

**COMMITTEE ON HUMAN SERVICES  
SEN. JOSH GREEN, CHAIR  
SEN. STANLEY CHANG, VICE CHAIR**

**COMMITTEE ON COMMERCE, CONSUMER PROTECTION  
AND HEALTH:  
SEN. ROSALYN H. BAKER, CHAIR  
SEN. JILL N. TOKUDA, VICE CHAIR**

**COMMITTEE ON JUCICIARY  
SEN. BRIAN TO TANIGUCHI, CHAIR  
SEN. KARL RHOADS, VICE CHAIR**

**Date: February 5, 2018  
Time: 3:00PM  
Place: Conference Room 16  
State Capitol  
415 S. Beretania St.**

**Good Morning Chairs, and Vice Chairs;**

**My name is Lilia Fajotina, I have been a carehome administrator for 20 yrs.  
I STRONGLY SUPPORT SB 2586. I believed any person who open and 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 any license shall be guilty of misdemeanor and that person shall be fine or punished.  
Thank you, for allowing me to testify.**

**Lilia Fajotina**

**(Carehome Administrator)**

**SB-2586**

Submitted on: 2/4/2018 3:19:52 PM

Testimony for HMS on 2/5/2018 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
gladis simpson		Oppose	No

Comments:

Dear Sir/Madam,

My name is Gladis Rivera-Simpson and I am a Licensed Social Worker. I would like to testify AGAINST SB 2586 relating to care facilities. I have worked with many of our elderly citizens and their families as a social worker for almost 20 years. I am opposing SB 2586 as I believe it is against people's civil rights. People should have the right to choose where they want to reside and whom they want to receive care from. I understand that the intent of this measure is to protect individuals from sub-standard care in unlicensed homes from abuse or neglect. However, I believe that "quality" of care is not defined whether a home is licensed or not. Client and/or their family should be free to make their own choices in regards to this matter. I sincerely hope that people's rights to free choice will not be taken away. Again, I am against this bill, SB 2586, as it will be taking people's right to choose.

Thank you for your time and hope that you will also vote AGAINST SB 2586,

**SB-2586**

Submitted on: 2/4/2018 6:32:34 PM

Testimony for HMS on 2/5/2018 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Julieta Bonilla		Oppose	No

Comments:

I very much oppose of this bill because I believe every person has the right to choose. Person has right to have an option on where they want to live, has the right to receive a care from a provider with whom they are comfortable. Person has the right to find another entity that will provides safe place for them.

Thank You.

**SB-2586**

Submitted on: 2/4/2018 10:13:28 PM

Testimony for HMS on 2/5/2018 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Marylo Farinas	AFHA of Hawaii	Support	No

Comments:

Dear Chair Senator Green, Baker, & Taniguchi, Vice Chair Senator Chang, Tokuda, & Rhoads, and Members of the Committees,

I am very pleased about SB2586 "Relating To Care Facilities" (Unlicensed Care Home) I **strongly SUPPORT**. I find unlicensed Care Homes are NOT being fair to us licensed Adult Foster Home. I have been in the industry for about 10 years now and for the past few years have been experiencing difficulty finding clients because of unlicensed care homes. I truly feel, the system is very unfair to us licensed Adult Foster Homes if unlicensed care home continues to exist.

I encourage the entire committee to please pass SB2586, I am confident that passing this bill allows all licensed Adult Foster Homes to grow.

Thank you for your attention and consideration of my opinion.

Sincerely,

Marylo Farinas

**SB-2586**

Submitted on: 2/4/2018 11:50:59 PM

Testimony for HMS on 2/5/2018 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
grace c andres	ccffh	Support	No

Comments:

Senator Josh Green, Chair  
Senator Stanley Chang, Vice Chair  
Committee on Human Services

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

Senator Brian T. Taniguchi, Chair  
Senator Karl Rhoads, Vice Chair  
Committee on Judiciary

From: Ruthie Agbayani, Vice President, United Caregivers of Hawaii  
Date: Monday, February 5, 2018, 3:00 p.m., Conference Room 16  
Subject: Support for SB 2586, Relating to Care Facilities

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 SB 2586, Relating to Care Facilities, which authorizes the Department of Health to investigate care facilities reported to be operating without an appropriate certificate or license issued by the Department, and establishes 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 support SB 2586 to authorize investigations and the Department of Health’s entry to investigate alleged unlicensed facilities, as well as to take actions based on their investigation, especially when the facility is deemed unlicensed.

We are aware of a report last month, January, that an unlicensed so-called aging-in-place care home was closed in October 2017 and fined \$325,000. We support SB 2586 in imposing penalties for intentionally operating a care facility without a certificate or license, as well as imposing penalties for referrals or transfers to unlicensed/uncertified care facilities.

We urge the committee to pass SB 2586. Thank you for this opportunity to submit my testimony online.

**SB-2586**

Submitted on: 2/5/2018 9:26:23 AM

Testimony for HMS on 2/5/2018 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
MARFE RETUNDO	CCFFH	Support	No

Comments:

I am Marfe Retundo. I am 1 of the ccffh member. N I support this bill to stop the unlicense care home.



To: Senator Josh Green, Chair  
Senator Stanley Chang, Vice Chair  
Committee on Human Services

Senator Rosalyn Baker, Chair  
Senator Jill Tokuda, Vice Chair  
Committee on Commerce, Consumer Protection & Health

Senator Brian Taniguchi, Chair  
Senator Karl Rhoads, Vice Chair  
Committee on Judiciary

FROM: Sarah Suzuki, MBA, BSN, RN  
Managing Partner, Blue Water Resources, LLC  
94-408 Akoki Street Suite 202  
Waipahu, Hawaii 96797  
(808) 678-3661 Office  
(808) 678-3662 Fax

HEARING DATE: Monday, February 5, 2018 (3:00 PM, Conference Room 16)

RE: **Relating to Care Facilities SB 2586**

My name is Sarah Suzuki. I have been a registered nurse for over 25 years and a community case manager for over 16 years. I am the past-President of the Case Management Council and continue to be an active member. The Case Management Council is comprised of agencies who provide case management services to the aged, blind, and disabled population.

We have expressed our concern about the growing number of unlicensed homes in the past two years to the State. All of us, at one point or another, have experienced the phone call from a caregiver who reports that they decided to cease operating their foster home because of an "emergency." The Case Managers provide the operators with support and encourage them to stay open, only to find that a few weeks later, they decided to open an unlicensed home.

The typical scenario would be that the Medicaid client is displaced and quickly relocated elsewhere while the Private pay client is lured to stay with the caregiver who has opted to operate an unlicensed home.

The local news highlights how some of the unlicensed homes are operators who had their certificates revoked by the State. But many of the operators who chose not to renew their certificates were also good caregivers. Over the last two years, we have lost many good caregivers.

While some may argue that our current system has flaws, there clearly are benefits to our Kupuna. Those benefits include, but are not limited to: State licensed providers, State certified and licensed facilities or homes, oversight, and monitoring.

If this continues, we will see a rapid decline on available beds, especially for the vulnerable Medicaid clients. Who, then would, care for our Kupuna who really need the help? We ask you to help us fix this growing issue.

Thank you for the opportunity to provide this testimony.

To: **Senator Josh Green, Chair, Senator Stanley Chang, Vice Chair, and members of the Committee on Human Services**  
**Senator Rosalyn Baker, Chair, Jill Tokuda, Vice Chair and members of the Committee on Commerce, Consumer Protection, & Health**  
**Senator Brian Taniguchi, Chair, Senator Karl Rhoads, Vice Chair, and members of the Judiciary Committee**  
**Senator Donovan Dela Cruz, Chair, Senator Gilbert Keith-Agaran, Vice Chair, and members of the Committee on Ways and Means**

FROM: BLANDINA S. RETUIA  
ARCA MEMBER

HEARING DATE: February 5, 2018 Monday (3 PM, Conf. Room 016)

FAX NUMBER: 808-586-9391, 808-586-6071, 808-586-6460, 808-586-6091

RE: Relating to Care Facilities SB 2586-

My name is BLANDINA RETUIA have been a caregiver for over 34 years and a licensed Care Home Operator for over 24 years. Our organization is distraught about the overwhelming number (almost 300) unlicensed homes in our State. Certified foster homes/Licensed care homes are choosing to close or being "forced" to close due to revocation of their license, then opening a few weeks later as an uncertified/unlicensed Care home sometimes displacing Medicaid clients.

We, as State licensed providers have oversight and monitoring to ensure the safety and wellbeing of our fragile kupuna. We maintain many requirements to uphold the law.

I humbly ask for your help to fix this growing problem.

Thank you for the opportunity to provide this written testimony in STRONG SUPPORT of SB2586. I wish I could be there in person to give my oral testimony, but I am a 24/7 caregiver.

Mahalo,

*Blandina S. Retuia*

Feb. 1. 2018 4:42PM

No. 4003 P. 1/1

To: **Senator Josh Green, Chair, Senator Stanley Chang, Vice Chair, and members of the Committee on Human Services**  
**Senator Rosalyn Baker, Chair, Jill Tokuda, Vice Chair and members of the Committee on Commerce, Consumer Protection & Health**  
**Senator Brian Taniguchi, Chair, Senator Karl Rhoads, Vice Chair, and members of the Judiciary Committee**  
**Senator Donovan Dela Cruz, Chair, Senator Gilbert Keith-Agaran, Vice Chair, and members of the Committee on Ways and Means**

FROM: *Vicky Cedig Bayan*  
**ARCA Board Members**

HEARING DATE: February 5, 2018 Monday (3 PM, Conf. Room 016)

FAX NUMBER: 808-586-9391, 808-586-6071, 808-586-6460, 808-586-6091

RE: Relating to Care Facilities SB 2586-

My name is *Vicky C. Bayan* I have been a caregiver for over 46 years and a licensed Care Home Operator for over 46 years. Our organization is distraught about the overwhelming number (almost 300) unlicensed homes in our State. Certified foster homes/Licensed care homes are choosing to close or being "forced" to close due to revocation of their license, then opening a few weeks later as an uncertified/unlicensed Care home sometimes displacing Medicaid clients.

We, as State licensed providers have oversight and monitoring to ensure the safety and wellbeing of our fragile kupuna. We maintain many requirements to uphold the law.

I humbly ask for your help to fix this growing problem.

Thank you for the opportunity to provide this written testimony in **STRONG SUPPORT** of SB2586. I wish I could be there in person to give my oral testimony, but I am a 24/7 caregiver.

Mahalo,

**SB-2586**

Submitted on: 2/5/2018 12:44:00 PM

Testimony for HMS on 2/5/2018 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Julie Cambe	CHCAOH	Support	No

Comments:

I strongly support the bill sb2586.authorizes the department of health to investigate care facilities reported to be operating without an appropriate certificate or license issued by the department.established penalties for violations and for patient referrals to uncertified unlicensed care facilities



94-366 Pupupani Street Suite 208A - Waipahu, Hawai'i 96797  
Tel: (808) 842 7634 / Fax: (808) 842-7640

From: Lolita Ching, MSN, RN  
President/Owner of Quality Case Management, Inc.  
President of the Filipino Nurses Organization of Hawaii

To: Committee on Human Services- Senator Josh Green, Chair  
Committee on Commerce, Consumer Protection, and Health- Senator Rosalyn H. Baker, Chair  
Committee on Judiciary- Senator Brian T. Taniguchi, Chair

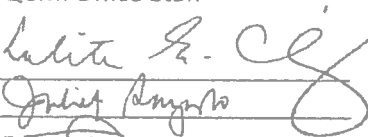




**RE: SB 2586 - Relating to Care Facilities**

**Date: February 5, 2018**

My name is Lolita E. Ching and I've been a Registered Nurse for 40 years and 18 years as a Community Case Manager in the State of Hawaii. Based on the statement and presentation of this bill, **I am and together with my staff, we are fully in support for this bill.**

We believe that we have the moral and ethical duty to provide to our vulnerable KUPUNAs, the aged, the blind and disabled the care that they deserve. We must ensure that their safety, health and welfare is the priority while living outside of their own homes. As a family member, lay person or health care providers, we refused to be driven by a person without a driver's license, albeit be defended by a paralegal secretary in front of the circuit court. We demand that our vehicle is driven by a licensed driver or being defended by an Attorney. So then, why are our vulnerable KUPUNAS being placed in an illegal home? Wake up and do not be like an OSTRICH where the head is buried in the sand for quite some time. As a family member exercise your right that your love one is being cared by a licensed home under the guidelines and oversight of various State Department/ Agency. It is just a matter of time. DO NOT WAIT until some harm or negative event occurs to our KUPUNA while living in an unlicensed home. BE PROACTIVE. Your live one relies on your love and judgement to do the right thing. Be HONEST and MAINTAIN YOUR INTEGRITY. DOING THE RIGHT THING EVEN NO ONE IS WATCHING. Placing your love one in an UNLICENSED HOME is dangerous due to **NO oversight by the people or professional health care providers who follow the LAW.**

Submitted and Signed by: QCMI Office Staff

1. Lolita E. Ching 
2. Juliet Raymundo 
3. Leitisha P. Padeken 
4. Katrina Agliam 
5. Jo Faraon 

**SB-2586**

Submitted on: 2/5/2018 2:10:44 PM

Testimony for HMS on 2/5/2018 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Helen Sumoba Sapla	Big Island Adult Foster Home Organization	Support	No

Comments:

**SB-2586**

Submitted on: 2/5/2018 7:43:59 PM

Testimony for HMS on 2/5/2018 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Noreen Montijo	ARCA	Support	No

Comments:

I am licensed foster home care provider and I support this bill.



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To: Senator Josh Green, Chair; Senator Stanley Chang, Vice Chair, and members of the Committee of Human Services

Senator Rosalyn Baker, Chair; Jill Tokugawa, Vice Chair and members of the Committee on Commerce and Consumer Protection and Health

Senator Brian Taniguchi, Chair; Senator Karl Rhoads, Vice Chair and members of the Judiciary Committee  
Senator Donovan Dela Cruz, Chair; Senator Gilbert Keith-Agaran, Vice Chair, and members of the Committee on Ways and Means

Hearing Date Feb 5, 2018 Monday 3pm Room 016

Fax#: 808-586-9391, 808-586-6071, 808-586-6460,808-586-6091

From: Milagros S. Beltran, ARCA Board of Director

Re: Relating to Care Facilities SB 2586

My name is Milagros Beltran and I have been the Primary Caregiver and owner of a Licensed Adult Residential Care Home for 35 years. I would like to voice my concern which is in accordance with the majority of the members of our organization ARCA (Adult Residential Care Administrators) regarding the overwhelming number of unlicensed homes in our state. We, as state licensed providers are strictly monitored and regulated to ensure the safety and well-being of the kupuna and other fragile clients that we care for and serve. We maintain many requirements to uphold the law and our residents' safety. The unlicensed homes do not have regulations to monitor the health safety of their residents, yet they claim that they are able to provide the same standard of care as regulated homes, which I do not find is appropriate to state. It is becoming increasingly common for state certified foster homes and licensed care homes to choose to close or feel forced to close to compete in the business sense with these unlicensed homes or due to revocation of their license. After closing, they would reopen within a few weeks as an unlicensed / uncertified care home often displacing their Medicaid clients.

As I am unable to attend the hearing in person, I would like to submit and share my written testimony in Strong Support of SB2586.

Mahalo,

*Milagros S. Beltran*

*M. about change on #*



**Kokua Council**

The **Kokua Council** is one of Hawaii's oldest advocacy groups. Kokua Council seeks to empower seniors and other concerned citizens to be effective advocates in shaping the future and well-being of our community, with particular attention to those needing help in advocating for themselves.

**Legislative Testimony**

Prepared by Jim Shon, President, Kokua Council

Senate Committees on Human Services, Commerce Consumer Protection and Health, and Judiciary

DATE: Monday February 5, 2018  
TIME: 3 pm  
PLACE: Conference Room 16

**BILL: SB 2586 RELATING TO CARE FACILITIES**

Kokua Council supports the intent of this bill to tighten up oversight and consumer protection of elder care facilities.

**COMMENTS AND RECOMMENDATIONS**

The bill as introduced appears to be incomplete. Kokua Council suggests it could be strengthened by adding the following:

1. **A Findings and Purpose Section.** This could be crafted broadly to ensure that additional ideas and strategies can be incorporated later in the session. It also will help advocacy organizations and the general public better understand the intent. We have attached suggested language to illustrate this point.
2. **Definition.** KC is not convinced that there is a legal consensus as to exactly what kinds of facilities would be covered. "I know it when I see it" may not be enough. This is especially true because not all unlicensed facilities were previously licensed, and because new legal and financial models may fall outside of the assumed definition. We have attached suggested language to illustrate this point, not confining the bill's applicability to those previously licensed facilities that have gone off the regulatory reservation. Our suggested definition attempts to include so-called Aging In Place models not previously licensed.
3. **Provisional Licenses.** KC is also proposing at least for serious discussion, the granting of temporary provisions licenses to those facilities that were previously licensed by DOH. The intent here is to remove the red herring of how long it takes to be licensed or relicensed. An additional benefit would be that once "granted" the temporary license, access to inspect is automatic for DOH, including the Long Term Care Ombudsman.

*no testimony*

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apply to li →  
Personal Homes w/  
reservation of the  
residents*

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4. **Streamlining New Licenses.** KC is aware of a narrative that suggests it takes too long for a new applicant to receive a license. We have suggested language that would limit the time to render a decision.
5. **Formal Reporting Procedures.** KC is not convinced that an informal rumor mill approach to initial reporting is adequate. Just because someone leaves an email message may not justify access to a private, unlicensed facility. KC suggests that the DOH be required to adopt written policies and procedures to implement the initial "trigger" for the DOH investigations. We have also suggested language to illustrate this.
6. **Intermediary Placements.** Finally, testimony at several briefings and hearings suggests that there are intermediary agents, case managers, and others that are involved in placements of seniors as they transition from a hospital or home. Apparently, these intermediaries play a valuable role in assisting families. However, they also can be co-conspirators in facilitating placement in unregulated situation. KC does not have suggested language at this time, but would encourage some licensing and oversight of these services to ensure improper placements do not occur.

321 - Rules  
 Home  
 K. Aguirre

Mahalo for Seriously Considering this Testimony

See suggested amendments below to illustrate above recommendations.

**PROPOSED REVISIONS TO SB 2586**

Submitted by Jim Shon, President, Kokua Council

SECTION 1. FINDINGS AND PURPOSE. The purpose of this Act is to

- a) prohibit facilities previously licensed by the department of health from operating as care home facilities without the oversight and consumer protections for vulnerable elders, and to require them to be re-licensed;
- b) streamline and facilitate the relicensing of such previously licensed facilities and those waiting for department approval of license applications;
- c) require the department to adopt policies and procedures for the formal reporting of suspected inappropriate and illegal care home operations;
- d) grant appropriate investigative access to determine whether the operations of community based residential models should be required to be licensed, and whether vulnerable elders in such facilities are afforded appropriate consumer protections and safeguards to prevent financial or other forms of abuse; and provide for appropriate civil and criminal sanctions for violations.

SECTION 2. HRS Section \_\_\_\_\_ is amended to read as follows:

Definitions. "A Community Based Residential Care facility" shall mean individual homes, townhouses, auxiliary dwelling units, and other residential settings with two or more unrelated vulnerable adults as defined by HRS Section 346-222 and who:

- a) are permanently deficient in two or more activities of daily living and or two or more instrumental activities of daily living; and
- b) either by individual contracts or facilitation by a landlord or resident caregiver, are receiving services from landlords, individual professionals, case managers or case manager type services, or home care agencies as previously defined by HRS section 321-14.8.

SECTION 3. HRS Section \_\_\_\_\_ is amended to read as follows. No later than January 1, 2019, all previously licensed facilities by the department of health that have discontinued their licensed status with the last three years shall be granted a provisional, temporary six month license that shall be valid until the department conducts a full review to determine if the facility is still providing services to two or more unrelated individuals, and if so, whether they are in compliance with licensing standards of health and safety. In reviewing the status of facilities granted a provisional temporary license under this section, the department shall have the same access to the facilities as it enjoys for other licensed facilities.

SECTION 4. HRS Section \_\_\_\_\_ is amended to read as follows: The department of health shall adopt policies and procedures to review and render decisions on all applications for facility licenses within \_\_\_\_\_ days upon receipt of such applications.

SECTION 5. HRS Section \_\_\_\_\_ is amended to read as follows: No later than January 1, 2019, the department of health shall adopt forms, policies and procedures for home health service providers, case managers, health and human service providers and members of the public to report suspected instances of community based residential facilities, as defined in Section 2 or this Act, are operating without a department license.

**CURRENT BILL LANGUAGE WITH SOME AMENDMENTS** SECTION 6. Chapter 321, Hawaii Revised Statutes, is amended to read as follows:

"§321-A Investigations. Upon receiving a report in accordance with sections \_\_\_\_\_ of this Act that a person, corporation, or any other entity may be operating a community based care facility as defined in section 2 of this act, without a certificate or license as required by law and issued by the department, or that a home or any type of living arrangement may be operating as a care facility without a certificate or license as required by law and issued by the department, the department, including the long term care ombudsman, shall conduct an investigation for the purposes of determining whether residents are subject to abuse as defined by HRS Section 346-222, and whether the person or entity is operating without a required certificate or license in accordance with the following provisions:

(1) The department shall request access to the location indicated in the report; or



(2) The department may file a complaint with the district court in the circuit of the location indicated in the report and the district court, upon a finding of probable cause, may issue a search warrant directed to the department and the appropriate county police department, if necessary, to investigate the location pursuant to this section between the hours of sunrise and sunset.

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

(1) Resolve the matter in an informal fashion as is appropriate under the circumstances;

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

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

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

§321-C Right of entry. The department, including the long term care ombudsman, when engaged in an investigation pursuant to section 321-B shall be authorized to visit and communicate with any person operating the facility, home, or other type of living arrangement that is the subject of a report. Any person intentionally or knowingly obstructing or interfering with the department's right of entry, the department's investigation of a report of operating without a certificate or license, or the department's communication with a vulnerable person reported to be receiving care from an uncertified or unlicensed operator shall be guilty of a misdemeanor.

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

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

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

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

§321-E Referral or transfers to uncertified or unlicensed care facility. It shall be unlawful for a certified or licensed healthcare provider or certified or licensed care facility to knowingly refer or transfer patients to an uncertified or unlicensed care facility. The department shall be authorized to enforce on any certified or licensed healthcare provider or certified or licensed care facility that knowingly refers or transfers patients to a care home, agency, or facility operating without a certificate or license as required by law, a fine of not more than:

(1) \$ \_\_\_\_\_ for the first violation;

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

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

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



# ALL ISLAND CASE MANAGEMENT CORPORATION

*Your Case Management of Choice*

To: Committee on Human Services,  
Committee on Commerce, Consumer Protection, and Health  
Committee on Judiciary

I'm in strong support for Senate Bill 2586.

1. The DOH must investigate care facilities reported to be operating without an appropriate certificate or penalties. The mushrooming of unlicensed care homes / facilities is very alarming. It's a safety issue for our vulnerable adults. Once placed in these homes, who will be monitoring for their health and safety. There need to be checks and balances from the State. That's more of a reason that before sending them to a place, the discharging facility have a duty to check at the DOH data base if the home or facilities they are sending the clients is truly a licensed or certified home / facility. I have heard of many instances that client is being pick-up from a facility by Handi-transport services and being delivered to these unlicensed homes.
2. Penalty for a person who intentionally operates a care home / facility without a certificate or license shall be guilty of misdemeanor and penalties must be enforced. These caregivers / homes are preying on the family who are desperate to find homes for their loved ones in dire need. Licensed / Certified Homes display their certificate and GE Tax license for easy visibility for people who are visiting the home. These homes must be eradicated for the purpose of consumer protection. There are so many out there pretending to be licensed / certified. Not unless they can see a proof, they are considered illegal / fake homes.
3. Referral or Transfers to Unlicensed or uncertified care facility. For the discharging facilities, I suggest that they need to refer to the DOH list of licensed homes. Caregivers who are coming to assess the client, it must be mandated that they show their certificate to the SW / RN. Referrals should go to the Licensed Case Management Agencies. That list is also available on the DOH list.
4. Referral Agencies that claimed and advertised that they are a legitimate business are not. They are listed under DCCA but no certification under the DOH. These groups of individuals are very aggressive in driving around, looking for open beds, bringing families to these available open beds / homes. These referral agencies claimed that they are free of charge to the families, but in actuality, they are charging the caregiver half the amount of one month pay. (between \$2000-4000). They don't care if the home is licensed or not. They are in the business of finding a home only, so they can place a client and collect their fees. This is abuse and neglect. Abuse and neglect because they are not checking whether the caregiver can provide care for the client. Whether the other resident in the home matches the behavior of this incoming client? These referral agencies are in the business of mainly placing clients in some homes to receive their referral fee.

Submitted by:

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