

An Analysis of H.B. No. 16, Entitled: A Bill for an
Act Relating to the Preparation of a Revision of
the Statutes of Hawaii and Making an Appropriation
Therefor. Feb. 1966.

An Analysis of the State-wide Information System
Including Comments on its Operating Budget
for Fiscal 1966-1967. Feb. 1966.

Comments on Act 97 Agencies' Operating Budgets
1966-1967. Feb. 1966.

Procedural Changes for Expediting Implementation
of Capital Improvement Projects. March 1966.