



STATE OF HAWAII
DEPARTMENT OF HEALTH
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**Testimony in SUPPORT of S.B. 1378, SD1
RELATING TO UNLICENSED CARE HOMES.**

REPRESENTATIVE MARK M. NAKASHIMA, CHAIR
HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

Hearing Date: Thursday, March 30, 2023

Room Number: 329

1 **Fiscal Implications:** None.

2 **Department Testimony:** The Department STRONGLY SUPPORTS this administration bill
3 and appreciates the Legislature's support in our mutual aim to safeguard the public, protect aged
4 and vulnerable persons and other consumers, and ensure quality of care by requiring and
5 enforcing that all residential care homes and other health care facilities, agencies and
6 organizations are licensed pursuant to state law. In addition, the Department appreciates and
7 accepts the technical amendments and clarification made by the Senate Committee on Health and
8 Human Services.

9 The purpose of this bill is to protect the public and, specifically, vulnerable consumers of
10 health care services in residential care facilities throughout the state by expanding the
11 Department's ability to more thoroughly investigate complaints of unlicensed care home
12 activities and to take appropriate enforcement action on bad actors.

13 The Department's strategy is two-fold: 1. investigate complaints and, if substantiated or
14 appropriate, close unlicensed homes; and 2. reduce or eliminate referrals to unlicensed homes.

1 To date, ten (10) unlicensed homes or facilities have been closed and over \$175,000 were
2 collected or is in the process of being collected. Several other investigations are ongoing and
3 over twenty-five (25) Notices of Violation and Order (NOVO) are in draft or awaiting draft.

4 In addition, there are several aging-in-place care homes appearing to masquerade as
5 rental homes with several unrelated tenants all requiring care services. These homes appear to
6 meet the definition of residential care homes, but persons cite the exclusion clause at HRS §321-
7 488 to refuse entry by investigators and avoid the state's enforcement of licensing requirements.
8 One such unlicensed aging-in-place care home refused entry of the Department's investigators
9 who were attempting to conduct a complaint investigation. With the help of the Office of the
10 Attorney General, the Department took the unprecedented step of obtaining and serving a search
11 warrant on the home and gathered evidence that substantiated the allegation of the home being
12 an unlicensed care home. A NOVO was issued and the case is currently on appeal.

13 At a minimum, repealing HRS §321-488 would allow the Department to more thoroughly
14 and timely investigate complaints of unlicensed care home activity. It would also send a
15 powerful message that bad actors cannot hide behind an exclusion clause. Without this repeal,
16 the state is concerned that more of these homes will open or that current licensed care homes will
17 surrender their license and claim the exclusion, thereby increasing the risk of substandard quality
18 of care or living conditions on consumers and our vulnerable populations.

19 Without this repeal, caregivers at unlicensed homes would not be checked for credentials
20 to provide proper care or confirmed as having complete background checks. Credentials include
21 care training and CPR, and background checks include criminal history checks and checks on the

1 Adult Protective Services (APS) and Child Abuse and Neglect (CAN) registries at the
2 Department of Human Services.

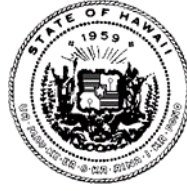
3 In addition, the home is the environment of care and should be inspected along with the
4 caregiver qualifications to ensure optimal health outcomes for consumers. This would prevent
5 consumers who require care from being in accommodations which could be hazardous to their
6 health, safety, or welfare, such as homes or bedrooms without smoke or fire detectors, or
7 inadequate ingress or egress points for persons in wheelchairs or with walkers or other assistive
8 devices to escape in case of fire or other emergency, or cramped and overcrowded bedrooms, or
9 dilapidated living conditions, or home or bedrooms that don't meet county codes for occupancy,
10 or have inadequate utilities.

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

14 Thank you for the opportunity to testify in STRONG SUPPORT of this administration
15 bill.

16 **Offered Amendments:** None.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



CATHY BETTS
DIRECTOR
KA LUNA HO'OKELE

JOSEPH CAMPOS II
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

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March 30, 2023

TO: The Honorable Representative Mark M. Nakashima, Chair
House Committee on Consumer Protection & Commerce

FROM: Cathy Betts, Director

SUBJECT: **SB 1378 SD1 – RELATING TO UNLICENSED CARE HOMES.**

Hearing: Thursday, March 30, 2023, 2:00 p.m.
Conference Room 329 & 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 clarify 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)

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

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

SB-1378-SD-1

Submitted on: 3/29/2023 7:44:00 AM

Testimony for CPC on 3/30/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
John A. H. Tomoso	Individual	Support	Written Testimony Only

Comments:

03-29-23

RE: SB1378 SD1

I am in strong favor of this Bill as it helps to safely secure and closes the gap(s) in a continuum of care for our most vulnerable kupuna. It is the right and pono thing to do.

Mahalo

John A. H. Tomoso+, MSW

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