



1132 Bishop Street, #1920 | Honolulu, HI 96813  
1-866-295-7282 | Fax: 808-537-2288 | TTY: 1-877-434-7598  
aarp.org/hi | hiaarp@aarp.org | twitter: @AARPHawaii  
facebook.com/AARPHawaii

Senate Committee on Ways and Means  
Wednesday, February 21, 2018  
10:10 a.m.  
Conference Room 211

To: Senator Donovan Dela Cruz, Chair  
Re: S.B. No. 2586, S.D. 1, Relating to Care Facilities

Dear Chair Dela Cruz, Vice-Chair Keith-Agaran, and Members of this 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.

AARP Hawaii believes further study is needed before imposing new restrictions on Aging-In-Place facilities (AIPs) and home health & home care service providers. Subjecting AIPs and home health & home care agencies to new inspection and transfer requirements of the Department of Health could lead to unintended consequences, including having long-term care recipients in these AIPs to be displaced against their wishes and/or long-term care recipients losing their choice to have home health & care services provided to them at their place of residence. We believe more discussion is needed to fully understand the impacts of legislation on the supply and cost of long-term care facilities and services.

We bring to this Committee's attention that there is much confusion since AIPs are really facilities where the services are delivered to care recipients in their place of residence by home health agencies (HHA) and home care agencies (HCA).

HHA's are licensed pursuant to Section 431-11, HRS, and which are subject to DOH Rules, specifically Title 11, Chapter 97, HAR.

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. 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

Thank you for the opportunity to present this testimony on S.B. No. 2586, S. D. 1.

AARP  
Real Possibilities



**February 21, 2018 at 10:10 AM**  
**Conference Room 211**

**Senate Committee on Ways and Means**

**To:** Chair Donovan M. Dela Cruz  
Vice Chair Gilbert S.C. Keith-Agaran

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

**Re: Submitting Comments**  
**SB 2586 SD 1, Relating to Care Facilities**

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 SB 2586 SD1, which would expand the ability of the Hawaii Department of Health to investigate and penalize unlicensed care homes. We agree with the intent of this measure, which is to protect individuals from receiving potentially sub-standard care. However, we have concerns about the penalties levied on health care organizations who refer or transfer patients to an unlicensed home.

In inquiries sent to our members, those who responded stated that they do not directly refer any patient to an unlicensed home. However, a patient or their family may elect to go to an unlicensed home based on their own preference. If a patient or their family chooses an unlicensed care home, a hospital or nursing facility may not stop that decision. Facilities may provide some information as necessary to ensure a smooth transition of care, which is essential to making sure that a person can heal and stay out of the hospital.

The language as currently written could allow facilities to be penalized if a patient chooses to go to an unlicensed home. This measure would also not only levy fines but would also create a penalty of administrative proceedings. We are concerned about this penalty section and look forward to continuing our discussions on how to resolve these issues. Thank you for your time and consideration of our comments.

**SB-2586-SD-1**

Submitted on: 2/17/2018 1:59:55 PM

Testimony for WAM on 2/21/2018 10:10:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Scott Foster	Individual	Support	No

Comments:

Testimony submitted by Scott Foster, Chair, for The Kupuna Caucus of the Democratic Party of Hawaii.

Senate Hearing Testimony  
2/17/18

Senate Bill SB2586

I would like to voice my support to Senate Bill SB2586 SD1 which addresses restricting operation of unlicensed care home or Aging in Place homes. The unlicensed care homes or Aging in Place homes lack proper compliance to licensed care home regulations including the following:

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

I know of a patient who has been denied regular daily scheduled family visits as required by licensed care home regulations. The patient developed early dementia about two years ago. Her dementia appears mild and she is apparently cognizant of her situation. The lack of regular patient visitation by family causes the patient to become depressed, lonely and increases patient suffering. The patient's daughter became medical power of attorney about that time. For questionable reasons, the daughter knowingly put the patient in an unlicensed care home upon recommendation of her palliative / geriatric doctor. Initially the unlicensed care home said they had to restrict family visits for a while to adjust the patient to the new care home. This isolation period has continued 5 months to the present time. 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 a patient is acting agitated and would not sleep. As a result of agitation reported to daughter by care giver then relayed to the doctor, the patient was prescribed increased anti-anxiety and sleeping medication and further restricted from having family visits.

The unlicensed care home that the patient 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. The increased patient load has created greatly increased patient work load.

There is suspicion whether the sleeping and anti-anxiety medication prescription as obtained by caregiver patient assessment was made partially to prevent the patient's apparent night time use of the toilet which requires more care giver helpers time. The patient is forced to use diapers at night since the patient is unable to use the toilet at night.

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

The patient before entering the unlicensed care home used the bathroom about 2 times a night and required monitoring to prevent falls. When the patient first went into the unlicensed care home I talked to a care home helper about the patient's use of the bathroom at night. The helper said the care home helpers did not have the time get up at night to monitor the patient, so they put a diaper on the patient and with the use of sleeping medication let the patient sleep through the night. I understand in other licensed care homes, there is patient monitoring at night for toilet use. Apparently the helper at the unlicensed care home had very heavy work load and couldn't provide patient monitoring at night. I understand the use of diapers can cause incontinence in patients over a prolong use. I understand licensed care homes do not resort to diapers and sleeping medication to restrain the continent patients from toilet use at night.

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 use of chemical for restraints and the requirement for daily scheduled family visits.

In summary, I have several complaints about the Aging in Place home or unlicensed care home. I support Senate Bill SB2586 SD1 which will provide the ability for the Department of Health to restrict dangerous conditions in unlicensed care home or Aging in Place Homes. The Senate Bill will allow the Department of Health to investigation of grievances to patient neglect and malpractice by unlicensed care homes.

Sincerely,

Ivan Awa

**SB-2586-SD-1**

Submitted on: 2/19/2018 5:04:45 PM

Testimony for WAM on 2/21/2018 10:10:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Susan Govier	Individual	Oppose	No

Comments:

To Chairman Dela Cruz, and committee Members,

We need more choices for care not more licensed/certified care homes.

Please think this through-it is about protecting current licensed/certified care home businesses from competition for private pay clients not about patient care.

New and different models of care are needed so private pay consumers have different choices.

The new and different models of care should not be conflated with our current system of providing care and should not be either licensed or certified which is redundant--we already have that.

I am a retired Registered Nurse. I have colleagues who have licensed nursing homes and certified care homes as their business. I support them. Our community needs them for Medicaid and private pay clients.

I also support the new and different models of care without licensing or certification.

Looking closely and personally, I do not like the choices currently available for my own care if I need it. I want more choices and I do not need the state to license or certify my choices.

Please do not restrict my right to choose either licensed/certified or not licensed certified by passing on this bill designed to protect care home operators from competition for private pay clients.

We need more choices not more licensed/certified care homes.

Vote NO on SB 2586.

Thank you for your thoughtfulness,

Mrs. Susan Kane Govier (R.N.)

Aiea, HI

**SB-2586-SD-1**

Submitted on: 2/19/2018 5:40:49 PM

Testimony for WAM on 2/21/2018 10:10:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lee Buenconsejo-Lum	Individual	Support	No

Comments:

I am a physician who cares for elderly and disabled patients who often require care beyond what their families can provide. It is imperative for their safety that they receive care in licensed facilities. It is also important for DOH to be able to inspect and issue penalties for such unlicensed care facilities.

Unlicensed facilities are not required to follow 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.