

JAN 25 2023

A BILL FOR AN ACT

RELATING TO PENALTIES FOR UNLICENSED CARE HOMES.

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

1 SECTION 1. The department of health has conducted
2 investigations on 221 alleged unlicensed care homes during the
3 past 48 months and has closed 11 homes and assessed \$2,489,800
4 in administrative penalties. Investigations on 89 unlicensed
5 homes are underway or pending. Meanwhile, unlicensed care homes
6 continue to operate and pose a danger to the public and to
7 frail, elderly, and vulnerable populations.

8 The purpose of this Act is to clarify the penalty to be
9 assessed on any person who intentionally operates a care
10 facility without a certificate or license.

11 Section 321-486.3, Hawaii Revised Statutes, causes
12 confusion with section 321-20, Hawaii Revised Statutes, and
13 causes confusion for the public. Section 321-20(1), Hawaii
14 Revised Statutes, already contains administrative remedies and
15 authorizes an administrative penalty not to exceed \$1,000 for
16 each day of violation whereas section 321-486.3, Hawaii Revised
17 Statutes, limits the penalty from \$100 for each day of
18 uncertified or unlicensed operation for the first violation, up

S.B. NO. 1379

1 to \$1,000 for each day of violation. Unlicensed care homes
2 charge as much as \$8,000 per month per client for multiple
3 clients. A penalty under section 321-20(1), Hawaii Revised
4 Statutes, of up to \$1,000 per day regardless of the number of
5 prior violations would be a better remedial penalty to prevent
6 operators from financially benefiting from operating a care home
7 without a license or certificate.

8 SECTION 2. Section 321-486.3, Hawaii Revised Statutes, is
9 repealed.

10 [~~["§321-486.3] Penalty. Any person who intentionally~~
11 ~~operates a care facility without a certificate of license shall~~
12 ~~be guilty of a misdemeanor and shall be fined no more than:~~
13 ~~(1) \$100 for each day of uncertified or unlicensed~~
14 ~~operation for the first violation;~~
15 ~~(2) \$500 for each day of uncertified or unlicensed~~
16 ~~operation for the second violation; and~~
17 ~~(3) \$1,000 for each day of uncertified or unlicensed~~
18 ~~operation for the third and each succeeding~~
19 ~~violation."]~~

20 SECTION 4. Statutory material to be repealed is bracketed
21 and stricken.

22

S.B. NO. 1379

1 SECTION 5. This Act, upon its approval, shall take effect
2 on July 1, 2023.

3

4

INTRODUCED BY: 

5

BY REQUEST

S.B. NO. 1379

Report Title:

Care Homes; Penalties

Description:

Clarifies the penalty to be assessed on any person who intentionally operates a care facility without a certificate or license.

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

SB. NO. 1379

JUSTIFICATION SHEET

DEPARTMENT: HEALTH

TITLE: A BILL FOR AN ACT RELATING TO PENALTIES FOR UNLICENSED CARE HOMES.

PURPOSE: To clarify the penalty to be assessed on any person who intentionally operates a care facility without a certificate or license.

MEANS: Repeal section 321-486.3, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Section 321-486.3, HRS, causes confusion with section 321-20(1), HRS, and causes confusion for the public. Section 321-20(1), HRS, specifies administrative remedies, including an administrative penalty not to exceed \$1,000 for each day of violation. However, section 321-486.3, HRS, limits the penalty from \$100 for each day of uncertified or unlicensed operation for the first violation, up to \$1,000 for each day of violation for the third and each succeeding violation. Unlicensed care homes charge as much as \$8,000 per month per client for multiple clients, so a \$1,000 per day penalty limit regardless of the number of prior violations would be more effective in preventing operators from financially benefiting from unlicensed care homes.

Impact on the public: Enhances enforcement and consumer protections for vulnerable senior citizens, the public at large, and residents of care homes by allowing the department to assess an administrative penalty pursuant to section 321-20(1), HRS, for the operation of a care facility without a certificate or license.

Impact on the department and other agencies:
N/A.

GENERAL FUND: N/A.

OTHER FUNDS: N/A.

PPBS PROGRAM
DESIGNATION: HTH 720.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: July 1, 2023.