

STATE OF HAWAII
DEPARTMENT OF HEALTH
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**Testimony in OPPOSITION to H.B. 1911, HD2
RELATING TO HEALTH.**

SENATOR ROSALYN H. BAKER, CHAIR
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH
Hearing Date: Thursday, March 15, 2018 Room Number: 229

1 **Fiscal Implications:** None known.

2 **Department Testimony:** Thank you for the opportunity to testify in OPPOSITION of this
3 measure. The Department prefers H.B. 1911 HD1 or the similar senate version S.B. 2586 SD1.

4 H.B. 1911 HD1 and S.B. 2586 SD1 were intended to seek to protect the public and
5 consumers by authorizing the Department of Health (DOH) to investigate care facilities reported
6 to be operating without an appropriate certificate or license issued by the Department. These
7 draft bills would have provided the Department a right of entry to conduct investigations and
8 establishes penalties for violations and for patient referral or transfer to uncertified or unlicensed
9 care facilities.

10 H.B. 1911 HD2 narrows the definitions of adult residential care homes (ARCH),
11 expanded ARCH (E-ARCH), community-based care homes, and adult day care centers and
12 requires them to be licensed if they “provide home health care.” Community-based care homes
13 would appear to include community care foster family homes (CCFFH). These homes and
14 facilities do not provide home health care as defined in Chapter 97 Home Health Agencies,
15 Hawaii Administrative Rules (HAR). This redefining would exclude virtually all care in an

1 ARCH and CCFFH and most of the care in an E-ARCH. By excluding those facilities, the bill
2 appears to allow them to not be licensed. The Department cannot support this provision.

3 The Department OPPOSES establishing a home care aide registry. Home care aides, in
4 the context of this measure, are employees of a home care agency. The Department will ensure
5 the credentials of the home care aide as part of the home care agency licensure process. As a
6 result, it will be the home care agency's responsibility to ensure the non-clinical skills,
7 knowledge, and abilities of its non-clinical employees before assigning them to clients based on
8 client needs.

9 The Department OPPOSES establishing and maintaining an online forum on which
10 licensed residential care homes may post vacancies. On online forum for this purpose amounts
11 to advertising for private patients to occupy private beds in a private residential care home for a
12 private fee. This is a private function better left to the private industry, and should not be a
13 government function. As a result, the Department also OPPOSES convening a task force to
14 discuss an online forum with stakeholders.

15 For the above reasons, the Department prefers H.B. 1911 HD1 or its similar Senate
16 version S.B. 2586 SD1.

17 Thank you for the opportunity to testify in OPPOSITION of this bill.

HB 1911 HD2

Measure Title: RELATING TO HEALTH.

Report Title: Care Facilities; Uncertified; Unlicensed; Enforcement; Community-Based Care Home; Adult Care Center; Criminal Penalty

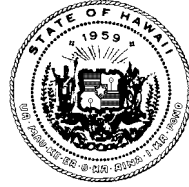
Description: Requires home care agencies to be licensed or certified. Authorizes the Department of Health to inspect home care agencies. Requires the Department of Health to establish a home care aid registry. Authorizes the Department of Health to establish procedures for the receipt, investigation, and resolution of complaints against home care agencies. Authorizes the Department of Health to enter a care facility when investigating a facility or home. Allows the Department of Health to establish a forum where state-licensed care facilities may post job vacancies. Imposes criminal penalty for the intentional operation of a community-based foster family home, adult foster family home, adult day care center, or home care agency without a license. Requires the Department of Health to establish a working group to discuss and provide feedback for the implementation of the job vacancy forum. (HB1911 HD2)

Companion:

Package: Kupuna Caucus

Current Referral: CPH, WAM

Introducer(s): MIZUNO, CACHOLA, CREAGAN, CULLEN, KEOHOKALOLE, LUKE, MCKELVEY, OHNO, SAN BUENAVENTURA, Hashem, Takayama



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

March 13, 2018

TO: The Honorable Senator Rosalyn H. Baker, Chair
Senate Committee on Commerce, Consumer Protection, and Health

FROM: Pankaj Bhanot, Director

SUBJECT: **HB 1911 HD2 – RELATING TO HEALTH**

Hearing: Thursday, March 15, 2018, 9:30 a.m.
Conference Room 229, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) is opposed to the omission or deletion of any of the state-licensed or state-certified care facilities, as identified in section 321-1.9, Inspections; visits; state-licensed or state-certified care facilities, Hawaii Revised Statutes (HRS), from the Department of Health's (DOH) oversight and monitoring. As the regulatory agency, DOH must be given the authority to investigate complaints of care facilities operating without licensure or certification and to levy fines and/or penalties for licensure violations. Without this authority, the standard of care in the care facilities may be jeopardized. The health and safety of the vulnerable adults residing in the care facilities may also be compromised.

DHS is responsible for investigating reports of alleged vulnerable adult abuse and neglect in all care settings regardless of licensure. An adult protective services (APS) investigation may result in an abuse confirmation against caregivers within a care facility, but the abuse confirmation will have no effect or consequence on the ability of the unlicensed or uncertified care settings to continue operations with no penalties.

As the regulatory agency for care facilities, DOH should have the authority to levy fines or penalties, including closure of the care facility, for noncompliance with established licensure or certification requirements.

The proposed amendments to section 321-15.7, Penalty, include the term "community-based foster family home", which is not defined, and exclude some of the care facilities listed in section 321-1.9, HRS, that should be subject to penalties for operating without a license or certification. The excluded care facilities include adult day health centers, community care foster family homes, developmental disabilities domiciliary homes, developmentally disabled adult foster homes, long-term care facilities such as assisted living facilities, intermediate care facilities, skilled nursing facilities, and special treatment facilities.

PURPOSE: The purposes of this bill are to: 1) require home care agencies to be licensed or certified; 2) authorize DOH to inspect home care agencies; 3) require DOH to establish a home care aid registry; 4) authorize DOH to establish procedures for the receipt, investigation, and resolution of complaints against home care agencies; 5) authorize DOH to enter a care facility when investigating a facility or home; 6) allow DOH to establish a forum where state-licensed care facilities may post job vacancies; 7) impose criminal penalty for the intentional operation of a community-based foster family home, adult foster family home, adult day care center, or home care agency without a license; and 8) require DOH to establish a working group to discuss and provide feedback for the implementation of the job vacancy forum.

Thank you for the opportunity to testify on this bill.

Senate Committee on Commerce, Consumer Protection and Health

Sen. Rosalyn H. Baker, Chair
Sen. Jill N. Tokuda, Vice Chair

H.B. 1911 HD2 Relating to Health

Conference Room 229, 9:30 a.m.
March 15, 2018

*Testimony of John G. McDermott, LSW, ACSW, M.Div.
State Long Term Care Ombudsman*

Position: The Office of the Long Term Care Ombudsman **strongly supports** this measure with several proposed amendments.

Good morning, Chair Baker, Vice Chair Tokuda and members of the Committee,

My name is John G. McDermott and I have been the State Long Term Care Ombudsman (LTCO) since August of 1998. The LTCO Program is both federally and state mandated, receives federal and state funding, and is housed in the Executive Office on Aging.

We have already testified in support of this bill but the original bill has been amended and so I would like to propose a few additional amendments.

Page 2, line 7-8 "*All home care facilities home agencies*" is confusing to me. There seems to be a word or two missing.

Page 2, line 16 The use of the term "*registered*" might indicate using an unregistered home care aide is acceptable. Please delete.

Page 3, line 3 Replace "*may*" with "shall."

Page 2, line 10 the provisional license should only apply to volunteers that "voluntarily" discontinued their licensed status, not those that were closed down by the state. Please insert "voluntarily" *discontinued*.

Page 3, line 15 I'm confuse why the State would only want to protect residents in a home with "two or more?" A resident alone is not entitled to the same protection? Please delete reference to number.

Same suggestion for Page 6, line 19.

Page 7, line 3 Why "*two or more*?" Someone receiving skilled nursing should be enough by itself. I would delete "two or more" and replace with "*any*." Please insert Skilled or "*intermediate*" nursing.

Page 7, line 10 Never mentions "two or more" so accepting the previous amendment makes this more consistent.

Page 8, line 9 Please add "that provide or arrange."

Page 9, line 8. **NO!!** This is a battle that has gone on since 1998 and was finally settled when Gov. Abercrombie signed into law that all inspections shall be **unannounced**. Telling facility caregivers when you are coming is NOT an inspection. No other business is given such a courtesy.

Thank you for this opportunity to testify.



March 15, 2018 at 9:30 AM
Conference Room 229

Senate Committee on Commerce, Consumer Protection, and Health

To: Chair Rosalyn H. Baker
Vice Chair Jill N. Tokuda

From: Paige Heckathorn
Senior Manager, Legislative Affairs
Healthcare Association of Hawaii

Re: **Submitting Comments**
HB 1911 HD 2, Relating to Health

The Healthcare Association of Hawaii (HAH), established in 1939, serves as the leading voice of healthcare on behalf of 170 member organizations who represent almost every aspect of the health care continuum in Hawaii. Members include acute care hospitals, skilled nursing facilities, home health agencies, hospices, assisted living facilities and durable medical equipment suppliers. In addition to providing access to appropriate, affordable, high quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing over 20,000 people statewide.

The Healthcare Association of Hawaii would like to thank the committee for the opportunity to provide **comments** on HB 1911 HD 2, which was introduced with the intent of allowing the Hawaii Department of Health to better investigate complaints against care homes operating without a license. We appreciate that the previous committees resolved our concerns regarding the penalties against facilities that transfer or discharge patients to unlicensed homes. We must honor patient choice, and the reality is that patients, their caregivers, or their families do sometimes choose to receive care in an unlicensed setting. Ensuring that providers are not unfairly punished for this choice is important. Further, we appreciate that the "double penalty" of both fines and administrative proceedings was eliminated—we believe the fines alone are sufficient and necessary to achieve the goal of penalizing licensed facilities.

The inclusion of more definitions is also much appreciated, including the definition of community-based care home. However, there are some definitions and provisions in the current draft that we would appreciate more clarity on. For example, the definition of "home care facilities home agencies" on page 2, lines 7-8 is not well-defined. Further, the legislation as currently written would repeal the current home care agency licensing section in HRS §321-14.8 and replaces it with a new section that may prohibit individuals from arranging private home care services for a loved one in their home (page 2, section (b), lines 15-18). We look forward to further discussion on this matter and appreciate the continued focus on ensuring patient safety. Thank you for your consideration of these comments.



THE QUEEN'S HEALTH SYSTEMS

To: The Honorable Rosalyn H. Baker, Chair
The Honorable Jill N. Tokuda, Vice Chair
Members, Committee on Commerce, Consumer Protection, and Health

From: Paula Yoshioka, Vice President of Government Relations and External Affairs, The Queen's Health Systems

Date: March 12, 2018

Hrg: Senate Committee on Commerce, Consumer Protection, and Health Hearing; Thursday, March 15, 2018 at 9:30AM in Room 229

Re: **Comments on HB 1911 HD2, Relating to Health**

My name is Paula Yoshioka and I am a Vice President at The Queen's Health Systems (Queen's). We would like to provide **comments** on HB 1911 HD2, Relating to Health. This bill was originally introduced with the intent of assisting the Department of Health (DOH) with investigating care facilities reported to be operating without an appropriate certificate or license issued by DOH.

At Queen's we are committed to providing care for all the people of Hawaii. While we support the intent of this measure to protect individuals from receiving sub-standard care, we echo the comments raised by the Healthcare Association of Hawaii (HAH) on the current draft of the bill. Specifically, there are some definitions and provisions in the current draft that we would appreciate more clarity on. For example, the definition of "home care facilities home agencies" on page 2, lines 7-8 is not well-defined. Further, the legislation as currently written would repeal the current home care agency licensing section in HRS § 321-14.8 and replaces it with a new section that may prohibit individuals from arranging private home care services for a loved one in their home (page 2, section (b), lines 15-18). The home care aid registry design and sustainability should also be considered further (page 3, lines 6-7).

We look forward to working with the legislature and other stakeholders on these and other sections and appreciate the continued focus on ensuring patient safety.

Thank you for your time and attention to this important issue.

The mission of The Queen's Health Systems is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawai'i.



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Senate Committee on Commerce, Consumer Protection and Health
Thursday, March 15, 2018
9:30 a.m.
Conference Room 016

To: Senator Rosalyn Baker, Chair
Re: H.B. No. 1911, H.D. 2, Relating to Health

Dear Chair Baker, Vice-Chair Tokuda, and Members of the Committee,

My name is Kerry M. Komatsubara and I am the Advocacy Director for AARP Hawaii. AARP is a membership organization of people age fifty and over with about 150,000 members in Hawaii. AARP advocates for issues that matter to Hawaii families, including the high cost of long-term care; access to affordable, quality health care for all generations; and serving as a reliable information source on issues critical to people over the age of fifty.

A. What are Aging in Place facilities? What is an AIP vs. HHA vs. HCA? AIPs are facilities where long-term care services are delivered to care recipients in their place of residence by home health agencies (HHA) and home care agencies (HCA). HHA's and HCA's are providers of services but do not provide the "real estate" to the care recipients. In essence, in an AIP, the real estate is provided by the care recipients and the services are provided by the HHA and/or HCA.

HHA's are licensed pursuant to Section 431-11, HRS, and which are subject to DOH Rules, specifically Title 11, Chapter 97, HAR. We understand that currently some HHA's, in addition to providing home health services, provide home care services under their HHA license.

HCA's licensing statute is in Section 321-14.8, HRS, which was initially enacted in 2009 and DOH was given five years to adopt rules to implement the HCA licensing program. DOH was unable to adopt rules within the five years and the 2014 Legislature enacted another law to give DOH five more years (up to June 30, 2019) to adopt implementing rules. DOH has failed to adopt rules to implement the HCA licensing program for the past nine years, and therefore HCA's cannot obtain licensed status through no fault of their own and continue to operate in the "gray" with uncertainty. Furthermore, Section 321-14.8 "drops dead" on June 30, 2019, and it is uncertain as to the impact of the repeal of Section 321-14.8 on the home care service industry come June 30, 2019.

B. Purpose of legislation addressing AIPs, HHA's and HCA's: H.B. 1911, H.D. 2, attempts to clarify the law governing HCA's and attempts to empower DOH to conduct inspections of these operations. AARP Hawaii agrees with the need to improve the licensing and inspection programs over HCA's, however, we have concerns regarding the approaches being suggested in the current versions of the legislation. Based on our initial reading of H.B. 1911, H.D. 2, we believe that the bill may "shut down" the entire HCA industry and eliminate the in-home care services that are currently being provided to care recipients in their place of residence.

For example, under H.D. 2, a home care agency is defined as "a public or proprietary agency, a private, nonprofit organization, or a subdivision of an agency or organization, **engaged in**

providing home care services, but not home health care services, to clients in the clients' residences." Home care means "care provided to a vulnerable adult to assist in activities of daily living, **personal care, or companion care** by an unrelated person **under contract**. 'Home care' does not include health care." If an HHA does not provide home care services, then there is no need for the HHA to have a HCA license; however, if a licensed HHA is engaged in providing home care services, the HHA must obtain a HCA license under H.D. 2.

Section 7 of HB 1911, H.D. 2 states: "Any person who intentionally operates an . . . **home care agency** without a license shall be **guilty of a misdemeanor**." (emphasis added) Thus, if HB 1911, H.D. 2, becomes enacted into law in its current form, home care services cannot be legally provided in Hawaii because DOH has not established a licensing program for HCA's. Even the currently licensed HHA's may be prohibited from providing home care services since a HCA license is required for anyone in engaged in providing home care services under H.D. 2.

C. **An alternative approach—temporary licensing of HCA's:** Attached for this Committee's consideration is an alternative approach to addressing the licensing and inspection concerns with HCA's. This approach makes clear that HCA's cannot continue to operate unless they participate in the temporary licensing program pending the regular licensing program being implemented. This makes certain the following gets accomplished: (i) no more HCA operations in the "gray"—an HCA without a temporary license can be shut down as an unlicensed operator, (ii) it forces all HCA's to be identified as a temporary operator—all HCA's must file an application with DOH which automatically gives them the temporary license, and (iii) since the HCA becomes temporarily licensed, and since DOH has the authority to inspect all licensed operations, the HCA becomes subject to inspection immediately.

Thank you for the opportunity to present this testimony on H.B. No. 1911, H.D. 2.

Attachment as stated

H.B. NO.

A BILL FOR AN ACT

RELATING TO HEALTH.

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

SECTION 1. Legislative Findings and Statement of Purpose.

A. Need for Aging-in-Place Service Providers in Hawaii:

It is widely recognized that most American seniors, including our kupuna, prefer to remain in their place of residence as long as possible. By aging in place, our kupuna will be better able to maintain their independence, avoid admission to institutional facilities, reduce hospitalization and minimize social isolation. Studies show that those who age in residential settings have better health outcomes while incurring significantly lower health costs than those who age in the institutional facilities.

In order to help our kupuna age in place, the Legislature has always recognized the need for home care agencies to provide the personal care services to help our kupuna remain in their place of residence. Home care agencies enable our kupuna to achieve a higher degree of control as the care services they provide are "at will" and can be terminated or changed by our kupuna with short notice. This approach also

promotes cost-effectiveness as home care services are contracted for in an "ala carte" fashion, whereby our kupuna has the ability to choose the types of services needed as well as the frequency of services (e.g., part-time or full-time).

B. Prior Legislative Actions in Hawaii: Prior to 2009 and continuing until today, home care agencies have been providing valuable home care services for our kupuna and disabled persons in Hawaii. In recognition of this need for home care service providers, the Legislature passed S.B. No. 415, S.D. 2, H.D. 1, C.D. 1, which was enacted as Act 21, Special Session Laws of Hawaii 2009. Under Act 21, the department of health was required to implement a program to license and oversee home care agencies which were already providing home care services for our kupuna and disabled persons. The Legislature noted in Conference Committee Report No. 145 at page 2 that "[y]our Committee on Conference finds that home care agencies provide valuable home care services, such as personal care, homemaker assistance, and respite care, to an increasing segment of Hawaii's residents."

The Legislature set a deadline of June 30, 2014, for the department to implement a regulatory program for the home care services that were already being provided for our kupuna and disabled by home care agencies. This did not happen and in 2014, the Legislature was forced to extend Act 21 for another

five years to June 30, 2019, pursuant to Act 125, Session Laws of 2014.

Recently, the Legislature was made aware that the department still has not taken action to implement the licensing and inspection programs for home care agencies as mandated by Acts 21 and 125. Although draft rules to implement Acts 21 and 125 have been prepared by the department, the department probably will not be able to adopt the draft rules by the June 30, 2019 deadline.

As a result of the department's failure to comply with the mandates of Acts 21 and 125, home care agencies continue to operate in Hawaii without licensing and governmental oversight. The absence of a licensing program for home care agencies is not due to the fault of the home care agency industry, and, in fact, home care agencies seek the legitimacy of their operations with the adoption of the licensing and inspection program envisioned in Acts 21 and 125.

The Legislature finds that there is a need to immediately license the home care agencies that have been operating in Hawaii with unclear authority to practice and no governmental oversight. It is not in the interest of either the service providers or our kupuna and disabled persons for our home care agencies to continue to operate with uncertainty and ambiguity.

C. Transitioning to a Properly Licensed Home Care

Industry: The purpose of this Act is to establish a program to license and oversee home care agencies in Hawaii in an expedited manner.

SECTION 2. Section 321-14.8, Hawaii Revised Statutes, is amended to read as follows:

"~~[+]§321-14.8[+]~~ **Home care agencies; licensing.** (a) Beginning ~~[July 1, 2010,]~~ on the tenth business day after license application forms issued under this section 321-14.8 become available, each home care agency shall be licensed by the department of health to ensure the health, safety, and welfare of clients~~[.]~~ and no person may operate a home care agency unless licensed by the director.

~~(b) [The department of health shall adopt rules in accordance with chapter 91 to:~~

~~(1) Protect the health, safety, and civil rights of clients of home care agencies; and~~

~~(2) Provide for the licensure of home care agencies.]~~ Any person desiring to operate a home care agency shall make an application to the director on forms provided by the department. The application shall be made available to all persons upon request and shall include the following:

(1) A description of the home care services provided;

(2) A list of the personnel and criminal history record checks pursuant to section 846-2.7 of the personnel who will be providing the services of the agency;

(3) A written job description and the qualifications and experience of each of the personnel performing the activity; and

(4) Applicable fees established by the department by rule.

(c) A service provider agency under contract for services with the city and county of Honolulu elderly affairs division shall be exempt from the licensing requirement of this section.

(d) The director may inspect the operations of any applicant and shall, upon determining that the applicant meets the qualifications of subsection (b), issue a license to the applicant as a home care agency.

(e) Upon the receipt of a written complaint setting forth any prima facie cause of complaint that a person is operating as a home care agency without a license or in violation of this section, the director shall conduct an investigation of the complaint, and after notice and an opportunity for a hearing, may suspend or revoke the license because of failure to meet the requirements of this chapter or conditions under which the license was issued. Any person affected by the decision of the director to revoke or suspend a license may appeal the decision as provided by law.

For purposes of this section:

"Home care agency" means a public or proprietary agency, a private, nonprofit organization, or a subdivision of an agency or organization, engaged in providing home care services to clients in the client's residence. The term "home care agency" does not [~~apply to~~] include businesses or organizations that provide routine house cleaning services or an individual, including an individual who is incorporated as a business, or is an unpaid or stipended volunteer.

"Home care services" include but are not limited to:

- (1) Personal care, including assistance with dressing, feeding, and personal hygiene to facilitate self-care;
- (2) Homemaker assistance, including housekeeping, shopping, and meal planning and preparation; and
- (3) Respite care and assistance and support provided to the family.

"License" means an approval issued by the department to operate a home care agency."

SECTION 3. Until the licensing process in Section 2 of this Act is fully implemented, the director shall issue a temporary license to any person operating as a home care agency simultaneously with the person's filing of an application for a home care agency license. The temporary license shall authorize the person to engage in the operation of a home care agency and

shall be in force until the director's decision to either grant or deny the applicant's license is final.

The director may inspect the operations of any applicant and may conduct periodic and unannounced inspections of home care agencies temporarily licensed pursuant to this section.

The director may revoke and order an immediate discontinuance of a home care agency's temporary license upon a determination that the operation of the home care agency may imperil a client or that any of the personnel of the agency fails the criminal history check. The home care agency whose temporary license is revoked may appeal the decision of the director as provided in section 321-14.8.

The form of temporary license for a home care agency shall be substantially as follows:

State of Hawaii

Temporary License for a

Home Care Agency

_____, having been duly considered by the Department of Health, and having been found to be possessed of the necessary qualifications, is hereby temporarily licensed as a home care agency.

This temporary license is granted and accepted on the express condition that it may be revoked at any time for any of the violation of section 321-14.8, Hawaii Revised Statutes.

Given this _____ day of _____

By _____

Director, Department of Health

The department may adopt interim rules to implement this temporary licensing program.

SECTION 4. The director of health shall submit a report on the status of the implementation of the home care agency licensing programs described in Sections 2 and 3 of this Act to the legislature twenty days prior to the convening of the Regular Session of 2019.

SECTION 5. Section 8 of Act 21, Special Session Laws of Hawaii 2009, as amended by Act 125, Session Laws of Hawaii 2014, is repealed.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

HB-1911-HD-2

Submitted on: 3/12/2018 11:49:59 PM

Testimony for CPH on 3/15/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Maile Harada	Testifying for Maile Case Management	Oppose	No

Comments:

I am opposed to this bill. There needs to be a lot of improvements for this bill to meet the needs of what it is intended to do. I think both sides of this issue need to be working together. Maile



TO: COMMITTEE ON COMMERCE, CONSUMER PROTECTION AND HEALTH

Chair: Senator Rosalyn Baker

Vice Chair: Senator Jill Tokuda

FROM: Agnes Reyes

President, Case Management Professionals, Inc.

94-235 Hanawai Circle

Waipahu,, HI 96797

Tel: (808) 689-1937 ext 112

Fax: (808) 689-1933

Email: agnes@cmp-hi.com

DATE: March 15, 2018

RE: HB 1911 HD2

TESTIMONY: **IN FULL SUPPORT OF HB 1911 HD2**

My name is Agnes Reyes, a registered nurse for 35 years and the President of Case Management Professionals, Inc, a pioneer case management agency since 1999 serving the islands of Oahu, Kauai, Big Island, Maui and Molokai.

Case Management Professionals, Inc. fully supports HB 1911 HD2

Hawaii's population is exponentially aging and the State of Hawaii and all its stakeholders should work together to ensure that our kupuna's health, safety and welfare are protected.

As a pioneer licensed case management agency providing services in the islands of Oahu, Kauai, Big Island, Maui and Molokai, Case Management Professionals personally see and know first- hand the dynamics of providing care in a community based setting. Over time licensed case management agencies and licensed care home facilities have been posed with the challenge of increasing requirements and regulations that it is almost impossible to do business. Every year is always a new stipulation, asking to show evidence or statements of compliance, from confidentiality, electronic records criteria, background checks, fingerprinting, adult protective and child protective perpetrator checks, requirements on cultural diversity, options for choice, evidence of training for fraud, waste and abuse. addressing self-management , language access, adverse events reports, quality reports, evidence of timely case management visits and assessments; evidence of service plan updates and the list goes on. It is a challenge, but the answer is not to surrender your license and go unlicensed nor give the excuse that licensing applications take forever so now one decides to just start a care facility without a license. First and foremost, allowing unlicensed home practice gives a wrong message to the thousands of caregivers who comply with the rules. It is a clear signal that "it is okay" to totally disregard licensing rules. Secondly, we do not lack care home facilities to care

for our kupunas, we have enough expanded homes, fosters homes, nursing facilities and assisted facilities to house individuals who are in need of intermediate nursing care. Thirdly, allowing unlicensed facilities to operate sets precedence to the other thousands of care homes to follow suit of being unlicensed and in a couple of years this will pose a greater problem for the state as there will not be enough caregivers to care for our Medicaid population because most of them have gone into the growing practice of providing private nursing care to our elderly and fragile population without a license.

These homes do not follow any regulations or standards of practice, they do not have capacity limits that they can take as many patients as they can instead of the standard 3-5 in a given home. The caregivers can be anybody without any background checks or experience requirement, more importantly, they are not accountable to any entity and there is no oversight for the care that they receive nor have any reporting or monitoring mechanism for any adverse events or negative outcomes. Because they are unlicensed, currently, these homes can't be subjected to any walk-in or investigation by the ombudsman or Department of Health personnel. We have to stop these homes from operation as they jeopardize the health, welfare and safety of any individual that is placed in these homes.

I fully support HB 1911 HD2, I support penalties of any individual, entity or facility promoting and referring to unlicensed homes and entities. I support authorizing and allowing entry to Department of Health to investigate these homes once they get a report.

Consumer protection is a priority especially when it comes to the health and well-being of our kupunas. I humbly ask the Committee on Commerce, Consumer Protection and Health to support HB1911HD2 in order to protect the health, safety and welfare of our elderly, disabled and frail individuals so they do not fall prey under the care of unlicensed facilities.

Thank you for this opportunity to provide testimony



CATHOLIC CHARITIES HAWAII

TO: Senator Rosalyn H. Baker, Chair
Senator Jill N. Tokuda, Vice Chair
Committee on Commerce, Consumer Protection, and Health

FROM: Terrence L. Walsh, Jr., President and Chief Executive Officer

DATE: Thursday, March 15, 2018 (9:30 a.m., Room 229)

RE: **COMMENTS on HB1911, HD2, Relating to Health**

Catholic Charities Hawai'i (CCH) is a tax exempt, non-profit agency that has been providing supportive home and community based services to elders since 1973 and currently serves over 4,000 older persons each year.

- CCH previously participated in the Home Care Licensure Administrative Rules Task Force, following the passage of the home care licensing bill during the 2009 Legislative Session. Although home care licensing has not been implemented to date, a significant amount of discussion and research was done by the task force members to prepare draft Administrative Rules.
- CCH has past experience as a licensed case management agency for community care foster homes on the islands of Oahu and Hawaii.
- Through our Case Management Program, CCH provides onsite case management in 13 senior affordable housing projects, linking and monitoring the supports and benefits that the elderly residents need to maintain independent living. And when independent living is no longer safe or preferred, our staff assist with placement in a wide range of licensed facilities, such as care homes, foster homes or nursing homes.
- As a provider of services for both elders and individual with developmental disabilities, we are very familiar with the concept of Consumer Direction and support the desire of individuals to direct their lives and the care they receive. This is consistent with the Right to Self-Determination, a fundamental social work principle.

Based on our work in providing in-home care and in assisting elders to find appropriate placement when independent living is no longer a safe alternative, CCH has some concerns regarding the content in the current draft (HD2) of HB1911 and would like to offer these comments:

- The reference to home care agency licensing appears to assume that the home care services are being provided in a residence other than the care recipient's personal residence. This is not accurate as most home care agencies provide services to a care recipient in the care recipient's own home.
- The bill calls for a "home care aid registry" The usefulness of having a home care aid registry is unclear. If licensing of home care is put into effect, the home care agencies should be responsible to maintain a listing of their workers and to verify each worker's background, skills, training, and competency, as required by the agency's home care licensing.



- “Home Care” vs. “Home Health Care” – these terms appear to be used interchangeably in the bill but are not the same. A home health care agency provides services that are often coverable by Medicare. However, home care services, even if provided by a licensed home health care agency, are usually private pay and cannot be covered by Medicare.
- New terminology – The definition of “community-based care home”, which this bill would now require to be licensed, has the potential to eliminate some shared housing options. This would have a negative impact on low income elders who are trying to remain in independent living and avoid homelessness.

For more information or questions, please feel free to email Diane Terada, Division Administrator, at diane.terada@catholiccharitieshawaii.org or call her via phone at 527-4702.

Thank you for this opportunity to provide testimony.

From: Ruth Raza RN BSN
President Big Island Adult Residential
Care Home-Expanded ARCH

To: Committee on Finance
Representative Rosalyn Baker- Chair

Re: HB 1911-Relating to Health for Unlicensed Care Home
Date: March 15, 2018

My name is Ruth Raza and I have been a Registered Nurse for over 20 years, a Caregiver over 10 years and currently President of Big Island Adult Residential Care Home-Expanded ARCH association. Our organization is fully in support for this bill.

We Licensed Care Home operators went through a lot just to acquire a licensed from Department of Health. We have oversight and monitoring to ensure the safety and well being of our Kupuna. We maintain and abide many requirements to uphold the law. Unlicensed care homes are not subject to annual inspections , staffing requirements, criminal background checks, building and fire code requirements, substitute caregiver requirements, resident rights requirements, CPR certification, TB clearance, housing design and preservation requirements, confidentiality requirements, medical record requirements, billing and financial requirements, medication pass requirements (especially regarding the use of anti-psychotic medications), and the right of the resident to access the services of the long term care ombudsman when the resident or responsible person needs advocate and doesn't know where to turn.

Thank you for the opportunity to testify.

Ruth Raza
President BIARCH

HB-1911-HD-2

Submitted on: 3/13/2018 11:09:50 PM

Testimony for CPH on 3/15/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
LIBERTY QUIROGA ALBANO	Testifying for BIG ISLAND ADULT FOSTER HOME ORGANIZATION	Support	No

Comments:

To protect the health, safety and welfare of the vulnerable adults. Also for the sake of the health care industry.

Senate Committee on Commerce, Consumer Protection & Health

Thursday, March 15, 2018

9:30 a.m.

Conference Room 229

To: Chair Baker, Vice-Chair Tokuda and Members of the CPH Committee

Re: H.B. 1911, H.D. 2 Relating to Health

My name is Gary Hironaka and I am the owner of a recently formed non-profit organization called Comprehensive Innovations for Senior Services. We are a group that advocates for measures that will bring new innovations for senior options in a safe, sustainable, and efficiently affordable manner. I am testifying on H.B. 1911, H.D. 2 which requires home care agencies to be licensed or certified.

It is great to see that progress is being made toward the licensing of the home care industry. The ideas are moving in a positive direction, but I have concerns with H.B. 1911, H.D. 2 as it relates to when the Department of Health will license home care agencies. Act 21 via extension by Act 125 expires June 30, 2019. If there is no home care agency licensing provided by that date what happens to our seniors who are receiving care services from currently operating home care agencies at that time? As I have written in previous testimonials there are still many unforeseen unintended consequences that need to time to be worked out.

Thank you for the opportunity to present this testimony.

Senator Rosalyn H. Baker, Chair
Senator Jill N. Tokuda, Vice Chair

Committee on Commerce, Consumer Protection and Health

From: Ruthie Agbayani, Vice President, United Caregivers of Hawaii
Date: Thursday, March 15, 2018, 9:30 a.m., Conference Room 229
Subject: Support for HB 1911, HD 2, Relating to Health

Aloha! My name is Ruthie Agbayani; my family and I have been Community Care Foster Family Home (CCFFH) providers since 1998. We are certified by Community Ties of America (CTA), the State of Hawaii Department of Health's agency on certification and licensure, to care for up to three clients in our home, providing a family-like environment for the aging, rather than institutional nursing home settings. CCFFH is a program for Medicaid recipients, but private pay individuals can also be accepted into this program.

Aside from my family and business obligations, I volunteer my time in advocacy and lobbying with the United Caregivers of Hawaii (UCH). The mission of UCH is for caregivers, families, and communities to work together to achieve the common purpose of outstanding quality care for our kupuna.

We strongly support HB 1911, HD 2, Relating to Health, which would authorize the Department of Health to investigate care facilities reported to be operating without an appropriate certificate or license issued by the Department. We also support the Department of Health's ability to establish penalties for violations and for patient referral or transfer to uncertified or unlicensed care facilities.

We need to emphasize the dangers of families placing their love ones, elderly, physically disabled, mentally challenged kupuna in unlicensed care facilities. There is no government oversight for safety and consumer protection. This is the healthcare field. And everyone should follow the law mandating licensure and healthcare management.

Unlicensed facilities are not following the rules and regulations on annual inspections, staffing requirements, criminal background checks, building and fire code requirements, primary and substitute caregiver requirements, resident rights requirements, CPR and first aid certification, TB clearance, reading and speaking English requirements, emergency procedure requirements, confidentiality requirements, medical records requirements, billing and financial record requirements, medication requirements (especially regarding the use of anti-psychotic medications), and the right of the resident to access the services of Community Care Case Management Agencies that comprise of nursing and social work coordination between client, caregiver, health care providers, and families.

In addition, unlicensed facilities are undermining the government, not only because they are not following rules and regulations set forth by the Department of Health and Human Services, but they may also be evading tax obligations by indicating to their clients and families that they are "renters who are receiving home care services." Everything needs to be fair and equal as we all work together in caring for our kupuna.

We urge the committee to SUPPORT and pass HB 1911, HD 2. Thank you for this opportunity to submit my testimony online.



Community Homecare Association of Hawaii
P.O. Box 971450
Waipahu HI 96797

Re: HB1911 – Testimony in Strong Support

Notice of Hearing

Date: Thursday, March 15, 2018

Time: 9:30 a.m.

Place: Conference Room 229

State Capitol

415 South Beretania Street

Good Morning Senator, Chair Rosalyn Baker
Vice Chair Senator Jill Tokuda & the committees

My name is Lemelyn Mabuti, president of the Community Homecare Association of Hawaii. I strongly support HB1911 HD2 regarding the illegal care homes and illegal referrals. Any illegal care homes and illegal referrals who are intentionally or knowingly operating without certificate or license can jeopardize the health, safety, and welfare of our Kupunas. Compared to license homes and regulations to adhere. We work under the supervision of Case Managers, Community Ties of America (CTA) Department of Human Services, and Department of Health. Annual inspection and unannounced visits are among the few rules regulated and mandated by the department. In addition we authorize the Department of Health to investigate illegal care homes reported to be operating without an appropriate certificate or license issued by the department. Penalties should be established for those illegal care homes that is providing care for vulnerable, elderly, and person with disability. Illegal care homes and illegal referrals should also be subject for further investigation.

Respectfully yours,

Lemelyn Maluyo-Mabuti
President, CHCAH



To: The CHCAOH (Formerly AFHOP, Adult Foster Home of the Pacific) Members, it's time to renew our Liability insurance. We are very fortunate to have a very low

ANNUAL PREMIUM of \$450.00. Please send your application together with your MEMBERSHIP FEE of \$35.00. To the members from other organization, if you renew this year you're covered until December 2018. For Questions call: Lemmy Maluyo-Mabuti @ (808) 382-0203. Thank You! Salamat! Agyamanak Unay! ☺☺☺

ATTENTION !!! All caregivers who received the letter from the Department of Human Services for the \$500.00 Fee. DO NOT SEND YET, We have schedule meeting for us with the Director of the Department of Human Services PANKAJ BHANOT and the Med-Quest Administrator Dr. JUDY PETERSON for Monday, September 18, 2017 at 1:00 p.m. at the State Capitol Room 329.

Lemmy17

Please attend every meeting. We have a lot to discuss and it is very important for all caregivers to be a part of every decision that are being made with teamwork and fellowship. There are a lot off issues that need to be discussed, so we need to help each other with support and to understanding with one another. As caregivers, we will force upon our

knowledge to attain our security and protection. We need to stand by each other to voice out our questions, concerns, and opinions.

It was overwhelming to see all of with these notifications from MQD-DHS. The finger printing of every five years for us providers only has created confusion for all because we have done it already when we initially opened our homes for the RACCP. DHS said that we would have to only do the finger printing once. Then, suddenly two months ago, they sent us certified mails commanding us to have finger printing again. This is not included in our requirements of certification from CTA. And we came to find out that it's another requirement from CMS. So we did it again for \$68.00. Then a week after the finger printing, members has called me saying that they received a certified mail again, which I also just got mine three days ago. The mail from MQD-DHS has asked us to pay \$500.00 together with the results of our fingerprinting & the application (which we have to download from the website stated in the letter). We will abide by the law and do our responsibilities if we have to do so. They should have notified us first or hold a meeting with the HCBS before they implemented this fee, that this would take place so soon.

IT SHOULDN'T BE THE WAY THEY APPROACHED CAREGIVERS WHO ARE SAVING THE STATE TREMENDOUS AMOUNT OF MONEY TO BEGIN WITH.

PAY RAISE---**Compensation for caregivers----All of us have asked for this deal with possible pay increase for all caregivers under the department of health purview. This is our opportunity to ask for a pay raise. I think the last time we did this was back in 2007.**

Continue to be vigilant regarding our incoming bills, it all depend on how we participate at the hearing in the capitol.



Ohana 2nd Annual Kupuna Malama Awards. These ladies with leis on are the BEST CAREGIVERS OF THE YEAR 2017. CONGRATULATION!!! Three of them are my Exec. Board and members

Lemmy17

COMMUNITY HOME CARE OF HAWAII
P. O. BOX 971450
WAIPAHU HI 96797

**TO ALL CHCAOH MEMBERS
(formerly Adult Foster Home of the Pacific)**

ANNOUNCEMENTS!!!

GENERAL MEMBERSHIP MEETING & IN-SERVICE TRAINING



NEWSLETTERS

HB-1911-HD-2

Submitted on: 3/14/2018 4:23:53 PM

Testimony for CPH on 3/15/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Wesley Lo	Testifying for Hale Makua Health Services	Comments	No

Comments:

Dear Chair Baker, Vice-Chair Tokuda and members of the Committee

My name is Wesley Lo and I am the CEO for Hale Makua Health Services, the largest post-acute health care provider on Maui

I am providing comments on HB1911 HD2

While I support the intent of HB 1911 to provide to improve licensing and inspection programs over Home Care Agencies, I am concerned by the language in the bill related to licensing of Home Care Agencies.

As you may know, the Department of Health has not yet established a licensing program for Home Care Agencies, as a result, if enacted, there will be no legal way to provide home care services, which are desperately needed for our aging population

Please consider changing this language to allow personal care services to be provided legally while licensing is established or establish some form of alternate or temporary license to help to resolve this issue.

Thank you for your consideration



ALL ISLAND CASE MANAGEMENT CORPORATION

Your Case Management of Choice

To: Committee on Commerce, Consumer Protection and Health

To: Senator Rosalyn Baker, Chair; Senator Jill Tokuda, Vice Chair

LATE

To: All the Committee Members:

My name is Elsa Talavera, RN and President of All Island Case Management what's your Corporation, a statewide agency. **I'm in strong support for HB1911.**

I'm a strong advocate for patient safety and consumer protection. All homes taking care of an individual/s with a fee must be licensed under the State of Hawaii.

If the State of Hawaii let this illegal care home operate without an oversight from State Government Agency, patient safety is at stake. Illegal Care Homes are not following any Hawaii Administrative rules (CCFFH) or Chapter 101 (ARCH). These homes claimed that they have an oversight but that's not true. The RN's that visit these illegal homes are not under the oversight of OHCA or CTA. Yes, they visit the home but they are not reporting to anyone. Rules are created for checks and balances. Without rules, it's free for all to these illegal care homes. The State need to create an atmosphere of plain level field to all care home operators at any setting. Everyone must be licensed.

Current CCFFH or ARCH are closing their doors to operate as unlicensed. And why not?? They don't have to deal with surveyors, un-announced visits, buying an insurance and most of all, they can conduct business the way they want to. What's going to happen to our Medicaid clients when no open bed is available?? The domino effect is very scary. Acute hospital bed will be occupied by ICF/SNF beds, ER departments will be full, homelessness will increase. The baby boomers are already here, and if they get sick, where would they go. Currently, Maui and Kauai is facing a shortage of certified homes. I travel constantly to outer island to perform my unannounced visit as well as meeting with new homes and prospective homes.

Aging in Place or Unlicensed Homes take only private clients, making 5-6X more of their colleagues. How can it be aging in place? Once the person runs out of money, they are told to find another home, meaning Medicaid bed. NO Money, No Home. How do I know?? In my 15 years of a Case Manager, operating a Licensed Case Management Agency, I had quite a bit of my share. Being asked by family to assist in locating a Medicaid Bed for their love ones. It's disheartening that once a person spends all of their hard-earned money, they are being kicked out on the home that promised them Aging in Place.

We have to protect our vulnerable adults, aged, blind and disabled population. Let's closed these illegal care homes. The State need to create an atmosphere where clients can be assured of their safety and well-being.

Thank you for the opportunity to testify,

Elsa P. Talavera
Elsa P. Talavera, RN, Case Manager

HB-1911-HD-2

Submitted on: 3/13/2018 2:14:55 PM

Testimony for CPH on 3/15/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Donovan Keliiaa	Testifying for Abilities unlimited	Support	Yes

Comments:

We support this measure

Brooks Kelly

Kinoshita Julie

Ele Taira

Ryan Guinan

Parker Kapii Seguirant

Alessandria H Leleo

Annette Akaveka

Destiny Yoshimura

Matthew Ogata

Kamalei Cadiz

Shaydon Okuma

Denise Taira

Curtis Hama

Fiti Moe

William Cho

Bruce Hiyane

Melody Moe

Mark Lausterer

HB-1911-HD-2

Submitted on: 3/13/2018 10:17:28 PM

Testimony for CPH on 3/15/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Maria Corazon E. Cariaga	Testifying for Big Island Adult foster home operators	Support	No

Comments:

On behalf of the Big Island Adult Foster Home Operators, I strongly support the HB 1911 for the sake of our Kupunas and the Health Care Industry.

Thank you for allowing me to submit my testimony.

HB-1911-HD-2

Submitted on: 3/12/2018 9:36:55 PM

Testimony for CPH on 3/15/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dann	Individual	Oppose	Yes

Comments:

From: [Amelia Cabatu](#)
To: [CPH Testimony](#)
Subject: HB 1911
Date: Tuesday, March 13, 2018 1:43:57 AM

My name is Amelia Casamina Cabatu
Owner of the Casamina Adult DayCare Home.
I am in full support of HB 1911.
Patient Safety and Welfare should never be compromised.

Mahalo!

Amelia Casamina Cabatu.

Sent from my iPhone

Amelia Casamina Cabatu

Senator Rosalyn H. Baker, Chair
COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

Ivan Awa
808 988 2721

Day and Date of Hearing: Thursday March 15, 2018

Senate Hearing Testimony
3/10/18

I support Bill HB1911 HD2

I support Bill HB1911 HD which imposes criminal penalties for operation of unlicensed care homes. The reason I support Bill HB1911 is that the unlicensed care homes or Aging in Place homes lack proper compliance to licensed care home regulations including the following:

1. lack of requirement for scheduled family visits
2. lack of safeguards against use of psychiatric medication for patient restraint
3. lack of case manager oversight
4. lack of grievance rights
5. lack of safeguards against medication malpractice
6. lack of safeguards for patient dignity

My mother currently resides in an unlicensed care or Aging in Place home. She developed early dementia about two years ago. My mother's daughter became medical power of attorney about that time. For questionable reasons, the daughter knowingly put the patient in an unlicensed care home with referral of the daughter's friend, a palliative / geriatric doctor about 6 months ago. My mother has declined significantly both physically and mentally since her placement in the unlicensed care home. Today my mother's dementia appears mild to moderate but she is cognizant of her situation. Initially the unlicensed care home said they had to deny family visits for a while to adjust my mother to the new care home. This period of isolation has continued 6 months to the present date. She has been denied regular daily scheduled family visits as required by licensed care home regulations. I suspect that the lack of regular patient visits has caused my mother to become depressed, lonely and angry at the caregiver. Family have been allowed to visit a patient about 5 times in the last 5 months, roughly one visit per month. They have also prohibited regular visits from a chaplain. The reason the caregiver, her daughter and her doctor give for prohibiting family visits is that my mother is acting agitated and would not sleep. As a result of agitation reported to the daughter by care giver then relayed to the doctor, the patient was prescribed increased psychiatric and sleeping medication by her doctor and further restricted from having family or chaplain visits.

The unlicensed care home that my mother is residing was a licensed foster home last year which could house up to 3 patients. The care home gave up their license to run as an unlicensed care home and now houses 8 patients. Most of the 8 patients in this unlicensed care home were referred by my mother's doctor. The increased patient load has greatly increased patient work load.

I have a suspicion that the administering of psychiatric and sleeping medication as obtained from my mother's doctor at request of the caregiver and my mother's daughter to deal with my mother's agitation was made to ease caregiver workload. The doctor has given the caregiver, a certified nurse's assistant the leeway to assess and administer the use of psychiatric or sleeping drugs. Sedating my mother prevents her from walking around the room and from using the toilet at night.

My mother would get up from sleep about 2 times a night to use the toilet unassisted but monitored by a family member to prevent her from falling prior to her entering the unlicensed care home. When my mother first went into the unlicensed care home I talked to the care home helper about my mother's use

of the toilet at night. The helper said the care home helpers did not have the time get up at night to monitor the patient to use the toilet in their room at night, so they put on a diaper on my mother and with the use of psychiatric and sleeping medication let my mother sleep through the night without getting up to use the toilet. I understand the use of diapers can cause incontinence in continent patients over a prolong use. I understand licensed care homes do not resort to diapers and psychiatric and sleeping medication to restrain the continent ambulatory patients from toilet use at night. I suspect the unlicensed care home is apparently using psychiatric and sleeping medication to restrain my mother from using the toilet at night or walking at night.

The use of psychiatric and sleeping medication makes my mother sleepy during the day. The medication keeps my mother in bed and reduces the care giver workload since my mother requires no assistance for walking or exercising when she is in bed. I suspect that the result of lack of exercise during the date made my mother alert in the late evening which was deemed as agitation by the caregiver. The agitation that the caregiver reported to my mother's doctor allow the caregiver to obtain her prescription for the psychiatric and sleeping medication and restrict further family visits. My mother at recent visit was confined to a wheelchair and was allowed to remain in bed to sleep most of the afternoon.

I have talked to other licensed care givers and they say that it is common for patients to act agitated especially about not being in their own home. These licensed caregivers are able to deal with this behavior with alternative methods without using psychiatric or sleeping medication to restrain patients or without restricting family visits. They also say that the initial restriction of family visits usually last only a few weeks. In licensed care home patients are encouraged to exercise during the day.

Licensed care home are also required to have a case manager to provide independent assessment of the needs of the patient. This licensed case worker is required to be a registered nurse or social worker with one or two years experience. The licensed case manager can investigate the improper use of psychiatric and sleeping medication for restraints and the restriction of daily scheduled family visits. My mother has no licensed case manager to provide safeguard for compliance to care home regulations.

In summary, I have several complaints about the unlicensed care homes or Aging in Place homes . I suspect that the unlicensed care home has led to abuse and loss of dignity for my mother. I support Senate Bill SB2586 SD1 which will provide the ability for the Department of Health to impose criminal penalties to care home or Aging in Place Homes that practice medicine without a license. The Senate Bill will allow the Department of Health to investigate of grievances to patient neglect and malpractice by unlicensed care homes or Aging in Place Homes.

HB-1911-HD-2

Submitted on: 3/13/2018 1:13:07 PM

Testimony for CPH on 3/15/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Julieta Bonilla	Individual	Oppose	No

Comments:

HB-1911-HD-2

Submitted on: 3/13/2018 1:28:49 PM

Testimony for CPH on 3/15/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Self Advocates	Individual	Support	Yes

Comments:

My name is Parker Seguirant and I fully support HB1911 HD2

I support this because I want my friends voices to be heard in their homes.

HB-1911-HD-2

Submitted on: 3/13/2018 1:30:46 PM

Testimony for CPH on 3/15/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
John A. H. Tomoso	Individual	Comments	No

Comments:

03-13-18

RE: HG1911 HD2

I know this Bill is about home care agencies/ care homes to be licensed, with the process and procedure for licensure and monitoring thereof, required of the Department of Health (DOH). However, my comments are about what I know to be a crucial and critical step, within this process, i.e. unannounced visits by the DOH. Such unannounced (site) visits assures more than a modicum of standard-setting AND consumer protection to be present/embedded as the DOH enters a care facility when monitoring and investigating a facility or home. In my professional opinion, the lack of unannounced (site) visits will not validate the effectiveness of home care agency/ home licensure, and subject the process and procedure to subjective, rather than objective, monitoring and enforcement.

Mahalo

John A. H. Tomoso+, MSW,ACSW, LSW

51 Ku'ula Street

Kahului, Maui, HI 96732-2906

808-280-1749

john.a.h.tomoso@gmail.com

cc: PABEA ListServ

HB-1911-HD-2

Submitted on: 3/14/2018 6:48:57 AM

Testimony for CPH on 3/15/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Yolanda Collo	Individual	Support	No

Comments:

I STRONGLY SUPPORT THE BILL HB1911. ALL CARE HOMES SHOULD BE LICENSED AND BE GUIDED BY DEPARTMENT OF HEALTH FOR THE SAKE OF OUR RAPIDLY GROWING KUPUNA'S. I HUMBL Y ASK FOR YOUR HELP TO FIX THIS GROWING PROBLEM. THANK YOU FOR THE OPPORTUNITY TO PROVIDE THIS WRITTEN TESTIMONY IN STRONG SUPPORT OF HB1911 . I WISH I COULD BE THERE IN PERSON TO GIVE MY ORAL TESSTIMONY BUT I AM 24/7 CAREGIVER.

MAHALO!

Yolanda Collo

HB-1911-HD-2

Submitted on: 3/13/2018 7:57:42 PM

Testimony for CPH on 3/15/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kathleen Wyatt	Individual	Support	Yes

Comments:

Having been in the skilled nursing facilities and assisted living facilities business for many years, I understand the importance of oversight for businesses that care for our vulnerable older adults. To think that those care homes that operate unlicensed with no oversight believe that they are doing nothing wrong is both surprising and appalling to me. There may be some of them that are in the business to offer good care to older adults. But there are many, as evidenced by testimony at previous hearings, that are only in it for the money. They can have as many clients as they want and charge whatever outrageous fees that they want and get away with it. That is until now. We need this bill to be passed and implemented immediately. It doesn't need to be put off for a year, or five years or whatever. It needs to be implemented this year!

I agree with a provisional license for those care facilities who voluntarily let their license lapse and want to be legally relicensed. However, I do not think that care facilities that were closed because of substandard care should be given this opportunity. They should be closed permanently immediately after their residents have been found legitimate housing.

Again, having been in skilled nursing facilities and assisted living facilities, unannounced inspections are and should be mandatory. Care facilities of any kind should be operating in compliance with all rules and regulations, and if they are, then unannounced inspections prove that they are. Announced inspections only give substandard facilities the chance to put on a good show for the inspection and then go back to their substandard ways. So please, make the inspections unannounced.

It doesn't matter the number of residents residing in one of these facilities, even one vulnerable adult needs the protection of oversight. The bill states "2 or more", but it should be any or all.

I am strongly in favor of this bill, and I believe that the issues I have discussed in this testimony are a concern of many of my colleagues, as well. Unannounced visits is the top issue, but making this happen THIS YEAR is imperative. It's been discussed for too long now with no results and it's time to take a stand and protect our seniors.

HB-1911-HD-2

Submitted on: 3/13/2018 9:56:50 PM

Testimony for CPH on 3/15/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Francis Nakamoto	Individual	Oppose	No

Comments:

Chair Baker, Vice Chair Tokuda and Members of the Committee Commerce, Consumer Protection, and Health. My name is Francis M. Nakamoto, speaking as an individual concerned about the impact HB. 1911, HD 2 may have on the majority of our seniors who cannot rely on family or friends to assist them in their golden years.

HB. 1911, HD 2 appears to be well-intended but unfortunately will result in unintended consequences detrimental to the people it purports to help.

Many of our kupuna own or rent their own homes and desire to remain in their homes for the rest of their lives. In many cases, they only require non-medical household assistance, i.e. cooking, cleaning, dressing, shopping for necessities, etc. Many are not at the stage where they require nursing or other health care assistance. All they need is assistance for daily living or ADL.

HB. 1911, HD 2 will enable the Dept. of Health to essentially shut down home care agencies that provide the necessary non-health care assistance these elderly require to live independently and without government assistance or intervention. These home care agencies, as a result of enactment of HB. 1911, HD 2, will be forced to terminate their services if (1) they do not obtain a license from the DOH, (2) they are unable to obtain a license due to the failure of the DOH to license them or (3) they are prosecuted by the DOH or Attorney General because they are compelled to provide the service without a license.

The dilemma these home care agencies face (or more importantly, these elderly persons face) is the result of DOH failure to promulgate regulations and provide these home care agencies the opportunity to obtain lawful licenses due to its inexcusable inaction for the past eight years.

Enacting HB. 1911, HD 2 will not only aggravate the problem but empower the DOH, which has shown itself either unwilling or incompetent in performing the duties the legislature ordered it to do, with the authority to enforce regulations it hasn't promulgated. The result will be chaos and confusion among our kupuna whose only crime was to seek an independent life in their own residence in a place they can afford and are most comfortable. Without the non-medical care they require, their only remaining options are to try to live without the home care, risk injury trying to fend for themselves or, as perhaps some seek in this bill, be forced into an Adult Residential Care Home or nursing facility they cannot afford or do not wish to age in place for the rest of their lives.

Certainly, if the DOH seeks to help our kupuna and not inconvenience them or threaten their independence, an alternative to strict licensing or enforcement must be found. If home care agencies are required to simply identify themselves as providing home care to our kupuna, as well as voluntarily submit themselves, with the consent of their kupuna clients, to inspection by the DOH, this will provide the DOH some means to identify those home care agencies and their clients and allow them to continue their relationship until the DOH gets its act together, as required by this Legislature.



ADULT FOSTER HOME OF THE PACIFIC
P.O. Box 971450 Waipahu, HI 96797

Re: HB1911 – Testimony in Support

NOTICE OF HEARING

DATE: Thursday, March 15, 2018

TIME: 9:30 a.m.

PLACE: Conference Room 229

State Capitol

415 South Beretania Street

Dear Chair Rep. John Mizuno, Rep. Sylvia Luke, Rep. Romy M. Cachola, Rep. Ty J.K. Cullen, Rep. Jarrett Keohokalole.

Good morning chair, vice chair & the committees, my name is Elma Velasco Tierra, member of the Community Care home Association of Hawaii. I strongly support HB1911 regarding the illegal care homes and illegal referrals.

Any illegal care homes and illegal referrals who are intentionally or knowingly operating without certificate or license can jeopardize the health, safety, and welfare of our kupunas. Compared to license homes and licensed caregivers, we have various rules and regulations to adhere. We work under the supervision of Case Managers, Community Ties of America, Department of Human Services, and Department of Health. Annual inspection and unannounced visits are among the few rules regulated and mandated by the department. In addition we authorize the Department of Health to investigate illegal care homes reported to be operating without an appropriate certificate or license issued by the dept. Penalties should be establish for those illegal care homes that is providing care for vulnerable, elderly, and person with disability. Illegal care homes and illegal referrals should also be subject for further investigation.

Thank you for the opportunity in support of HB1911.

Respectfully yours,

Elma Velasco Tierra, pcg

HB-1911-HD-2

Submitted on: 3/14/2018 10:19:47 AM

Testimony for CPH on 3/15/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Joshua Lloreta	Individual	Support	Yes

Comments:

My name is Joshua Lloreta and I am in support of HB1911 HD2 and would like to respectfully request the following amendment. On page 3 lines 20, 21 and page 4 lines 1-10 it mentions the Right of Entry for non-licensed homes. I support this language because it states that the caregiver cannot interfere with the investigator who wants to talk to the resident and if the caregiver does interfere, it is punishable by law. I would like this same language for our licensed and certified homes. Please insert the language from page 3 lines 20, 21 and page 4 lines 1-10 to page 9 after line 9 in the event an announced visit occurs, the resident will be questioned. Thank you for this opportunity to testify.

HB-1911-HD-2

Submitted on: 3/14/2018 1:28:17 PM

Testimony for CPH on 3/15/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
WANNETTE GAYLORD	Individual	Support	Yes

Comments:



Community Care Home Association of Hawaii
P.O. Box 971450 Waipahu, HI 96797

Re: HB1911 – Testimony in Support

NOTICE OF HEARING

DATE: Thursday, March 15, 2018

TIME: 9:30 a.m.

PLACE: Conference Room 229

State Capitol

415 South Beretania Street

Dear Chair Rep. John Mizuno, Rep. Sylvia Luke, Rep. Romy M. Cachola, Rep. Ty J.K. Cullen, Rep. Jarrett Keohokalole.

Good morning chair, vice chair & the committees, my name is NORALYNE CANSANA, member of the Community Care Home Association of Hawaii. I strongly support HB1911 regarding the illegal care homes and illegal referrals. Any illegal care homes and illegal referrals who are intentionally or knowingly operating without certificate or license can jeopardize the health, safety, and welfare of our kupunas. Compared to license homes and licensed caregivers, we have various rules and regulations to adhere. We work under the supervision of Case Managers, Community Ties of America, Department of Human Services, and Department of Health. Annual inspection and unannounced visits are among the few rules regulated and mandated by the department. In addition we authorize the Department of Health to investigate illegal care homes reported to be operating without an appropriate certificate or license issued by the dept. Penalties should be establish for those illegal care homes that is providing care for vulnerable, elderly, and person with disability. Illegal care homes and illegal referrals should also be subject for further investigation. Thank you for the opportunity in support of HB1911.

Respectfully yours,
NORALYNE CANSANA p.c.g.

Fax # (808) 586-4071

OR
email to: HMStestimony@capitol.hawaii.gov.



Community Carehome Association of Hawaii
P.O. Box 971450 Waipahu, HI 96797

Re: HB1911 – Testimony in Support

NOTICE OF HEARING

DATE: Thursday, March 15, 2018

TIME: 9:30 a.m.

PLACE: Conference Room 229
State Capitol
415 South Beretania Street

Dear Chair Rep. John Mizuno, Rep. Sylvia Luke, Rep. Romy M. Cachola, Rep. Ty J.K. Cullen, Rep. Jarrett Keohokalole.

Good morning chair, vice chair & the committees, my name is Lucrecia Pastor, member of the Community Care home Association of Hawaii. I strongly support HB1911 regarding the illegal care homes and illegal referrals. Any illegal care homes and illegal referrals who are intentionally or knowingly operating without certificate or license can jeopardize the health, safety, and welfare of our kupunas. Compared to license homes and licensed caregivers, we have various rules and regulations to adhere. We work under the supervision of Case Managers, Community Ties of America, Department of Human Services, and Department of Health. Annual inspection and unannounced visits are among the few rules regulated and mandated by the department. In addition we authorize the Department of Health to investigate illegal care homes reported to be operating without an appropriate certificate or license issued by the dept. Penalties should be establish for those illegal care homes that is providing care for vulnerable, clderly, and person with disability. Illegal care homes and illegal referrals should also be subject for further investigation. Thank you for the opportunity in support of HB1911.

Respectfully yours,
Lucrecia Pastor, pcg



Community Carehome Association of Hawaii
P.O. Box 971450 Waipahu, HI 96797

Re: HB1911 – Testimony in Support

NOTICE OF HEARING

DATE: Thursday, March 15, 2018

TIME: 9:30 a.m.

PLACE: Conference Room 229

State Capitol

415 South Beretania Street

Dear Chair Rep. John Mizuno, Rep. Sylvia Luke, Rep. Romy M. Cachola, Rep. Ty J.K. Cullen, Rep. Jarrett Keohokalole.

Good morning chair, vice chair & the committees, my name is Mila Burcena, member of the Community Care home Association of Hawaii. I strongly support HB1911 regarding the illegal care homes and illegal referrals. Any illegal care homes and illegal referrals who are intentionally or knowingly operating without certificate or license can jeopardize the health, safety, and welfare of our kupunas. Compared to license homes and licensed caregivers, we have various rules and regulations to adhere. We work under the supervision of Case Managers, Community Ties of America, Department of Human Services, and Department of Health. Annual inspection and unannounced visits are among the few rules regulated and mandated by the department. In addition we authorize the Department of Health to investigate illegal care homes reported to be operating without an appropriate certificate or license issued by the dept. Penalties should be establish for those illegal care homes that is providing care for vulnerable, elderly, and person with disability. Illegal care homes and illegal referrals should also be subject for further investigation. Thank you for the opportunity in support of HB1911.

Respectfully yours,

M. Burcena, psg



Community Carehome Association of Hawaii
P.O. Box 971450 Waipahu, HI 96797

Re: **HB1911 - Testimony in Support**
NOTICE OF HEARING
DATE: Thursday, March 15, 2018
TIME: 9:30 a.m.
PLACE: Conference Room 229
State Capitol
415 South Beretania Street

Dear Chair Rep. John Mizuno, Rep. Sylvia Luke, Rep. Romy M. Cachola, Rep. Ty J.K. Cullen, Rep. Jarrett Keohokalole.

Good morning chair, vice chair & the committees, my name is Mayroce Bamba, member of the Community Care home Association of Hawaii. I strongly support HB1911 regarding the illegal care homes and illegal referrals. Any illegal care homes and illegal referrals who are intentionally or knowingly operating without certificate or license can jeopardize the health, safety, and welfare of our kupunas. Compared to license homes and licensed caregivers, we have various rules and regulations to adhere. We work under the supervision of Case Managers, Community Ties of America, Department of Human Services, and Department of Health. Annual inspection and unannounced visits are among the few rules regulated and mandated by the department. In addition we authorize the Department of Health to investigate illegal care homes reported to be operating without an appropriate certificate or license issued by the dept. Penalties should be establish for those illegal care homes that is providing care for vulnerable, elderly, and person with disability. Illegal care homes and illegal referrals should also be subject for further investigation. Thank you for the opportunity in support of HB1911.

Respectfully yours,
Mayroce Bamba, PMS

Fax # (808) 586-6071

or
email to: HMS-testimony@capitol.hawaii.gov.



Community Carehome Association of Hawaii
P.O. Box 971450 Waipahu, HI 96797

Re: HB1911 – Testimony in Support

NOTICE OF HEARING

DATE: Thursday, March 15, 2018

TIME: 9:30 a.m.

PLACE: Conference Room 229

State Capitol

415 South Beretania Street

Dear Chair Rep. John Mizuno, Rep. Sylvia Luke, Rep. Romy M. Cachola, Rep. Ty J.K. Cullen, Rep. Jarrett Keohokalole.

Good morning chair, vice chair & the committees, my name is

Marina Gamatero, member of the Community Care home Association of Hawaii. I strongly support HB1911 regarding the illegal care homes and illegal referrals. Any illegal care homes and illegal referrals who are intentionally or knowingly operating without certificate or license can jeopardize the health, safety, and welfare of our kupunas. Compared to license homes and licensed caregivers, we have various rules and regulations to adhere. We work under the supervision of Case Managers, Community Ties of America, Department of Human Services, and Department of Health. Annual inspection and unannounced visits are among the few rules regulated and mandated by the department. In addition we authorize the Department of Health to investigate illegal care homes reported to be operating without an appropriate certificate or license issued by the dept. Penalties should be establish for those illegal care homes that is providing care for vulnerable, elderly, and person with disability. Illegal care homes and illegal referrals should also be subject for further investigation. Thank you for the opportunity in support of HB1911.

Respectfully yours,

Marina Gamatero, pccg

Testimony in Strong Support of HB1911 HD2
MARCH 15, 2018 @ 9:30 a. m. Rm 229



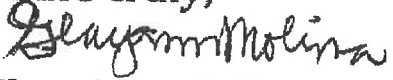
Starlyn Cabading, caregiver

**Testimony in Strong Support of HB1911 HD2
MARCH 15, 2018 @ 9:30 a. m. Rm 229**



Lemmy Mabuti, caregiver

Testimony in Strong Support of HB1911 HD2
MARCH 15, 2018 @ 9:30 a. m. Rm 229

Yours truly,

Glay-Ann Molina, caregiver

Testimony in Strong Support of HB1911 HD2
MARCH 15, 2018 @ 9:30 a. m. Rm 229

Luz A. Veá
Luz Veá, caregiver

Testimony in Strong Support of HB1911 HD2
MARCH 15, 2018 @ 9:30 a. m. Rm 229

Fe A. Manera


Fe Manera, caregiver

**Testimony in Strong Support of HB1911 HD2
MARCH 15, 2018 @ 9:30 a. m. Rm 229**



Julio Bagaoisan, caregiver

Testimony in Strong Support of HB1911 HD2
MARCH 15, 2018 @ 9:30 a. m. Rm 229

Yours truly,

Pearlas Paguirigan, caregiver

Testimony in Strong Support of HB1911 HD2
MARCH 15, 2018 @ 9:30 a. m. Rm 229

Fe A. Manera

Fe Manera, caregiver



Community Carehome Association of Hawaii
P.O. Box 971450 Waipahu, HI 96797

Re: **HB1911 - Testimony in Support**

NOTICE OF HEARING

DATE: **Thursday, March 15, 2018**

TIME: **9:30 a.m.**

PLACE: **Conference Room 229**

State Capitol

415 South Beretania Street

Dear Chair Rep. John Mizuno, Rep. Sylvia Luke, Rep. Romy M. Cachola, Rep. Ty J.K. Cullen, Rep. Jarrett Keohokalole.

Good morning chair, vice chair & the committees, my name is THELMA PAGTAMA, member of the Community Care home Association of Hawaii. I strongly support HB1911 regarding the illegal care homes and illegal referrals. Any illegal care homes and illegal referrals who are intentionally or knowingly operating without certificate or license can jeopardize the health, safety, and welfare of our kupunas. Compared to license homes and licensed caregivers, we have various rules and regulations to adhere. We work under the supervision of Case Managers, Community Ties of America, Department of Human Services, and Department of Health. Annual inspection and unannounced visits are among the few rules regulated and mandated by the department. In addition we authorize the Department of Health to investigate illegal care homes reported to be operating without an appropriate certificate or license issued by the dept. Penalties should be establish for those illegal care homes that is providing care for vulnerable, elderly, and person with disability. Illegal care homes and illegal referrals should also be subject for further investigation. Thank you for the opportunity in support of HB1911.

Respectfully yours,

 , pcg

Fax # (808) 586-4071

or

email to: #MS testimony@capitol.hawaii.gov.

Mar 14 18, 11:21a

p.1



Community Carehome Association of Hawaii
P.O. Box 971450 Waipahu, HI 96797

Re: HB1911 – Testimony in Support

NOTICE OF HEARING

DATE: Thursday, March 15, 2018

TIME: 9:30 a.m.

PLACE: Conference Room 229

State Capitol

415 South Beretania Street

Dear Chair Rep. John Mizuno, Rep. Sylvia Luke, Rep. Romy M. Cachola, Rep. Ty J.K. Cullen, Rep. Jarrett Keohokalole.

Good morning chair, vice chair & the committees, my name is Ruby S. Domingo, member of the Community Care home Association of Hawaii. I strongly support HB1911 regarding the illegal care homes and illegal referrals. Any illegal care homes and illegal referrals who are intentionally or knowingly operating without certificate or license can jeopardize the health, safety, and welfare of our kupunas. Compared to license homes and licensed caregivers, we have various rules and regulations to adhere. We work under the supervision of Case Managers, Community Ties of America, Department of Human Services, and Department of Health. Annual inspection and unannounced visits are among the few rules regulated and mandated by the department. In addition we authorize the Department of Health to investigate illegal care homes reported to be operating without an appropriate certificate or license issued by the dept. Penalties should be establish for those illegal care homes that is providing care for vulnerable, elderly, and person with disability. Illegal care homes and illegal referrals should also be subject for further investigation. Thank you for the opportunity in support of HB1911.

Respectfully yours,
Ruby S. Domingo .pcg



Community Carehome Association of Hawaii
P.O. Box 971450 Waipahu, HI 96797

Re: **HB1911** – Testimony in Support

NOTICE OF HEARING

DATE: Thursday, March 15, 2018

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PLACE: Conference Room 229

State Capitol

415 South Beretania Street

Dear Chair Rep. John Mizuno, Rep. Sylvia Luke, Rep. Romy M. Cachola, Rep. Ty J.K. Cullen, Rep. Jarrett Keohokalo.

Good morning chair, vice chair & the committees, my name is MARILYN T. MIGUEL, member of the Community Care home Association of Hawaii. I strongly support HB1911 regarding the illegal care homes and illegal referrals. Any illegal care homes and illegal referrals who are intentionally or knowingly operating without certificate or license can jeopardize the health, safety, and welfare of our kupunas. Compared to license homes and licensed caregivers, we have various rules and regulations to adhere. We work under the supervision of Case Managers, Community Ties of America, Department of Human Services, and Department of Health. Annual inspection and unannounced visits are among the few rules regulated and mandated by the department. In addition we authorize the Department of Health to investigate illegal care homes reported to be operating without an appropriate certificate or license issued by the dept. Penalties should be establish for those illegal care homes that is providing care for vulnercable, elderly, and person with disability. Illegal care homes and illegal referrals should also be subject for further investigation. Thank you for the opportunity in support of HB1911.

Respectfully yours,
Marilyn T. Miguel, pccg

Fax # (808) 586-6071

OR
email to: HMS testimony@capitol.hawaii.gov.



Community Carehome Association of Hawaii
P.O. Box 971450 Waipahu, HI 96797

Re: **HB1911 - Testimony in Support**
NOTICE OF HEARING
DATE: Thursday, March 15, 2018
TIME: 9:30 a.m.
PLACE: Conference Room 229
State Capitol
415 South Beretania Street

Dear Chair Rep. John Mizuno, Rep. Sylvia Luke, Rep. Romy M. Cachola, Rep. Ty J.K. Cullen, Rep. Jarrett Keohokalole.

Good morning chair, vice chair & the committees, my name is Vicente P. Domingo, member of the Community Care home Association of Hawaii. I strongly support HB1911 regarding the illegal care homes and illegal referrals. Any illegal care homes and illegal referrals who are intentionally or knowingly operating without certificate or license can jeopardize the health, safety, and welfare of our kupunas. Compared to license homes and licensed caregivers, we have various rules and regulations to adhere. We work under the supervision of Case Managers, Community Ties of America, Department of Human Services, and Department of Health. Annual inspection and unannounced visits are among the few rules regulated and mandated by the department. In addition we authorize the Department of Health to investigate illegal care homes reported to be operating without an appropriate certificate or license issued by the dept. Penalties should be establish for those illegal care homes that is providing care for vulnerable, elderly, and person with disability. Illegal care homes and illegal referrals should also be subject for further investigation. Thank you for the opportunity in support of HB1911.

Respectfully yours,

Vicente P. Domingo PCG

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Fax - 586.6071

In Support of HB 1911, HD2

Dr. Nancy Atmospera-Walch

THE SENATE
THE TWENTY-NINTH LEGISLATURE
REGULAR SESSION OF 2018

COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

Senator Rosalyn H. Baker, Chair
Senator Jill N. Tokuda, Vice Chair

NOTICE OF HEARING

DATE: Thursday, March 15, 2018
TIME: 9:30 AM
PLACE: Conference Room 229
State Capitol
415 South Beretania Street

From: Dr. Nancy Atmospera-Walch, DNP, MPH, MCHES, LNHA, CCHN, CMC, BSN, RN
President, AIM Healthcare Institute
President, ADVANTAGE Health Care Provider

Report Title: RELATING TO HEALTH CPH, WAM

Description: Requires home care agencies to be licensed or certified. Authorizes the Department of Health to inspect home care agencies. Requires the Department of Health to establish a home care aide registry. Authorizes the Department of Health to establish procedures for the receipt, investigation, and resolution of complaints against home care agencies. Authorizes the Department of Health to enter a care facility when investigating a facility or home. Allows the Department of Health to establish a forum where state-licensed care facilities may post job vacancies. Imposes criminal penalty for the intentional operation of a community-based foster family home, adult foster family home, adult day care center, or home care agency without a license. Requires the Department of Health to establish a working group to discuss and provide feedback for the implementation of the job vacancy forum. (HB1911 HD2)

Good Morning, Chair Baker, Vice Chair Tukoda and all of You, Honorable Senators

I am Dr. Nancy Atmospera-Walch, President, and the Chief Nursing Officer of Advantage Health Care Provider, a private company that is providing services to one of our most vulnerable population, the Intellectually and Developmentally Disabled (I/DD) on the islands of Oahu, Maui, and Kauai.

I am in strong support of **HB 1911, HD2** because it supports Patient Safety, which should be the helm of every healthcare professional or worker's responsibility and accountability and it should also be the helm of every lawmaker like yourselves to create the law that protects the safety of the public and the consumers.

In Support of HB 1911, HD2

Dr. Nancy Atmospera-Walch

UNLICENSED HOMES, which means UNSUPERVISED AND UNREGULATED HOMES WHERE THE AGED, THE BLIND AND THE DISABLED ARE LIVING is a HUGE RISK FACTOR for PATIENT SAFETY.

Patient Safety is a fundamental principle of health care and ensuring the safety of patients is not only nationally but globally. It's a chilling reality – one often overlooked in annual mortality statistics regarding Preventable Medical Errors and persist as the No. 3 killer in the U.S. – third only to heart disease and cancer – claiming the lives of some [400,000 people](#) each year.

At a US Senate hearing in of July 2014, patient safety officials put their best ideas forward on how to solve the crisis. Hearing members, who spoke before the Subcommittee on Primary Health and Aging, not only underscored the devastating loss of human life – more than 1,000 people each day – but also called attention to the fact that these medical errors cost the nation a colossal [\\$1 trillion each year](#).

"The tragedy that we're talking about here (is) deaths taking place that should not be taking place," said subcommittee Chair, Sen. Bernie Sanders, I-Vt., in his opening remarks.

In November 1999, the Institute of Medicine (IOM) issued the Report, "To err is human, building a safer health system" (Kohn, Corrigan, & Donaldson, 2000). The report revealed evidence that doctors and other healthcare professionals can make mistakes. The report also stated a lesser known the fact that the US healthcare system was not doing enough to prevent these mistakes, and preventable medical errors killed as many as 98,000 people a year (Kohn, Corrigan, & Donaldson, 2002). Dr. Lucian Leap, a Harvard Professor, compared the Deaths from medical errors to that from three **fully loaded jumbo jets crashing every other day** (Consumer Reports Health, 2009, p.2).

Some 15 years later, after the IOM Report, the evidence is glaring. And Senator Sander said that "[The IOM](#) probably got it wrong," "It was clearly an underestimate of the toll of human suffering that goes on from preventable medical errors." And he was right at that time for the current publications states now that the death from Medical Errors is 400,00, annually.

Joanne Disch, RN, clinical professor at the University of Minnesota School of Nursing, who also spoke before Congress at that time, said that it's not just the 1,000 deaths per day that should be a huge cause for alarm. There's also the 10,000 serious complications cases resulting from medical errors that occur each day.

Medication Errors is the most costly of all the Medical Errors and in which the outpatient preventable medication errors cost approximately \$4.2 billion annually in the USA (Preventing Medication Errors: A \$21 Billion Opportunity. National Priorities Partnership - National Quality Forum, Dec. 2010).

In March 2017, the 2nd Patient Safety Global Action Summit was held in Bonn, Germany where the World Health Organization (WHO) Global Patient Safety Challenge on Medication Safety was launched as the WHO realized the magnitude of Medication Safety problem is enormous. According to the WHO report, **1 in 10 patients is harmed while receiving health care.**

In Support of HB 1911, HD2

Dr. Nancy Atmospera-Walch

Approximately 43 million patient safety incidences occur every year, and globally, the cost associated with medication errors has been estimated at \$42 billion USD annually. Unsafe medication practices and medication errors are the leading cause of injury and avoidable harm in health care system across the world. In response to this, WHO has identified “Medication Without Harm,” as the theme for their 3rd Global Patient Safety Challenge, which will be held in Japan, this year, 2018 (World Health Organization. Patient Safety. Medication Without Harm: the journey begins. (Retrieve from <http://www.who.int/patientsafety/en/>).

Why am I telling all of these? It is because that these statistics came from licensed institutions with licensed staff.

Now, imagine what kind of statistics do you think the unlicensed homes have? But we will never know as there is no one overseeing their performance. **The Joint Commission National Patient Safety Goals for Home Care for 2018 are on Medication Safety, Fall Prevention, and Infection Control.** So, who is overseeing your loved ones living in these unlicensed care homes to ensure that their medications have been administered properly? How do you know that they have not fallen or fall precautions have been implemented if your loved ones are a risk for fall? How do you know that your loved ones do NOT have any ulcers especially if they are incontinent and immobile? As you are aware, there are cases of abuse and neglect from licensed homes and they were discovered because of DOH Auditors or Licensing Consultant going into inspecting these homes. Yes, patient safety is even compromised in licensed Care Homes, how much more in unlicensed homes?

In 2015, the Office of the Assistant Secretary for Planning and Evaluation published their report on Understanding Unlicensed Care Homes. Based on their findings, unlicensed Care Homes appear to be widespread in some states and the residents of these unlicensed homes are extremely vulnerable. Of course, they are vulnerable for residents are Aged, Blind and Disabled.

All of us should truly unite in solving this risk factor for our most vulnerable population. As healthcare professionals and public officials, one of our main obligations is to protect our most vulnerable population, the Aged, the Blind and Disabled.

I heard that these people who are operating these unlicensed care homes are saying that they are not operating a Care Home because their clients are renters. And that they have a license from the State of Hawaii, the DCCA.

We all know that these statements are untrue or false, for we all know that the clients that are in these homes are former patients of caregivers who used to be licensed care homes, but gave up their license when they found out that they did not have to meet the Standards and Compliance Requirements and that they could have as many clients as they want.

These unlicensed care homes are like unlicensed drivers on the highways with no car insurance and just enjoying driving their cars and most likely they would never be caught unless they are speeding and there is a policeman at that time or they get into an accident.

If a license or certification is NOT needed to care for patients, why did the government even set up the licensure and certification of care homes and foster homes?

In Support of HB 1911, HD2

Dr. Nancy Atmospera-Walch

You as the lawmaker did it because you wanted to protect the safety of the public especially the vulnerable population who cannot advocate for themselves.

Another statement I heard is they accepted patients because they have submitted their applications and they have been waiting for years. And I know this is true for a friend of mine is one of them who has been waiting for years. This is a problem that we need to solve for it is one of the root causes of the proliferation of unlicensed Care homes. Let us work and help the Department of Health Office of Health Assurance, so they can review the application process and timelines for licensing for Home and Community-Based Services faster. And when they are licensed we must also ensure that they get paid correctly for the care that they deliver to their patients and not based their pay with some guidelines like 344 days for 365 days work, or giving the care homes with the most number of bedrooms the lowest pay rate due to some rules are given by consultants. Let us make sure that their payment is based on a comprehensive Level Of Care Assessment of the patients. Level Of Care is about functionality and patients condition. Level Of Care is NOT Room and Board. Level of Care is not assessing their needs in the future by asking questions of what they want to be or to do in the future when there is money available.

Another root cause of the proliferation of unlicensed care homes is the fact that hospitals and nursing homes are the ones referring to them. I can see this because of the financial pressures that hospitals feel to free up the hospital beds due to non-reimbursement if the patients stayed longer when their LOC has been changed to a nursing home or community-based level.

Another term that has been heard during this Legislative Session in relation to unlicensed care homes is AGING IN PLACE. According to **CDC's definition, is the ability to live in one's own home and community safely, independently, and comfortably, regardless of age, income, or ability level.** A study was done by Wiles, et. Al "about the "meaning of aging in place and published in Gerontologist in 2012, The Meaning of Aging in place to older people have pragmatic implications beyond internal "feel good" aspects and operate interactively far beyond the "home" or housing. "Aging in place" was seen as an advantage in terms of a sense of attachment or connection and feelings of security and familiarity in relation to both homes and communities. Aging in place related to a sense of identity both through independence and autonomy and through caring relationships and roles in the places people live.

Therefore, these unlicensed care homes do not meet the implications and meaning of aging in place by the older people for once their private money is exhausted, the caregiver is calling the case managers of the Community Care Foster Family Homes to find a Medicaid bed for the client and to start the Medicaid application process. The agencies and individuals use the term aging in place but they do not have any idea that the elderly that they placed in the unlicensed home never really aged in place in that home because once their placement is completed and they have gotten their fees from the first month payment, they never go and visit the patient anymore.

Can you see or imagine what is wrong with the picture I am trying to paint? I hope you can because if one of these individuals living in these unlicensed care homes, is your mother or child, I am quite sure that you would be very disturbed.

In Support of HB 1911, HD2

Dr. Nancy Atmospera-Walch

Just imagine the efforts that are going into taking care of the Aged, Blind, and Disabled, beginning with:

- The formation of the Health Care Team, the State of Hawaii Case Manager, a Guardian or Trustee, Family Members, Case Management Agencies, RN Supervisors and DOH Auditors.
- An Assessment of the Client at the time of Placement with Licensed Carehome, with licensed Primary Care Givers who must meet safety requirements, clinical requirements and administrative requirements and examples of such requirements are Certified Nurses Aides, and meet Annual continuing education Education, FBI Finger Printing, Insurance, Training not limited to Daily Care, but also Evacuation & Fire Training, Medication Administration, Dietary, etc. Requirements that the unlicensed care home caregivers Do NOT have to DO since no one is overseeing their performance.
- Preparation, Assessment, Development, Implementation, and Evaluation of a Care Plan tailored to each Patients Care Requirements annually reviewed by the Health Care Team together with the Client.
- 24/7 Support for each Primary Care Giver, Substitute Care Giver and Client through licensed Case Management and/or licensed and insured Waiver Service Provider Agencies.
- Monthly Visits or more to assess the correct implementation of the Individualized Plan of Care by RN Nursing Care Supervisors.
- What we do in licensed care homes or our responsibilities can be summarized as follows:
 - Assessment or Problem Identification
 - Development and Coordination of the Service Plan
 - Implementation of the Service Plan
 - Nurse Delegation
 - Follow up and Evaluation
 - Monitoring, Reassessment, and Reevaluation
 - Education and Training
 - Crisis Intervention
 - Conflict Resolution
 - Advocacy
 - Risk Management & Quality Improvement

I could go on, but I am sure you that you get the Picture, knowing that even with all these Statutory Requirements in placed Medical Errors and Care Errors occur.

Today, it is my goal that you and all Legislators understand the danger and risk of unlicensed care homes to our vulnerable population, the Aged, Blind, and disabled. This problem is not unique to us, it is national and probably even global, but our State of Hawaii could become the Leader and Role Model in the Home & Community-Based Setting, and this is only possible through licensed Care Homes, licensed Care Givers, licensed Case Managers and/or State Approved Health Care Waiver Provider Services organizations.

This goal can only be achieved by creating laws and regulations to prevent UNLICENSED CARE HOMES, to do what they are currently doing, taking patients into their homes and calling them renters.

In Support of HB 1911, HD2

Dr. Nancy Atmospera-Walch

Unlicensed Care homes are a BIG Risk Factor for the most vulnerable population in Hawaii, the Aged, the blind, and the Disabled. Let us all join the WHO, IHI, NPSF, and the JC in making Patient Safety our Priority Goal. We can start by stopping unlicensed care homes by supporting HB 1911, HD2.

Thank you for this opportunity to provide my testimony, and for hearing this bill.

Respectfully submitted,

Signed Electronically (Nancy Atmospera-Walch)

Dr. Nancy Atmospera-Walch
President, AIM Healthcare Institute
President, ADVANTAGE Health Care Provider

HB1911.HD2- RELATING TO HEALTH

DATE: March 15, 2018

TIME: 9:30AM

PLACE: CONFERENCE ROOM 229

STATE CAPITOL 415 SOUTH BERETANIA STREET

Committee on Commerce, Consumer Protection, and Health

Sen. Rosalyn H. Baker, Chair

Sen. Jill N. Tokuda, Vice Chair

Good Morning Chair, and Vice Chair,

My name is Lilia Fajotina, I have been a carehome administrator for 20 years.

I Strongly Support HB1911.HD2. I believed any person who open an adult family home or private home and provide healthcare to elderly or disabled individual who are unrelated to the caregiver family by blood, marriage or anybody without licensed shall be guilty of misdemeanor and that person shall be fine or punished.

The unlicensed facilities don't have government oversight for safety and consumer protection. Also, this unlicensed facilities are undermining the government, not only because they are not following rules and regulating by the state, but they also be evading tax obligations. Everyone, needs to be fair and equal as we all work together in caring for our kupuna.

Thank you, for allowing me to testify.

Lilia Fajotina

(Carehome Administrator)

HB-1911-HD-2

Submitted on: 3/14/2018 11:04:36 PM

Testimony for CPH on 3/15/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Maria E. Cariaga	Individual	Support	No

Comments:

I strongly support the HB1911 to protect the ***health,safety, and civil rights of our vulnerable adults. Illegal I'm***

v

Mar. 15, 2018

RE: **HB 1911 - Testimony in STRONG SUPPORT** – CPH 3/15/18 – Rm. 229 9:30 a.m.

Dear Chair Baker, Vice Chair Tokuda, and Members of the Committee:

We **STRONGLY SUPPORT HB 1911**. We want to protect our Kupuna. They need quality care. The only way to do this is with oversight by the State of Hawaii. There must be rules.

We must also protect the families of Kupuna who need care. It is not easy for the families who are very emotional having to find a care home. They are vulnerable and need protection.

Licensed homes are not perfect, but at least the State of Hawaii can enforce the rules against us. There is no way to enforce any safeguards against the unlicensed homes. They can do whatever they want.

Therefore, I **STRONGLY SUPPORT HB 1911**.

Name: _____

Signature: _____

Phone #: _____

Address: _____

HB-1911-HD-2

Submitted on: 3/15/2018 8:22:29 AM

Testimony for CPH on 3/15/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
annie	Individual	Support	No

Comments:

Am supporting HB1911 this is for the betterment, safety & protection of our elderly.
Mahalo

LATE



Community Carehome Association of Hawaii
P.O. Box 971450 Waipahu, HI 96797

Re: HB1911 - Testimony in Support
NOTICE OF HEARING

DATE: Thursday, March 15, 2018

TIME: 9:30 a.m.

PLACE: Conference Room 229

State Capitol

415 South Beretania Street

Dear Chair Rep. John Mizuno, Rep. Sylvia Luke, Rep. Romy M. Cachola, Rep. Ty J.K. Cullen, Rep. Jarrett Keohokakole.

Good morning chair, vice chair & the committee, my name is
Paul Wilson, member of the Community Carehome Association of Hawaii. I strongly support HB1911 regarding the illegal care homes and illegal referrals. Any illegal care homes and illegal referrals who are intentionally or knowingly operating without certificate or license can jeopardize the health, safety, and welfare of our kupunas. Compared to license homes and licensed caregivers, we have various rules and regulations to adhere. We work under the supervision of Case Managers, Community Ties of America, Department of Human Services, and Department of Health. Annual inspection and unannounced visits are among the few rules regulated and mandated by the department. In addition we authorize the Department of Health to investigate illegal care homes reported to be operating without an appropriate certificate or license issued by the dept. Penalties should be establish for those illegal care homes that is providing care for vulnerable, elderly, and person with disability. Illegal care homes and illegal referrals should also be subject for further investigation. Thank you for the opportunity in support of HB1911.

Respectfully yours,

Paul Wilson, PCC

Fax # (808) 586-6071

or

email to: HMS-testimony@capitol.hawaii.gov.

Frances Marie E. Cariaga — CCFH - Sub. Caregiver

To the Chair of the Senate Committee on Commerce
Consumer Protection and Health:

LATE

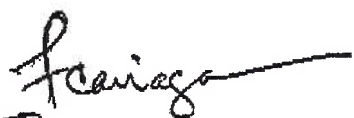
Senator Rosalyn Baker:

March 15, 2018 HB 1911

9:30 AM Rm-229

I am supporting the HB 1911 for
the sake of our Kupunas to protect
their health, safety and civil rights.

Thank You,



Frances Marie E. Cariaga

Teresita Caepal - CFFH - Provider

LATE

March 15, 2018 HB 1911

9:30 A.M. Rm 229

To the chair of the Senate Committee on Commerce,
Consumer Protection and Health:

I am supporting the HB 1911 for
the welfare of all the vulnerable adults
to protect their health and safety.
Thank you for allowing me to submit my
testimonies.

Respectfully,
Teresita Caepal
Teresita Caepal

Grace C Andres - CCFH Provider

LATE

March 15, 2018 HB 1911

9:30 AM Rm 229

To the Chair of the Senate Committee on Commerce,
Consumer Protection and Health:

Senator Rosalyn Baker:

Good morning. I am in strong support
for the HB 1911 to ensure the safety, protect
the health and wellbeings of our vulnerable
adults.

Thank you for allowing me to submit my
testimony:

Respectfully,
Grace C. Andres
Grace C. Andres

MARIA F. CARIAGA - CCFH Provider

LATE

To the chair of the Senate Committee on Commerce,
Consumer Protection and Health:

Senator Rosalyn A. Baker:

March 15, 2018 HB 1911

9³⁰
AM Rm 229

On behalf of the Big Island Adult
Foster Family Home Operators, I would like
to support the HB1911 to protect the
health, safety and civil rights of our val-
uerable adults.

Thank you for allowing me to submit
my testimony.

Respectfully,

Maria F. Cariaga
falsriaga

President of the BIAFHO

Dino Caepal - CCFFH Provider

March 15, 2018 HB1911

9:30 A.M. Rm 229

LATE

To the chair of Senate Committee on ~~COMMERCE~~,
Consumer Protection and Health

I strongly support the HB1911
to protect the health, safety and
civil rights of our Kapuna. Thank You
for allowing me to submit my testimony.

Respectfull,
Dino Caepal