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## A BILL FOR AN ACT

RELATING TO HEALTH.

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

1           SECTION 1. Section 321-486, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           " ~~[§]~~ §321-486 ~~[§]~~ **Investigations.** Upon receiving a report  
4 that a person, corporation, or any other entity may be operating  
5 a care facility without a certificate or license as required by  
6 law and issued by the department of health, or that a home or  
7 any type of living arrangement may be operating as a care  
8 facility without a certificate or license as required by law and  
9 issued by the department, the department ~~[may]~~ shall conduct an  
10 investigation for the limited purposes of determining whether  
11 the person or entity is operating without a required certificate  
12 or license in accordance with the following provisions:

13           (1) The department ~~[may]~~ shall request access to the  
14 location indicated in the report; or

15           (2) The department ~~[may]~~ shall file a complaint with the  
16 district court in the circuit of the location  
17 indicated in the report, and the district court, upon



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

6 SECTION 2. Section 321-486.1, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "[+] §321-486.1[+] **Action upon investigation.** Upon  
9 investigation, the department [~~may~~] shall take action on  
10 confirmed findings that the subject of a report is operating a  
11 care facility without the required certificate or license and  
12 [~~may do any or all~~] shall remedy the unauthorized practice by  
13 means to include but not be limited to at least one of the  
14 following:

- 15 (1) Resolve the matter in an informal fashion as is  
16 appropriate under the circumstances;
- 17 (2) Exercise the department's right of entry under section  
18 321-486.2;
- 19 (3) File a petition with the district court for  
20 enforcement, protective, or remedial action; or



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

3           SECTION 3. Section 321-487, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5           "(a) It shall be unlawful for a certified or licensed  
6 healthcare provider [~~or~~], certified or licensed care facility,  
7 social worker, navigator, or individual discharge planner to  
8 knowingly refer or transfer patients to an uncertified or  
9 unlicensed care facility. The department may impose a fine on  
10 any certified or licensed healthcare provider [~~or~~], certified or  
11 licensed care facility, social worker, navigator, or individual  
12 discharge planner that knowingly refers or transfers patients to  
13 a care home, agency, or facility operating without a certificate  
14 or license as required by law; provided that the fine shall be  
15 no more than:

- 16           (1) \$500 for the first violation;
- 17           (2) \$1,000 for the second violation; and
- 18           (3) \$2,000 for the third and each succeeding violation."

19           SECTION 4. Section 321-488, Hawaii Revised Statutes, is  
20 repealed.



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1           ~~["§321-488] Exclusion. For purposes of this chapter, a~~  
 2 ~~landlord, as defined in section 521-8, shall not be deemed to be~~  
 3 ~~providing home care services or to be operating a care facility~~  
 4 ~~requiring a license under this chapter solely due to a landlord~~  
 5 ~~permitting a tenant to receive care services from persons~~  
 6 ~~licensed to provide care services, if licensing is otherwise~~  
 7 ~~required by law, and the landlord does not require a tenant to~~  
 8 ~~use or pay for care services as a condition of the rental~~  
 9 ~~agreement. For the purposes of this section, an operator means~~  
 10 ~~an individual or entity that operates or manages a healthcare~~  
 11 ~~facility or similar facility that provides care services in that~~  
 12 ~~facility." ]~~

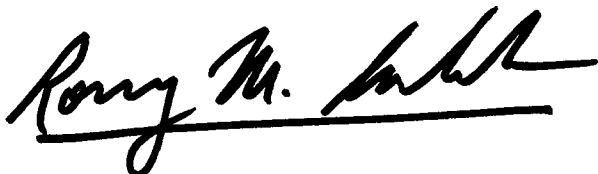
13           SECTION 5. This Act does not affect rights and duties that  
 14 matured, penalties that were incurred, and proceedings that were  
 15 begun before its effective date.

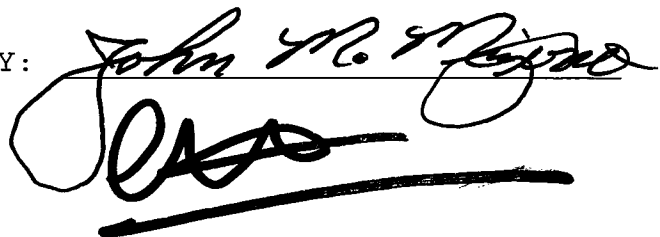
16           SECTION 6. Statutory material to be repealed is bracketed  
 17 and stricken. New statutory material is underscored.

18           SECTION 7. This Act shall take effect on July 1, 2020.

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INTRODUCED BY:







Linda Lehigua  
Rita Cabanilla/Kawda

~~2019~~  
~~[Signature]~~

Nicole E. Lauer

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JAN 17 2020



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**Report Title:**

Care Facilities; Uncertified; Unlicensed; Enforcement

**Description:**

Requires DOH to investigate care facilities reportedly operating without an appropriate certificate or license, and to take action on confirmed findings of uncertified or unlicensed operation. Includes social workers, navigators, and individual discharge planners in the group of professionals prohibited from knowingly referring or transferring patients to an uncertified or unlicensed facility. Repeals landlord exclusion.

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

