
A BILL FOR AN ACT

RELATING TO UNLICENSED CARE HOMES.

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

1 SECTION 1. The legislature finds that the department of
2 health has conducted investigations on two hundred twenty-one
3 alleged unlicensed care homes over the past forty-eight months
4 and has closed eleven homes and assessed \$2,489,800 in
5 administrative penalties. Investigations on eighty-nine
6 unlicensed homes are underway or pending. Meanwhile, unlicensed
7 care homes continue to operate and pose a danger to the public
8 and to frail, elderly, and vulnerable populations. Licensed
9 care operators and other persons continue to refer or transfer
10 patients to care homes that, unbeknownst to patients, are
11 unlicensed. This practice places patients at risk and better
12 enforcement on the sources of these referrals must be put in
13 place.

14 The legislature further finds that at least twenty-one
15 unlicensed care homes have used the landlord exclusion to avoid
16 the department of health's regulatory oversight, further placing
17 patients at risk. By repealing the landlord exclusion, the



1 department of health will have the ability to conduct an
2 investigation to determine if unlicensed activity is occurring.

3 Accordingly, the purpose of this Act is to expand
4 protections for vulnerable senior citizens, the public at large,
5 and residents of care homes by ensuring compliance with
6 licensure requirements by:

7 (1) Clarifying that any person, corporation, or entity is
8 prohibited from knowingly referring or transferring
9 patients to an uncertified or unlicensed care
10 facility; and

11 (2) Repealing the landlord exclusion.

12 SECTION 2. Section 321-487, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) It shall be unlawful for [~~a certified or licensed~~
15 ~~healthcare provider or certified or licensed care facility]~~ any
16 person, corporation, or entity to knowingly refer or transfer
17 patients to an uncertified or unlicensed care facility. The
18 department may impose a fine on any [~~certified or licensed~~
19 ~~healthcare provider or certified or licensed care facility]~~
20 person, corporation, or entity that knowingly refers or
21 transfers patients to a care home, agency, or facility operating



1 without a certificate or license as required by law; provided
2 that "knowingly" includes but is not limited to failing to
3 determine whether the care home, agency, or facility has the
4 required certificate or license; provided further that the fine
5 shall be [nø] not more than:

- 6 (1) \$500 for the first violation;
- 7 (2) \$1,000 for the second violation; and
- 8 (3) \$2,000 for the third and each succeeding violation."

9 SECTION 3. Section 321-488, Hawaii Revised Statutes, is
10 repealed.

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



1 ~~facility or similar facility that provides care services in that~~
2 ~~facility-"]~~

3 SECTION 4. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 5. This Act shall take effect on July 1, 2023.



Report Title:

Care Homes; Uncertified Care Facilities; Unlicensed Care
Facilities; Landlord Exclusion; Repeal

Description:

Clarifies that any person, corporation, or entity is prohibited
from knowingly referring or transferring patients to an
uncertified or unlicensed care facility. Repeals the landlord
exclusion. (CD1)

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