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## HOUSE 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

5  
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

11  
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

16  
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

24  
25 WHEREAS, other recently enacted legislation has provided  
26 the Department of Health with more aggressive enforcement  
27 authority, for example:

- 28  
29 (1) Act 184, Session Laws of Hawaii 2016, codified in part  
30 as section 321-1.9, Hawaii Revised Statutes, which



1 requires the Department to conduct unannounced visits  
2 and inspections, including inspections for relicensing  
3 or recertification and follow-up visits to confirm the  
4 correction of deficiencies or to investigate  
5 complaints, of various types of licensed or certified  
6 care facilities, including adult residential care  
7 homes, expanded adult residential care homes, and  
8 community care foster family homes; and  
9

- 10 (2) Act 148, Session Laws of Hawaii 2018, codified as part  
11 XXXVIII A of Chapter 321, Hawaii Statutes, which, among  
12 other things, grants the Department authority to  
13 obtain access to an alleged unlicensed or uncertified  
14 care facility, including through a court-issued search  
15 warrant; provides the Department with the right of  
16 entry to care facilities for investigation purposes;  
17 and establishes the misdemeanor offense of  
18 intentionally operating a care facility without a  
19 license or certificate; and  
20

21 WHEREAS, the testimony of the State's Long-Term Care  
22 Ombudsman dated February 14, 2018, on House Bill No. 1911,  
23 H.D. 1, which was subsequently amended and enacted as Act 148,  
24 Session Laws of Hawaii 2018, referenced the multitude of  
25 requirements that licensed or certified care facilities are  
26 subject to, including "staffing requirements, criminal  
27 background check requirements, building and fire code  
28 requirements, substitute caregiver requirements, Resident Rights  
29 requirements, knowledge of CPR requirements, TB clearance  
30 requirements, reading and speaking English requirements, housing  
31 design and self-preservation requirements, confidentiality  
32 requirements, medical records requirements, billing and  
33 financial record requirements, medication pass requirements  
34 (especially regarding the use of antipsychotic medications),  
35 infection control requirements, [and] waste removal  
36 requirements," among others; and  
37

38 WHEREAS, given the complexity of navigating the applicable  
39 care facility laws and regulations, it is conceivable that some  
40 care facility operators would have difficulty staying abreast of  
41 the latest mandates, and that a certain number of alleged



1 violations would, upon investigation, prove to have been  
2 unintentionally or unknowingly committed; and  
3

4 WHEREAS, the Legislature believes that in the interest of  
5 ensuring an adequate supply of quality long-term care options,  
6 it would be beneficial to foster a regulatory atmosphere of  
7 openness and mutual cooperation, rather than one that is  
8 perceived by some to be intimidating and overly punitive; now,  
9 therefore,  
10

11 BE IT RESOLVED by the House of Representatives of the  
12 Thirtieth Legislature of the State of Hawaii, Regular Session of  
13 2020, that the Department of Health is urged to foster a more  
14 supportive regulatory structure and environment for licensed or  
15 certified care facilities, including adult residential care  
16 homes, expanded adult residential care homes, and community care  
17 foster family homes, and to amend its administrative rules  
18 accordingly, where applicable; and  
19

20 BE IT FURTHER RESOLVED that the Department of Health  
21 endeavor to be more proactive in providing training and  
22 consultation to operators and staff of licensed adult  
23 residential care homes and expanded adult residential care homes  
24 pursuant to sections 321-15.6 and 321-15.62, Hawaii Revised  
25 Statutes, and to offer educational and outreach activities to  
26 all licensed or certified care facilities that are designed to  
27 encourage and enhance compliance; and  
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29 BE IT FURTHER RESOLVED that certified copies of this  
30 Resolution be transmitted to the Governor and Director of  
31 Health.  
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OFFERED BY: *Pida Cabanille Anakawa*

*Paul M. ...*  
*...*  
*...*  
*Tom B...*