

**HB-1746**

Submitted on: 1/28/2022 11:43:47 AM

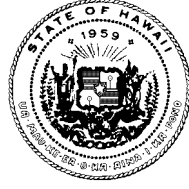
Testimony for HHH on 2/1/2022 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
HMS 601- Lisa Amador	DHS APCS	Comments	Yes

Comments:

I will be present to testify on behalf of DHS. Thank you.

DAVID Y. IGE  
GOVERNOR



CATHY BETTS  
DIRECTOR

JOSEPH CAMPOS II  
DEPUTY DIRECTOR

STATE OF HAWAII  
**DEPARTMENT OF HUMAN SERVICES**

P. O. Box 339  
Honolulu, Hawaii 96809-0339

January 28, 2022

TO: The Honorable Representative Ryan I. Yamane, Chair  
House Committee on Health, Human Services, & Homelessness

FROM: Cathy Betts, Director

SUBJECT: **HB 1746 – RELATING TO HEALTH.**

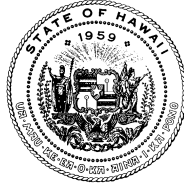
Hearing: Tuesday, February 1, 2022, 10:30 a.m.  
Via Videoconference, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) provides comments and defers to the Department of Health.

**PURPOSE:** The purpose of the bill is to clearly define the group of professionals who are prohibited from knowingly referring or transferring patients to an uncertified or unlicensed care facility. Repeals the landlord exclusion. Requires the Department of Health to prioritize complaint allegations based on severity for inspections of state-licensed or state-certified care facilities.

As drafted, passage of this bill would not change the delivery of services provided by DHS Adult Protective and Community Services Branch (APCSB). For the Legislature's information, when DHS receives a report of alleged abuse in a suspected uncertified or unlicensed home or facility, DHS procedure is to cross report to the Department of Health, Office of Health Care Assurance. However, DHS is not required to do so.

Thank you for the opportunity to testify on this measure.



**STATE OF HAWAII**  
**DEPARTMENT OF HEALTH**  
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**Testimony in SUPPORT of H.B. 1746**  
**RELATING TO HEALTH.**

REPRESENTATIVE RYAN I. YAMANE, CHAIR  
HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES, & HOMELESSNESS

Hearing Date: Tuesday, February 1, 2022

Room Number: Video Conf.

1 **Fiscal Implications:** None.

2 **Department Testimony:** The Department SUPPORTS this bill as drafted and appreciates the  
3 Legislature's support in our mutual aim to safeguard the public, protect aged and vulnerable  
4 persons, and ensure quality of care by requiring and enforcing that all residential care homes and  
5 other health care facilities, agencies and organizations are licensed pursuant to state law.  
6 However, the Department does request one (1) minor change in language as identified at the end  
7 of this testimony.

8 The Department is actively investigating 69 complaints from a total of 200 complaints  
9 received over the past two (2) years. Enforcement actions were taken, investigations were closed  
10 without further action, and other investigations are pending. Enforcement includes issuing  
11 notices of violation and orders (NOVOs) which include immediate cease and desist orders, the  
12 required discharge or transfer of residents to licensed care homes or facilities, and issuing  
13 administrative penalties. To date, the Department has closed seven (7) homes or facilities and  
14 collected approximately \$175,000 in administrative penalties, and several other homes are in the

1 appeal hearings process. The Department anticipates being successful in the appeals hearings so  
2 additional homes will become closed and additional administrative penalties collected.

3 In addition, there are a small but growing number of care homes appearing to masquerade  
4 as rental homes with several unrelated tenants all requiring care services. Homes usually meet  
5 the definition of residential care homes, but landlords cite the exclusion clause to avoid the  
6 state's enforcement of licensing requirements. The state is concerned that more of these homes  
7 will open or that current licensed care homes will surrender their license and claim the exclusion,  
8 increasing the risk of substandard quality of care or living conditions on our vulnerable  
9 population. The home is the environment of care and should be inspected along with the  
10 caregiver services to ensure optimal health outcomes. This would prevent persons who require  
11 care from being in accommodations which could be hazardous to their health, safety, or welfare,  
12 such as homes or bedrooms without smoke or fire detectors, or inadequate ingress and egress  
13 points for persons in wheelchairs or with walkers or other assistive devices to escape in case of  
14 fire or other emergency, or cramped and overcrowded bedrooms, or dilapidated living  
15 conditions, or homes or bedrooms that don't meet county codes for occupancy, or have  
16 inadequate utilities.

17 Enforcement activities are a critical component of the state's regulatory efforts to ensure  
18 the health, safety, and welfare of our *kupuna*, and such actions deserve our support.

19 Thank you for the opportunity to testify in SUPPORT of this bill.

20 **Requested Amendments:** Change the word "fine" to "administrative penalty" to be consistent  
21 with HRS 321-20. Specifically, on page 3, line 12, change "a fine" to "an administrative  
22 penalty" and line 18, change "fine" to "administrative penalty."



**HB1746 Fining Healthcare Professionals**  
[COMMITTEE ON HEALTH, HUMAN SERVICES, & HOMELESSNESS](#)

Rep. Ryan I. Yamane, Chair  
Rep. Adrian K. Tam, Vice Chair  
Tuesday, Feb 1 2022: 10:30 am : Videoconference

**Hawaii Substance Abuse Coalition Opposes HB1746:**

*ALOHA CHAIR, VICE CHAIR AND DISTINGUISHED COMMITTEE MEMBERS. My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide organization for substance use disorder and co-occurring mental health disorder treatment and prevention agencies.*

**HSAC opposes this bill for fining healthcare workers and agencies.**

**Healthcare professionals work on the front lines of care and often risk their lives** as well as COVID-19 exposure to their families in the performance of their care.

**It is the state's job to license, monitor or close down inappropriate facilities.**


**It is Healthcare professionals' job to refer to available facilities.**

**Often healthcare professionals don't know which facility is licensed** or not because the **state does not provide information** that is readily and immediately available to them.

**The staff and agency have no idea of where the state is when working with a facility in licensure process:** of whether the state has already licensed, is finalizing a license, is arranging a temporary licensure, has placed a facility in probation, or is in the process of closing them down. **Often in process, the state allows operations.**

**It is unreasonable to hold healthcare agencies and staff accountable for the state's responsibility and**

**Moreover, it unfair and damaging to morale to impose penalties and fines to healthcare staff or agencies who under pressure are attempting to make an immediate referral to the few beds available due to the pressing needs of the patient.**



**WE SHOULD BE THANKING OUR  
HEALTHCARE PROFESSIONALS  
IN THESE TIMES OF RISK AND  
STRESS, NOT PUNISHING THEM  
WITH FINES.**

