

STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

Testimony in SUPPORT of H.B. 227
RELATING TO HEALTH

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

Hearing Date: Tuesday, February 9, 2021

Room Number: VTC

1 **Fiscal Implications:** None.

2 **Department Testimony:** The Department SUPPORTS this bill with additional amendments as
3 requested, and appreciates the Legislature's support in our mutual aim to safeguard the public,
4 protect aged and vulnerable persons, and ensure quality of care by requiring and enforcing that
5 all residential care homes and other health care facilities, agencies and organizations are licensed
6 pursuant to state law.

7 The Department is actively investigating 84 complaints from a total of 165 complaints
8 received over the past two (2) years. Enforcement action was taken or closed without further
9 action. Enforcement included immediate cease and desist orders, the required discharge or
10 transfer of residents to licensed care homes or facilities and issuing administrative penalties. To
11 date, the Department has closed seven (7) homes or facilities and collected over \$100,000 in
12 administrative penalties. In addition, there are a small but growing number of care homes
13 appearing to masquerade as rental homes with several unrelated tenants all requiring care
14 services. Homes usually meet the definition of residential care homes, but landlords cite the
15 exclusion clause to avoid the state's enforcement of licensing requirements. The state is

1 concerned that more of these homes will open or that current licensed care homes will surrender
2 their license and claim the exclusion, increasing the risk of substandard quality of care or living
3 conditions on our vulnerable population.

4 Enforcement activities require long and arduous hours from the Department's registered
5 nurses, professional investigators, and deputy attorney general. This time is expensive and could
6 be used on the Department's other licensing activities such as on unannounced annual
7 inspections, processing of license applications, and implementation of other licensing programs.
8 However, these enforcement activities are a critical component of the state's regulatory efforts to
9 ensure the health, safety, and welfare of our *kupuna*, and such actions deserve our support.

10 The Department SUPPORTS this bill and respectfully requests an additional amendment
11 as follows (see highlighted language):

12 1. Enforcement Actions: Amend page 3, beginning at line 1 to read: "SECTION 2.
13 Section 321-487, Hawaii Revised Statutes, is amended by amending subsection
14 (a) to read as follows: "(a) It shall be unlawful for [~~a certified or licensed~~
15 ~~healthcare provider of certified or licensed care facility]~~ any person, corporation,
16 or any other entity in the health care community to knowingly refer or transfer
17 patients to an uncertified or unlicensed care facility. The department may impose
18 a fine on any [~~certified or licensed healthcare provider or certified or licensed care~~
19 ~~facility]~~ person, corporation, or any other entity in the health care community that
20 knowingly..." This language helps to avoid inadvertently omitting professions
21 that are in the business of referring vulnerable persons or families and the

1 additional language provides further clarification on enforcement since it is not
2 the Department's intent to target members of the general public.

3 2. Delete Exclusion Language: The Department supports this deletion to avoid
4 confusion by the public and ensure the health, safety, and welfare of vulnerable
5 *kupuna*.

6 3. Prioritize Complaints: The Department supports this and already prioritizes
7 complaints accordingly.

8 Thank you for the opportunity to testify on this bill.

LATE

HB-227

Submitted on: 2/8/2021 5:18:12 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

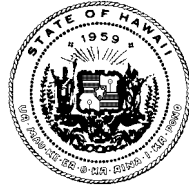
Submitted By	Organization	Testifier Position	Present at Hearing
HMS-APCSB Daisy Hartsfield	DHS-SSD	Comments	No

Comments:

Will be available for any questions

LATE

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

February 8, 2021

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

FROM: Cathy Betts, Director

SUBJECT: **HB0227 – RELATING TO HEALTH**

Hearing: February 9, 2021, 9:30 A.m.
Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) offers comments.

PURPOSE: The purpose of this bill clarifies 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.

The passage of this bill would not change the delivery of services provided by DHS Adult Protective and Community Services Branch (APCSB). When a report of alleged abuse is received by DHS in a suspected unlicensed home/facility, DHS procedure is to cross report to Department of Health, Office of Health Care Assurance, although DHS is not required to do so.

Thank you for the opportunity to provide comments on this measure.



Alliance of Professional Primary Care Administrators

P.O. Box 572, Pearl City, Hawaii 96782

Re: HB227– Testimony in Support

NOTICE OF HEARING

DATE: Monday, February 08, 2021

TIME: 9:30 a.m.

PLACE: Video Conference

State Capitol

415 South Beretania Street

Good morning chair, vice chair & the committees, my name is Elma Velasco Tierra, 1st VP of the Alliance of Professional Primary Care Administrators. I strongly support HB227 regarding the illegal care homes and illegal referrals. Any illegal care homes and illegal referrals who are intentionally or knowingly operating without certificate or license can jeopardize the health, safety, and welfare of our kupunas. Compared to license homes and licensed caregivers, we have various rules and regulations to adhere. We work under the supervision of Case Managers, Community Ties of America, Department of Human Services, and Department of Health. Annual inspection and unannounced visits are among the few rules regulated and mandated by the department. In addition we authorize the Department of Health to investigate illegal care homes reported to be operating without an appropriate certificate or license issued by the department. Penalties should be establish for those illegal care homes that is providing care for vulnerable, elderly, and person with disability. Illegal care homes and illegal referrals should also be subject for further investigation.

Thank you for the opportunity in **support of HB227**.

Respectfully yours,

Elma Velasco Tierra

HB-227

Submitted on: 2/8/2021 8:44:32 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Delia Cabingabang	Alliance of Professional Primary Care Administrators (APPCA)	Support	No

Comments:

I strongly support the HB227, thank you.

Sincerely,

Delia Cabingabang

8083813673

DeliaCabingabang@gmail.com

Honorable Chair, Rep. Ryan Yamane, Vice Chair, Rep. Tam, and the committee members, good morning!

My name is Susan Quinabo, a Registered Nurse, who owns and manages two licensed care home facilities in Pearl City for the past 26 years. I am the President of Alliance of Professional Primary Care Administrators (APPCA), which is a newly formed organization, composed of Community Care Foster Family Homes (CCFHS), Developmental Disabilities Domiciliary Homes (DD Dom Homes), Adult Residential Care Homes (ARCH) and Expanded Care Homes (E-ARCH). The leaders of this organization have served as advocates of the elderly, to lobby in the capitol for the past 20 years.

I strongly **SUPPORT** the objective of HB 227.

- 1.) Unlicensed care facilities are rampant in the State, multiplying like mushrooms. These facilities reside 5 or more feeble elderly, and caregivers who are **NOT** equipped, **NOT** knowledgeable and **NOT** trained to follow the State requirements as stated on the DOH departmental rules. One instance was when I received a phone call from a caregiver in November, asking me for help because her patient was coughing with high fever. She took this patient to Castle Hospital ER and they told her that the patient was positive for Covid, that the patient will be discharged back to the care home and instructed the care/foster home operator to follow the State's DOH Covid protocol. Apparently, this care/foster home operator did not have any clue what it was. She mentioned to me that she does not have any case manager. I have not seen her name listed on the DOH lists of licensed Care/Foster Home Operators, either. **This is an example of an unlicensed care/foster home operator who does not have a conscientious oversight.**
- 2.) Supplementary to the above statement, and protection for the elderly population, no person, corporation or any entity to knowingly refer or transfer patients to unlicensed care facilities, and agencies. The DOH OHCA has the lists of all licensed Care Home/Foster Home Operators, who went through schooling and rigid training, in order to obtain the license and up to now, we are trained monthly, together with our respective case managers, and registered dietitian, to abreast knowledge and expertise in the caregiving industry.
- 3.) Caregivers who are working in these unlicensed facilities are also being paid in cash for their services. They **DO NOT** pay taxes. And some of them are getting their medical insurance from Medicaid.

I beg you all legislatures to pass this bill, making the caregiving business a regulated industry.

HB-227

Submitted on: 2/8/2021 9:02:54 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Myriam Rabut Tabaniag	Alliance of Professional Primary Care Administrators (APPCA)	Support	No

Comments:

Honorable Chair, Representative Ryan Yamane, Honorable Vice Chair, Representative A. Tam and Committee Members, Good Morning.

My name is Myriam Tabaniag, a Registered Nurse, who owns and runs two licensed 8-beds in Kaneohe for over 20 years now. I am also the First Vice President of Alliance of Professional Primary Care Administrators (APPCA).

Our newly formed organization, Alliance of Professional Primary Care Administrators (APPCA), is only over a year old but almost all of our members including me were formerly from ARCA. We were former members of ARCA with the strong voices, lobbying here at the Capitol for almost 2 decades now, advocating for the frail elderly in the State of Hawaii.

With our new organization, we are a stronger force because we are not just comprised of Carehomes, but we have in our “pack”, Community Care Foster Family Homes (CCFHS), which include the Big Island; Developmental Disabilities Domiciliary Homes (DD Dom Homes) and Adult Foster Homes.

I strongly **SUPPORT** the intent of the Bill, HB227.

The caregiving business is a regulated industry. Therefore, it would be unlawful to run these businesses without a valid license or certificate. They should have not been in existence in the first place. We have been fighting for the closures of these unlicensed / uncertified homes for the past 5 years. It is very frustrating and disheartening to know that these unlicensed/uncertified homes are allowed to do businesses beknowing that our frail and disabled kupunas’ lives are in jeopardy. So, please legislators, pass the law to make it unlawful for any person, corporation or any other entity to refer or transfer residents to any facility without a license or certificate, as these facilities DO NOT have trusted government agency(ies) for a thorough inspection or oversight. I truly agree that they should be imposed a large amount of fine.

In line of the above, all caregivers who work in an unlicensed/uncertified facilities or agencies should also be fined. They are offered larger salaries and most of these caregivers are paid in cash and do not pay taxes to the government. Most of the operators who own and operate these unlicensed / uncertified facilities do not pay taxes to the government as well.

Carehome operators and caregivers in the unlicensed/uncertified homes, facilities or agencies do not have to follow required health and consumer protection regulations such as not securing TB clearances and CPR/First Aid; no criminal background checks, no formal caregiving education and experience; no knowledge in nutrition especially in the procurement of food and management in food service and no menus to follow, etc.

These unlicensed / uncertified home operators most times have multiple homes that they are operating and have up to 8 or more residents in each home. In a licensed Type II care home with 8 residents, or if a care home operator in a licensed home owns and is running multiple homes, it is mandated by the State licensing division that we have a Registered Dietitian on Board as a part of the team together with the nurse / case manager to protect the health, safety and welfare of the State's elderly and vulnerable population.

I totally and strongly agree that **Section 3, Section 321-488, of the Hawaii Revised Statutes is totally repealed.** This has always been the cop out of the unlicensed/uncertified homes and operators as they are considering their residents as "renters" or "tenants", therefore these homes to them are not considered unlicensed or uncertified, even though these operators are housing them and also providing care services to the so called "renters/tenants".

In the unlicensed / uncertified homes, the resident or resident's representative would be signing two contracts. One would be the rental contract and the second one would be the Caregiving Services rendered to them in the amount of \$7000 to \$10,000 per month or more. They have a lot of money, and can always afford lawyers to back them up.

With that said, the frail, helpless kupunas are not being considered or thought of if they can even evacuate if there's a fire in the unlicensed/uncertified homes/facilities that they are living in because these homes with up to 10 residents or more are fire risks / hazards as there are no sprinkler systems in these ordinary homes, no fire codes that were implemented before starting the business.

Another set of landlords are those current care home operators of unlicensed homes that have made a lot of money who are buying homes to be used as care home facilities and being rented to care home operators or agencies who want to start an unlicensed/uncertified home. Because these homes do not follow building and fire codes, they are ready to be used as unlicensed homes. While in a licensed carehome, the operator would need a minimum of \$300,000 to renovate the home to be in compliant to the building codes and fire codes for the safety of the residents and caregivers.

There are also rich investors in town that are procuring homes or building new homes in the more elite area of the State and renovating them for rentals to the “more able to pay” population.

In summary, we beg the legislators to see to it that these unlicensed/uncertified homes should not have residents, fine the caregivers who works for them, which hopefully lead to the demise of the unlicensed or uncertified homes.

Thank you for the opportunity to testify.

Myriam Tabaniag

HB-227

Submitted on: 2/8/2021 9:13:46 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Charly Micua	Alliance of Professional Primary Care Administrators (APPCA)	Support	No

Comments:

To Committee on HHH Chair Ryan Yamane,

I strongly support the Bill HB227 to prohibit patients from going to unlicensed care homes. Care homes often serve older adults who may not be able to take care of themselves. For those unlicensed care homes, caregivers would need to provide skilled services to serve their patients. What I mean when I say skilled is that these caregivers may do tasks that are outside of their qualifications or outside of safe practice that licensed caregivers are required to learn. On top of this, unlicensed caregivers do not even go through background checks like licenced caregivers do. This is a concern when you think about Hawaii's rapidly aging population and how they may end up with unsafe options for their care.

Sincerely,

Charly Micua

APPCA Member

HB-227

Submitted on: 2/8/2021 9:17:19 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Samantha Alexandra Cazin	APPCA	Support	No

Comments:

I STRONGLY SUPPORT THE INTENT OF THE BILL.

I WOULD LIKE TO SAY THAT IT IS VERY UNFAIR TO THE LICENSED AND CERTIFIED CARE HOMES THAT THE UNLICENSED/UNCERTIFIED HOMES ARE IN OPERATION WHILE AWAITING FOR THEIR LICENSES AND CERTIFICATIONS AS THEY APPLY FOR THEM. WHEN THE LICENSED HOMES APPLIED FOR THEIR LICENSES, THE HOMES WERE EMPTY. THEY WERE ONLY ALLOWED TO ACCEPT RESIDENTS AFTER THE HOME WAS ALREADY LICENSED AND THE PRIMARY CAREGIVER AND ALL THE ESSENTIAL WORKERS WERE QUALIFIED TO START THE BUSINESS AND ACCEPT RESIDENTS.

LATE

HB-227

Submitted on: 2/8/2021 9:45:09 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Victorina Agustin	Alliance of Professional Primary Care Administrators (APPCA)	Support	No

Comments:

To: Committee on Health, Human Services & Homelessness,

I strongly support HB227.

Victorina Agustin

APPCA Member

HB-227

Submitted on: 2/8/2021 9:56:22 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Marina gamatero	APPCA	Support	No

Comments:

Committee on Health, Human Services & Homelessness,

I strongly support HB227.

Marina Gamatero

APPCA Member

LATE

HB-227

Submitted on: 2/8/2021 12:50:46 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
luzviminda godoy	Alliance of Professional Primarycare Administor(APPCA)	Support	No

Comments:

Committee of Health, Human Services & Homelessness,

I strongly support HB227.

Luzviminda Godoy

APPCA Member

LATE

ADULT FOSTER HOMECARE ASSOCIATION OF HAWAII

P.O. Box 970092, Waipahu, Hawai`i 96797

February 8, 2021

Maribel Tan
President

Testimony in Support of HB 227 – HHH - Feb. 9, 2021, 9:30 a.m., Rm. 329

Chair Yamane, Vice Chair Tam, and Members of the Committee:

The Adult Foster Homecare Association of Hawaii (AFHA) **strongly supports HB 227**, which places some responsibility on those who knowingly refer or transport vulnerable individuals to unlicensed care facilities. HB 227 also requires the Department of Health to prioritize complaint allegations of actual harm.

We need stronger laws against unlicensed care facilities, which are a threat to our Kupuna and disabled. These unlicensed “private” homes have no oversight whatsoever. They purport to provide 24/7 care services, but there is no quality assurance. They may have no training or education in providing care. Families who are looking for care for their Kupuna are often emotional and desperate. These unlicensed “private” homes prey upon the emotions of the Kupuna.

Please protect our Kupuna and disabled by **strongly supporting HB 227**.

Very truly yours,

Maribel Tan
President

About AFHA

The Adult Foster Home Association of Hawaii (AFHA) is the industry trade association of providers under the Community Care Foster Family Home program under the Department of Human Services, State of Hawaii. With a membership of almost 750 providers, AFHA’s mission is to promote the interests of providers as well as resident clients. AFHA members provide 24-hour care to resident clients 7 days a week, 365 days a year.

LATE

To: Representative Ryan I. Yamane, Committee Chair Health, Human Services & Homelessness
Representative Adrian K. Tam, Committee Vice Chair Health, Human Services & Homelessness

Date: February 9, 2021 (9:30AM-Rm. 329)

Re: **HB 227** – Relating to Health **IN STRONG SUPPORT**

Fax Number: (808) 586-6151 / (808) 586-8524

I humbly request that your committee pass HB 227 to maintain the safety and wellbeing of our disabled and frail kupuna. The current statutes are enabling abuse and neglect to our most vulnerable population.

I believe that all facilities that perform any type of hands on care, no matter if it's for two or a hundred people, should be required to be licensed by the State of Hawaii, Department of Health to maintain the necessary standards of care for everyone. I am in strong SUPPORT of HB 227 that will “**Prohibit**” health care providers from knowingly referring or transferring patients to uncertified or unlicensed care facilities, and to “**Repeal**” the landlord provision in the current statute.

Mahalo for allowing me to testify in **STRONG SUPPORT of HB 227.**



LATE

HB-227

Submitted on: 2/9/2021 1:43:37 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lilia P. Fajotina	Individual	Support	No

Comments:

Strongly support HB 227