
HOUSE CONCURRENT RESOLUTION

URGING THE DEPARTMENT OF HEALTH TO FOSTER A MORE SUPPORTIVE REGULATORY STRUCTURE AND ENVIRONMENT FOR LICENSED OR CERTIFIED CARE FACILITIES, INCLUDING ADULT RESIDENTIAL CARE HOMES, EXPANDED ADULT RESIDENTIAL CARE HOMES, AND COMMUNITY CARE FOSTER FAMILY HOMES.

1 WHEREAS, the proportion of Hawaii residents aged sixty-five
2 and older in relation to the State's total population increased
3 from 7.9 percent in 1980 to 17.1 percent in 2016, and is
4 expected to keep rising through 2030; and

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6 WHEREAS, the growth of the State's senior population is
7 likely to bring about increased consumer demand for long-term
8 care options, including community-based living options such as
9 adult residential care homes, expanded adult residential care
10 homes, and community care foster family homes; and

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12 WHEREAS, the Department of Health's Office of Health Care
13 Assurance is tasked with regulating these types of care
14 facilities, in addition to other facilities that provide day
15 care or assisted living services to seniors; and

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17 WHEREAS, in recent years, the Legislature has required
18 increasingly stringent oversight of licensed adult residential
19 care homes, licensed expanded adult residential care homes, and
20 certified community care foster family homes, including
21 mandatory home and automobile liability insurance and mandatory
22 posting of inspection reports on the Department of Health's
23 website; and

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25 WHEREAS, other recently enacted legislation has provided
26 the Department of Health with more aggressive enforcement
27 authority, for example:
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- 1 (1) Act 184, Session Laws of Hawaii 2016, codified in part
2 as section 321-1.9, Hawaii Revised Statutes, which
3 requires the Department to conduct unannounced visits
4 and inspections, including inspections for relicensing
5 or recertification and follow-up visits to confirm the
6 correction of deficiencies or to investigate
7 complaints, of various types of licensed or certified
8 care facilities, including adult residential care
9 homes, expanded adult residential care homes, and
10 community care foster family homes; and
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- 12 (2) Act 148, Session Laws of Hawaii 2018, codified as part
13 XXXVIII A of Chapter 321, Hawaii Statutes, which, among
14 other things, grants the Department authority to
15 obtain access to an alleged unlicensed or uncertified
16 care facility, including through a court-issued search
17 warrant; provides the Department with the right of
18 entry to care facilities for investigation purposes;
19 and establishes the misdemeanor offense of
20 intentionally operating a care facility without a
21 license or certificate; and
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23 WHEREAS, the testimony of the State's Long-Term Care
24 Ombudsman dated February 14, 2018, on House Bill No. 1911,
25 H.D. 1, which was subsequently amended and enacted as Act 148,
26 Session Laws of Hawaii 2018, referenced the multitude of
27 requirements that licensed or certified care facilities are
28 subject to, including "staffing requirements, criminal
29 background check requirements, building and fire code
30 requirements, substitute caregiver requirements, Resident Rights
31 requirements, knowledge of CPR requirements, TB clearance
32 requirements, reading and speaking English requirements, housing
33 design and self-preservation requirements, confidentiality
34 requirements, medical records requirements, billing and
35 financial record requirements, medication pass requirements
36 (especially regarding the use of antipsychotic medications),
37 infection control requirements, [and] waste removal
38 requirements," among others; and
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40 WHEREAS, given the complexity of navigating the applicable
41 care facility laws and regulations, it is conceivable that some
42 care facility operators would have difficulty staying abreast of



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1 the latest mandates, and that a certain number of alleged
 2 violations would, upon investigation, prove to have been
 3 unintentionally or unknowingly committed; and
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5 WHEREAS, the Legislature believes that in the interest of
 6 ensuring an adequate supply of quality long-term care options,
 7 it would be beneficial to foster a regulatory atmosphere of
 8 openness and mutual cooperation, rather than one that is
 9 perceived by some to be intimidating and overly punitive; now,
 10 therefore,
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12 BE IT RESOLVED by the House of Representatives of the
 13 Thirtieth Legislature of the State of Hawaii, Regular Session of
 14 2020, the Senate concurring, that the Department of Health is
 15 urged to foster a more supportive regulatory structure and
 16 environment for licensed or certified care facilities, including
 17 adult residential care homes, expanded adult residential care
 18 homes, and community care foster family homes, and to amend its
 19 administrative rules accordingly, where applicable; and
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21 BE IT FURTHER RESOLVED that the Department of Health
 22 endeavor to be more proactive in providing training and
 23 consultation to operators and staff of licensed adult
 24 residential care homes and expanded adult residential care homes
 25 pursuant to sections 321-15.6 and 321-15.62, Hawaii Revised
 26 Statutes, and to offer educational and outreach activities to
 27 all licensed or certified care facilities that are designed to
 28 encourage and enhance compliance; and
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30 BE IT FURTHER RESOLVED that certified copies of this
 31 Concurrent Resolution be transmitted to the Governor and
 32 Director of Health.
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OFFERED BY:

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