

JAN 19 2018

A BILL FOR AN ACT

RELATING TO CARE FACILITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 321, Hawaii Revised Statutes, is
2 amended by adding five new sections to be appropriately
3 designated and to read as follows:

4 "§321-A Investigations. Upon receiving a report that a
5 person, corporation, or any other entity may be operating a care
6 facility without a certificate or license as required by law and
7 issued by the department, or that a home or any type of living
8 arrangement may be operating as a care facility without a
9 certificate or license as required by law and issued by the
10 department, the department may conduct an investigation for the
11 limited purposes of determining whether the person or entity is
12 operating without a required certificate or license in
13 accordance with the following provisions:

14 (1) The department may request access to the location
15 indicated in the report; or

16 (2) The department may file a complaint with the district
17 court in the circuit of the location indicated in the



1 report and the district court, upon a finding of
2 probable cause, may issue a search warrant directed to
3 the department and the appropriate county police
4 department, if necessary, to investigate the location
5 pursuant to this section between the hours of sunrise
6 and sunset.

7 §321-B Action upon investigation. Upon investigation, the
8 department shall take action on confirmed findings that the
9 subject of a report is operating a care facility without the
10 required certificate or license and shall have the authority to
11 do any or all of the following:

12 (1) Resolve the matter in an informal fashion as is

13 appropriate under the circumstances;

14 (2) Exercise the department's right of entry under section
15 321-C;

16 (3) File a petition with the district court for
17 enforcement, protective, or remedial action; or

18 (4) Pursue any protective or remedial actions authorized
19 by law.

20 §321-C Right of entry. The department, when engaged in an
21 investigation pursuant to section 321-A shall be authorized to



1 visit and communicate with any person operating the facility,
2 home, or other type of living arrangement that is the subject of
3 a report. Any person intentionally or knowingly obstructing or
4 interfering with the department's right of entry, the
5 department's investigation of a report of operating without a
6 certificate or license, or the department's communication with a
7 vulnerable person reported to be receiving care from an
8 uncertified or unlicensed operator shall be guilty of a
9 misdemeanor.

10 §321-D Penalty. Any person who intentionally operates a
11 care facility without a certificate or license shall be guilty
12 of a misdemeanor and shall be fined not more than:

13 (1) \$ _____ for each day of uncertified or unlicensed
14 operation for the first violation;

15 (2) \$ _____ for each day of uncertified or unlicensed
16 operation for the second violation; and

17 (3) \$ _____ for each day of uncertified or unlicensed
18 operation for the third and each succeeding violation.

19 §321-E Referral or transfers to uncertified or unlicensed
20 care facility. It shall be unlawful for a certified or licensed
21 healthcare provider or certified or licensed care facility to



1 knowingly refer or transfer patients to an uncertified or
2 unlicensed care facility. The department shall be authorized to
3 enforce on any certified or licensed healthcare provider or
4 certified or licensed care facility that knowingly refers or
5 transfers patients to a care home, agency, or facility operating
6 without a certificate or license as required by law, a fine of
7 not more than:

8 (1) \$ for the first violation;

9 (2) \$ for the second violation; and

10 (3) \$ for the third and each succeeding violation.

11 In addition to fines imposed under this subsection, the
12 department may initiate administrative proceedings to suspend or
13 revoke the referring or transferring care provider or facility's
14 certificate or license upon a third or any succeeding
15 violation."

16 SECTION 2. In codifying the new sections added by section
17 1 of this Act, the revisor of statutes shall substitute
18 appropriate section numbers for the letters used in designating
19 the new sections in this Act.



S.B. NO. 2586

1 SECTION 3. New statutory material is underscored.

2 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

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S.B. NO. 2586

Report Title:

Care Facilities; Uncertified; Unlicensed; Enforcement

Description:

Authorizes the Department of Health to investigate care facilities reported to be operating without an appropriate certificate or license issued by the Department. Establishes penalties for violations and for patient referral or transfer to uncertified or unlicensed care facilities.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

