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# 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 unlicensed care homes unbeknownst to patients. This  
11 practice places patients at risk and better enforcement on the  
12 sources of these referrals must be put in place. In addition,  
13 at least twenty-one unlicensed care homes have used the landlord  
14 exclusion to avoid the department of health's regulatory  
15 oversight. This, too, places patients at risk. By repealing  
16 the landlord exclusion, the department of health will have the



1 ability to conduct an investigation to determine whether  
2 unlicensed activity is occurring or not.

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; Unlicensed; 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. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

