
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 legislature finds that the department of
2 health has conducted investigations on two hundred twenty-one
3 alleged unlicensed care homes during 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.

9 Section 321-486.3, Hawaii Revised Statutes, and section
10 321-20, Hawaii Revised Statutes, cause confusion with regard to
11 penalties. Section 321-20(1), Hawaii Revised Statutes, contains
12 administrative remedies and authorizes an administrative penalty
13 not to exceed \$1,000 for each day a violation of chapter 321,
14 Hawaii Revised Statutes, occurs. Operating a care facility
15 without a certificate or license is a violation of chapter 321,
16 Hawaii Revised Statutes, and thus would be punishable by section
17 321-20, Hawaii Revised Statutes. However, section 321-486.3,



1 Hawaii Revised Statutes, contains a separate penalty for
2 operating a care facility without a certificate or license that
3 is limited to \$100 for each day of uncertified or unlicensed
4 operation for the first violation, and up to \$1,000 for each day
5 of a subsequent violation. Unlicensed care homes charge as much
6 as \$8,000 per month per client for multiple clients. A penalty
7 under section 321-20(1), Hawaii Revised Statutes, of up to
8 \$1,000 per day regardless of the number of prior violations
9 would be a better remedial penalty to prevent operators from
10 financially benefiting from operating a care home without a
11 license or certificate.

12 The purpose of this Act is to clarify the penalty to be
13 assessed on any person who intentionally operates a care
14 facility without a certificate or license by repealing section
15 321-486.3, Hawaii Revised Statutes.

16 SECTION 2. Section 321-486.3, Hawaii Revised Statutes, is
17 repealed.

18 ~~["§321-486.3] Penalty. Any person who intentionally~~
19 ~~operates a care facility without a certificate of license shall~~
20 ~~be guilty of a misdemeanor and shall be fined no more than:~~



- 1 ~~(1) \$100 for each day of uncertified or unlicensed~~
- 2 ~~operation for the first violation;~~
- 3 ~~(2) \$500 for each day of uncertified or unlicensed~~
- 4 ~~operation for the second violation; and~~
- 5 ~~(3) \$1,000 for each day of uncertified or unlicensed~~
- 6 ~~operation for the third and each succeeding~~
- 7 ~~violation."]~~

8 SECTION 3. Statutory material to be repealed is bracketed
9 and stricken.

10 SECTION 4. This Act shall take effect on July 1, 2050.



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. Effective 7/1/2050. (SD1)

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