

ACT 255

S.B. NO. 1378

A Bill for an Act Relating to Unlicensed Care Homes.

Be It Enacted by the Legislature of the State of Hawaii:

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

The legislature further finds that at least twenty-one unlicensed care homes have used the landlord exclusion to avoid the department of health's regulatory oversight, further placing patients at risk. By repealing the landlord exclusion, the department of health will have the ability to conduct an investigation to determine if unlicensed activity is occurring.

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

- (1) Clarifying that any person, corporation, or entity is prohibited from knowingly referring or transferring patients to an uncertified or unlicensed care facility; and
- (2) Repealing the landlord exclusion.

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

“(a) It shall be unlawful for ~~[a certified or licensed healthcare provider or certified or licensed care facility]~~ any person, corporation, or entity to knowingly refer or transfer patients to an uncertified or unlicensed care facility. The department may impose a fine on any ~~[certified or licensed healthcare provider or certified or licensed care facility]~~ person, corporation, or entity that knowingly refers or transfers patients to a care home, agency, or facility operating without a certificate or license as required by law; provided that “knowingly” includes but is not limited to failing to determine whether the care home, agency, or facility has the required certificate or license; provided further that the fine shall be [nø] not more than:

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

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

ACT 255

SECTION 4. Statutory material to be repealed is bracketed and stricken.¹ New statutory material is underscored.

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

(Approved July 7, 2023.)

Note

1. Edited pursuant to HRS §23G-16.5.