

STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

**Testimony in SUPPORT of H.B. 227, HD1
RELATING TO HEALTH.**

REPRESENTATIVE AARON LING JOHANSON, CHAIR
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Hearing Date: Wednesday, February 17, 2021 Room Number: Video Conference

1 **Fiscal Implications:** None.

2 **Department Testimony:** The Department SUPPORTS this bill with additional amendments as
3 requested, and appreciates the Legislature's support in our mutual aim to safeguard the public,
4 protect aged and vulnerable persons, and ensure quality of care by requiring and enforcing that
5 all residential care homes and other health care facilities, agencies and organizations are licensed
6 pursuant to state law.

7 The Department is actively investigating 84 complaints from a total of 165 complaints
8 received over the past two (2) years. Enforcement action was taken or closed without further
9 action. Enforcement included immediate cease and desist orders, the required discharge or
10 transfer of residents to licensed care homes or facilities and issuing administrative penalties. To
11 date, the Department has closed seven (7) homes or facilities and collected over \$100,000 in
12 administrative penalties. In addition, there are a small but growing number of care homes
13 appearing to masquerade as rental homes with several unrelated tenants all requiring care
14 services. Homes usually meet the definition of residential care homes, but landlords cite the
15 exclusion clause to avoid the state's enforcement of licensing requirements. The state is

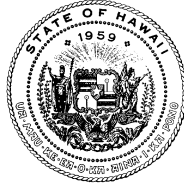
1 concerned that more of these homes will open or that current licensed care homes will surrender
2 their license and claim the exclusion, increasing the risk of substandard quality of care or living
3 conditions on our vulnerable population.

4 Enforcement activities require long and arduous hours from the Department's registered
5 nurses, professional investigators, and deputy attorney general. This time is expensive and could
6 be used on the Department's other licensing activities such as on unannounced annual
7 inspections, processing of license applications, and implementation of other licensing programs.
8 However, these enforcement activities are a critical component of the state's regulatory efforts to
9 ensure the health, safety, and welfare of our *kupuna*, and such actions deserve our support.

10 The Department SUPPORTS this bill and appreciates and supports the HD1 amendments
11 but respectfully requests to change the word "and" to "or" as highlighted below:

12 1. Enforcement Actions: Amend page 3, beginning at line 1 to read: "SECTION 2.
13 Section 321-487, Hawaii Revised Statutes, is amended by amending subsection
14 (a) to read as follows: "(a) It shall be unlawful for [~~a certified or licensed~~
15 ~~healthcare provider of certified or licensed care facility~~] any person, corporation,
16 or any other entity in the health care [and] or community to knowingly refer or
17 transfer patients to an uncertified or unlicensed care facility. The department may
18 impose a fine on any [~~certified or licensed healthcare provider or certified or~~
19 ~~licensed care facility~~] person, corporation, or any other entity in the health care
20 [and] or community that knowingly..." This language helps to avoid
21 inadvertently omitting professions that are in the business of referring vulnerable
22 persons or families and the additional language provides further clarification on

- 1 enforcement since it is not the Department's intent to target members of the
2 general public.
- 3 2. Delete Exclusion Language: The Department supports this deletion to avoid
4 confusion by the public and ensure the health, safety, and welfare of vulnerable
5 *kupuna*.
- 6 3. Prioritize Complaints: The Department supports this and already prioritizes
7 complaints accordingly.
- 8 Thank you for the opportunity to testify on this bill.



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
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Testimony in SUPPORT of H.B. 227
RELATING TO HEALTH

REPRESENTATIVE RYAN I. YAMANE, CHAIR
HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES & HOMELESSNESS

Hearing Date: Tuesday, February 9, 2021

Room Number: VTC

1 **Fiscal Implications:** None.

2 **Department Testimony:** The Department SUPPORTS this bill with additional amendments as
3 requested, and appreciates the Legislature's support in our mutual aim to safeguard the public,
4 protect aged and vulnerable persons, and ensure quality of care by requiring and enforcing that
5 all residential care homes and other health care facilities, agencies and organizations are licensed
6 pursuant to state law.

7 The Department is actively investigating 84 complaints from a total of 165 complaints
8 received over the past two (2) years. Enforcement action was taken or closed without further
9 action. Enforcement included immediate cease and desist orders, the required discharge or
10 transfer of residents to licensed care homes or facilities and issuing administrative penalties. To
11 date, the Department has closed seven (7) homes or facilities and collected over \$100,000 in
12 administrative penalties. In addition, there are a small but growing number of care homes
13 appearing to masquerade as rental homes with several unrelated tenants all requiring care
14 services. Homes usually meet the definition of residential care homes, but landlords cite the
15 exclusion clause to avoid the state's enforcement of licensing requirements. The state is

1 concerned that more of these homes will open or that current licensed care homes will surrender
2 their license and claim the exclusion, increasing the risk of substandard quality of care or living
3 conditions on our vulnerable population.

4 Enforcement activities require long and arduous hours from the Department's registered
5 nurses, professional investigators, and deputy attorney general. This time is expensive and could
6 be used on the Department's other licensing activities such as on unannounced annual
7 inspections, processing of license applications, and implementation of other licensing programs.
8 However, these enforcement activities are a critical component of the state's regulatory efforts to
9 ensure the health, safety, and welfare of our *kupuna*, and such actions deserve our support.

10 The Department SUPPORTS this bill and respectfully requests an additional amendment
11 as follows (see highlighted language):

12 1. Enforcement Actions: Amend page 3, beginning at line 1 to read: "SECTION 2.
13 Section 321-487, Hawaii Revised Statutes, is amended by amending subsection
14 (a) to read as follows: "(a) It shall be unlawful for [~~a certified or licensed~~
15 ~~healthcare provider of certified or licensed care facility]~~ any person, corporation,
16 or any other entity in the health care community to knowingly refer or transfer
17 patients to an uncertified or unlicensed care facility. The department may impose
18 a fine on any [~~certified or licensed healthcare provider or certified or licensed care~~
19 ~~facility]~~ person, corporation, or any other entity in the health care community that
20 knowingly..." This language helps to avoid inadvertently omitting professions
21 that are in the business of referring vulnerable persons or families and the

1 additional language provides further clarification on enforcement since it is not
2 the Department's intent to target members of the general public.

3 2. Delete Exclusion Language: The Department supports this deletion to avoid
4 confusion by the public and ensure the health, safety, and welfare of vulnerable
5 *kupuna*.

6 3. Prioritize Complaints: The Department supports this and already prioritizes
7 complaints accordingly.

8 Thank you for the opportunity to testify on this bill.



Alliance of Professional Primary Care Administrators
P.O. Box 572, Pearl City, Hawaii 96782

Re: HB227– Testimony in Support

NOTICE OF HEARING

DATE: Monday, February 08, 2021

TIME: 9:30 a.m.

PLACE: Video Conference

State Capitol

415 South Beretania Street

Good morning chair, vice chair & the committees, my name is Elma Velasco Tierra, 1st VP of the Alliance of Professional Primary Care Administrators. I strongly support HB227 regarding the illegal care homes and illegal referrals. Any illegal care homes and illegal referrals who are intentionally or knowingly operating without certificate or license can jeopardize the health, safety, and welfare of our kupunas. Compared to license homes and licensed caregivers, we have various rules and regulations to adhere. We work under the supervision of Case Managers, Community Ties of America, Department of Human Services, and Department of Health. Annual inspection and unannounced visits are among the few rules regulated and mandated by the department. In addition we authorize the Department of Health to investigate illegal care homes reported to be operating without an appropriate certificate or license issued by the department. Penalties should be establish for those illegal care homes that is providing care for vulnerable, elderly, and person with disability. Illegal care homes and illegal referrals should also be subject for further investigation.

Thank you for the opportunity in **support of HB227**.

Respectfully yours,

Elma Velasco Tierra

HB-227

Submitted on: 2/8/2021 8:44:32 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Delia Cabingabang	Alliance of Professional Primary Care Administrators (APPCA)	Support	No

Comments:

I strongly support the HB227, thank you.

Sincerely,

Delia Cabingabang

8083813673

DeliaCabingabang@gmail.com

Honorable Chair, Rep. Ryan Yamane, Vice Chair, Rep. Tam, and the committee members, good morning!

My name is Susan Quinabo, a Registered Nurse, who owns and manages two licensed care home facilities in Pearl City for the past 26 years. I am the President of Alliance of Professional Primary Care Administrators (APPCA), which is a newly formed organization, composed of Community Care Foster Family Homes (CCFHS), Developmental Disabilities Domiciliary Homes (DD Dom Homes), Adult Residential Care Homes (ARCH) and Expanded Care Homes (E-ARCH). The leaders of this organization have served as advocates of the elderly, to lobby in the capitol for the past 20 years.

I strongly **SUPPORT** the objective of HB 227.

- 1.) Unlicensed care facilities are rampant in the State, multiplying like mushrooms. These facilities reside 5 or more feeble elderly, and caregivers who are **NOT** equipped, **NOT** knowledgeable and **NOT** trained to follow the State requirements as stated on the DOH departmental rules. One instance was when I received a phone call from a caregiver in November, asking me for help because her patient was coughing with high fever. She took this patient to Castle Hospital ER and they told her that the patient was positive for Covid, that the patient will be discharged back to the care home and instructed the care/foster home operator to follow the State's DOH Covid protocol. Apparently, this care/foster home operator did not have any clue what it was. She mentioned to me that she does not have any case manager. I have not seen her name listed on the DOH lists of licensed Care/Foster Home Operators, either. **This is an example of an unlicensed care/foster home operator who does not have a conscientious oversight.**
- 2.) Supplementary to the above statement, and protection for the elderly population, no person, corporation or any entity to knowingly refer or transfer patients to unlicensed care facilities, and agencies. The DOH OHCA has the lists of all licensed Care Home/Foster Home Operators, who went through schooling and rigid training, in order to obtain the license and up to now, we are trained monthly, together with our respective case managers, and registered dietitian, to abreast knowledge and expertise in the caregiving industry.
- 3.) Caregivers who are working in these unlicensed facilities are also being paid in cash for their services. They **DO NOT** pay taxes. And some of them are getting their medical insurance from Medicaid.

I beg you all legislatures to pass this bill, making the caregiving business a regulated industry.

HB-227

Submitted on: 2/8/2021 9:17:19 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Samantha Alexandra Cazin	APPCA	Support	No

Comments:

I STRONGLY SUPPORT THE INTENT OF THE BILL.

I WOULD LIKE TO SAY THAT IT IS VERY UNFAIR TO THE LICENSED AND CERTIFIED CARE HOMES THAT THE UNLICENSED/UNCERTIFIED HOMES ARE IN OPERATION WHILE AWAITING FOR THEIR LICENSES AND CERTIFICATIONS AS THEY APPLY FOR THEM. WHEN THE LICENSED HOMES APPLIED FOR THEIR LICENSES, THE HOMES WERE EMPTY. THEY WERE ONLY ALLOWED TO ACCEPT RESIDENTS AFTER THE HOME WAS ALREADY LICENSED AND THE PRIMARY CAREGIVER AND ALL THE ESSENTIAL WORKERS WERE QUALIFIED TO START THE BUSINESS AND ACCEPT RESIDENTS.

HB-227

Submitted on: 2/8/2021 9:02:54 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Myriam Rabut Tabaniag	Alliance of Professional Primary Care Administrators (APPCA)	Support	No

Comments:

Honorable Chair, Representative Ryan Yamane, Honorable Vice Chair, Representative A. Tam and Committee Members, Good Morning.

My name is Myriam Tabaniag, a Registered Nurse, who owns and runs two licensed 8-beds in Kaneohe for over 20 years now. I am also the First Vice President of Alliance of Professional Primary Care Administrators (APPCA).

Our newly formed organization, Alliance of Professional Primary Care Administrators (APPCA), is only over a year old but almost all of our members including me were formerly from ARCA. We were former members of ARCA with the strong voices, lobbying here at the Capitol for almost 2 decades now, advocating for the frail elderly in the State of Hawaii.

With our new organization, we are a stronger force because we are not just comprised of Carehomes, but we have in our “pack”, Community Care Foster Family Homes (CCFHS), which include the Big Island; Developmental Disabilities Domiciliary Homes (DD Dom Homes) and Adult Foster Homes.

I strongly **SUPPORT** the intent of the Bill, HB227.

The caregiving business is a regulated industry. Therefore, it would be unlawful to run these businesses without a valid license or certificate. They should have not been in existence in the first place. We have been fighting for the closures of these unlicensed / uncertified homes for the past 5 years. It is very frustrating and disheartening to know that these unlicensed/uncertified homes are allowed to do businesses beknowing that our frail and disabled kupunas’ lives are in jeopardy. So, please legislators, pass the law to make it unlawful for any person, corporation or any other entity to refer or transfer residents to any facility without a license or certificate, as these facilities DO NOT have trusted government agency(ies) for a thorough inspection or oversight. I truly agree that they should be imposed a large amount of fine.

In line of the above, all caregivers who work in an unlicensed/uncertified facilities or agencies should also be fined. They are offered larger salaries and most of these caregivers are paid in cash and do not pay taxes to the government. Most of the operators who own and operate these unlicensed / uncertified facilities do not pay taxes to the government as well.

Carehome operators and caregivers in the unlicensed/uncertified homes, facilities or agencies do not have to follow required health and consumer protection regulations such as not securing TB clearances and CPR/First Aid; no criminal background checks, no formal caregiving education and experience; no knowledge in nutrition especially in the procurement of food and management in food service and no menus to follow, etc.

These unlicensed / uncertified home operators most times have multiple homes that they are operating and have up to 8 or more residents in each home. In a licensed Type II care home with 8 residents, or if a care home operator in a licensed home owns and is running multiple homes, it is mandated by the State licensing division that we have a Registered Dietitian on Board as a part of the team together with the nurse / case manager to protect the health, safety and welfare of the State's elderly and vulnerable population.

I totally and strongly agree that **Section 3, Section 321-488, of the Hawaii Revised Statutes is totally repealed.** This has always been the cop out of the unlicensed/uncertified homes and operators as they are considering their residents as "renters" or "tenants", therefore these homes to them are not considered unlicensed or uncertified, even though these operators are housing them and also providing care services to the so called "renters/tenants".

In the unlicensed / uncertified homes, the resident or resident's representative would be signing two contracts. One would be the rental contract and the second one would be the Caregiving Services rendered to them in the amount of \$7000 to \$10,000 per month or more. They have a lot of money, and can always afford lawyers to back them up.

With that said, the frail, helpless kupunas are not being considered or thought of if they can even evacuate if there's a fire in the unlicensed/uncertified homes/facilities that they are living in because these homes with up to 10 residents or more are fire risks / hazards as there are no sprinkler systems in these ordinary homes, no fire codes that were implemented before starting the business.

Another set of landlords are those current care home operators of unlicensed homes that have made a lot of money who are buying homes to be used as care home facilities and being rented to care home operators or agencies who want to start an unlicensed/uncertified home. Because these homes do not follow building and fire codes, they are ready to be used as unlicensed homes. While in a licensed carehome, the operator would need a minimum of \$300,000 to renovate the home to be in compliant to the building codes and fire codes for the safety of the residents and caregivers.

There are also rich investors in town that are procuring homes or building new homes in the more elite area of the State and renovating them for rentals to the “more able to pay” population.

In summary, we beg the legislators to see to it that these unlicensed/uncertified homes should not have residents, fine the caregivers who works for them, which hopefully lead to the demise of the unlicensed or uncertified homes.

Thank you for the opportunity to testify.

Myriam Tabaniag

HB-227

Submitted on: 2/8/2021 9:13:46 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Charly Micua	Alliance of Professional Primary Care Administrators (APPCA)	Support	No

Comments:

To Committee on HHH Chair Ryan Yamane,

I strongly support the Bill HB227 to prohibit patients from going to unlicensed care homes. Care homes often serve older adults who may not be able to take care of themselves. For those unlicensed care homes, caregivers would need to provide skilled services to serve their patients. What I mean when I say skilled is that these caregivers may do tasks that are outside of their qualifications or outside of safe practice that licensed caregivers are required to learn. On top of this, unlicensed caregivers do not even go through background checks like licenced caregivers do. This is a concern when you think about Hawaii's rapidly aging population and how they may end up with unsafe options for their care.

Sincerely,

Charly Micua

APPCA Member

LATE

HB-227

Submitted on: 2/8/2021 9:45:09 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Victorina Agustin	Alliance of Professional Primary Care Administrators (APPCA)	Support	No

Comments:

To: Committee on Health, Human Services & Homelessness,

I strongly support HB227.

Victorina Agustin

APPCA Member

HB-227

Submitted on: 2/8/2021 9:56:22 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Marina gamatero	APPCA	Support	No

Comments:

Committee on Health, Human Services & Homelessness,

I strongly support HB227.

Marina Gamatero

APPCA Member

LATE

HB-227

Submitted on: 2/8/2021 12:50:46 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
luzviminda godoy	Alliance of Professional Primarycare Administor(APPCA)	Support	No

Comments:

Committee of Health, Human Services & Homelessness,

I strongly support HB227.

Luzviminda Godoy

APPCA Member

LATE

ADULT FOSTER HOMECARE ASSOCIATION OF HAWAII

P.O. Box 970092, Waipahu, Hawai`i 96797

February 8, 2021

Maribel Tan
President

Testimony in Support of HB 227 – HHH - Feb. 9, 2021, 9:30 a.m., Rm. 329

Chair Yamane, Vice Chair Tam, and Members of the Committee:

The Adult Foster Homecare Association of Hawaii (AFHA) **strongly supports HB 227**, which places some responsibility on those who knowingly refer or transport vulnerable individuals to unlicensed care facilities. HB 227 also requires the Department of Health to prioritize complaint allegations of actual harm.

We need stronger laws against unlicensed care facilities, which are a threat to our Kupuna and disabled. These unlicensed “private” homes have no oversight whatsoever. They purport to provide 24/7 care services, but there is no quality assurance. They may have no training or education in providing care. Families who are looking for care for their Kupuna are often emotional and desperate. These unlicensed “private” homes prey upon the emotions of the Kupuna.

Please protect our Kupuna and disabled by **strongly supporting HB 227**.

Very truly yours,

Maribel Tan
President

About AFHA

The Adult Foster Home Association of Hawaii (AFHA) is the industry trade association of providers under the Community Care Foster Family Home program under the Department of Human Services, State of Hawaii. With a membership of almost 750 providers, AFHA’s mission is to promote the interests of providers as well as resident clients. AFHA members provide 24-hour care to resident clients 7 days a week, 365 days a year.

LATE

HB-227

Submitted on: 2/8/2021 5:18:12 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

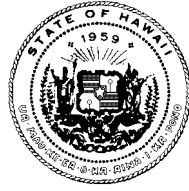
Submitted By	Organization	Testifier Position	Present at Hearing
HMS-APCSB Daisy Hartsfield	DHS-SSD	Comments	No

Comments:

Will be available for any questions

LATE

DAVID Y. IGE
GOVERNOR



CATHY BETTS
DIRECTOR

JOSEPH CAMPOS II
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

P. O. Box 339
Honolulu, Hawaii 96809-0339

February 8, 2021

TO: The Honorable Representative Ryan I. Yamane, Chair
Committee on Health, Human Services & Homelessness

FROM: Cathy Betts, Director

SUBJECT: **HB0227 – RELATING TO HEALTH**

Hearing: February 9, 2021, 9:30 A.m.
Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) offers comments.

PURPOSE: The purpose of this bill clarifies the group of professionals who are prohibited from knowingly referring or transferring patients to an uncertified or unlicensed care facility. Repeals the landlord exclusion. Requires the department of health to prioritize complaint allegations based on severity for inspections of state-licensed or state-certified care facilities.

The passage of this bill would not change the delivery of services provided by DHS Adult Protective and Community Services Branch (APCSB). When a report of alleged abuse is received by DHS in a suspected unlicensed home/facility, DHS procedure is to cross report to Department of Health, Office of Health Care Assurance, although DHS is not required to do so.

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

LATE

To: Representative Ryan I. Yamane, Committee Chair Health, Human Services & Homelessness
Representative Adrian K. Tam, Committee Vice Chair Health, Human Services & Homelessness

Date: February 9, 2021 (9:30AM-Rm. 329)

Re: **HB 227** – Relating to Health **IN STRONG SUPPORT**

Fax Number: (808) 586-6151 / (808) 586-8524

I humbly request that your committee pass HB 227 to maintain the safety and wellbeing of our disabled and frail kupuna. The current statutes are enabling abuse and neglect to our most vulnerable population.

I believe that all facilities that perform any type of hands on care, no matter if it's for two or a hundred people, should be required to be licensed by the State of Hawaii, Department of Health to maintain the necessary standards of care for everyone. I am in strong SUPPORT of HB 227 that will **“Prohibit”** health care providers from knowingly referring or transferring patients to uncertified or unlicensed care facilities, and to **“Repeal”** the landlord provision in the current statute.

Mahalo for allowing me to testify in **STRONG SUPPORT of HB 227.**



LATE

HB-227

Submitted on: 2/9/2021 1:43:37 AM

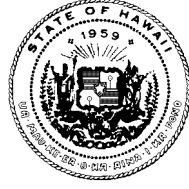
Testimony for HHH on 2/9/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lilia P. Fajotina	Individual	Support	No

Comments:

Strongly support HB 227

DAVID Y. IGE
GOVERNOR



CATHY BETTS
DIRECTOR

JOSEPH CAMPOS II
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

P. O. Box 339
Honolulu, Hawaii 96809-0339

February 16, 2021

TO: The Honorable Representative Aaron Ling Johanson, Chair
House Committee on Consumer Protection & Commerce

FROM: Cathy Betts, Director

SUBJECT: **HB 227 HD1 – RELATING TO HEALTH**

Hearing: Wednesday, February 17, 2021, 2:00 p.m.
Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) offers comments. The Committee on Health, Human Services, and Homelessness amended the measure by (1) Clarifying that the prohibition on the knowing transfer or referral of patients to uncertified or unlicensed care facilities applies to persons, corporations, or other entities in the health care or human services community; and (2) Changing the effective date to July 1, 2060, to encourage further discussion.

PURPOSE: The purpose of this bill clarifies the group of professionals who are prohibited from knowingly referring or transferring patients to an uncertified or unlicensed care facility. Repeals the landlord exclusion. Requires the department of health to prioritize complaint allegations based on severity for inspections of state-licensed or state-certified care facilities. Effective 7/1/2060. (HD1)

The passage of this bill would not change the delivery of services provided by DHS Adult Protective and Community Services Branch (APCSB). When a report of alleged abuse is

February 16, 2021

Page 2

received by DHS in a suspected unlicensed home/facility, DHS procedure is to cross report to Department of Health, Office of Health Care Assurance, although DHS is not required to do so.

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

HB-227-HD-1

Submitted on: 2/17/2021 1:38:54 PM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
HMS APCS	DHS APCS	Comments	No

Comments:

DHS stands on our written testimony.



Robert Muhs, Esq.
Vice President Government Affairs
T - 973 496-3532
Robert.muhs@avisbudget.com

Representative Aaron Ling Johanson, Chair
Representative Lisa Kitagawa, Vice Chair
Committee on Consumer Protection & Commerce

Wednesday, February 17, 2021; 2:00 PM
Hawaii State Capitol; Via Videoconference

RE: HB 485 HD1 Relating to Taxation - IN OPPOSITION

Aloha Chair Johanson, Vice Chair Kitagawa and Members of the Committee:

My name is Robert Muhs, Vice President Government Affairs for Avis Budget Group. Avis Budget Group appreciates the opportunity to offer testimony in opposition to HB 485 HD1, which increases the amount of the rental motor vehicle surcharge tax from \$5.00 to an unspecified amount.

In 2019, the Legislature increased the amount of the rental motor vehicle surcharge tax from \$3.00 to \$5.00. In addition to this tax, Hawaii rental car customers pay a rental motor vehicle customer facility charge of \$4.50 per day. The total surcharge amount before GET is among the highest in the country. We believe the industry contributes more than its fair share to the State highway fund with the current surcharge tax. An increase in the surcharge tax could lead to an overall decline of transaction days, adding to our financial hardship.

Avis Budget Group's Hawaii operations suffered a significant revenue loss in 2020 due to the pandemic and is still struggling. We request that the industry be allowed to fully recover before additional fees and increases be considered.

We ask that the committee defer this measure. Thank you.

HB-227-HD-1

Submitted on: 2/15/2021 9:55:16 PM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Charly Micua	Alliance of Professional Primary Care Administrators (APPCA)	Support	No

Comments:

Chair Rep. Johanson, Vice Chair Rep. Kitagawa, and Members of the Committee,

I strongly support HB227 HD1 to prohibit patients from going to unlicensed care homes. Care homes often serve older, more vulnerable, and disabled adults who are not able to take care of themselves. For those unlicensed care homes, caregivers would need to provide skilled services to serve their patients. What I mean when I say skilled is that these caregivers may do tasks that are outside of their qualifications or outside of safe practice that licensed caregivers are required to learn. Unlicensed caregivers do not even go through background checks like licensed caregivers do. On top of this, unlicensed homes do not follow proper building codes, fire codes and health and consumer protection regulations that are needed for the safety of the elderly. This is a big concern when you think about Hawaii's rapidly aging population and how they may end up with unsafe options for their care.

Sincerely,

Charly Micua

1st Vice President of APPCA

HB-227-HD-1

Submitted on: 2/16/2021 12:01:20 PM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Delia Cabingabang	APPCA	Support	No

Comments:

To Chair Rep. Johanson , Vice Chair Kitagawa , & members of the committee,

I strongly support HB227 HD1

- Delia Cabingabang

Honorable Chair, Rep. Aaron Ling Johansen, Vice Chair, Rep. Lisa Kitagawa, and the committee members, Rep. Morikawa, Rep. Onishi, Rep. Tarnas, Rep. Matsumoto, Rep. Mizuno, Rep. Aquino, Rep. Har, Rep. Hashem, Rep. Kong, good morning!

My name is Susan Quinabo, a Registered Nurse, who owns and manages two licensed care home facilities in Pearl City for the past 26 years. I am the President of Alliance of Professional Primary Care Administrators (APPCA), which is a newly formed organization, composed of Community Care Foster Family Homes (CCFHS), Developmental Disabilities Domiciliary Homes (DD Dom Homes), Adult Residential Care Homes (ARCH) and Expanded Care Homes (E-ARCH). The leaders of this organization have served as advocates of the elderly, to lobby in the capitol for the past 20 years.

I strongly **SUPPORT** the objective of HB 227.

- 1.) Unlicensed care facilities are rampant in the State, multiplying like mushrooms. These facilities reside 5 or more feeble elderly, and caregivers who are **NOT** equipped, **NOT** knowledgeable and **NOT** trained to follow the State requirements as stated on the DOH departmental rules. One instance was when I received a phone call from a caregiver in November, asking me for help because her patient was coughing with high fever. She took this patient to Castle Hospital ER and they told her that the patient was positive for Covid, that the patient will be discharged back to the care home and instructed the care/foster home operator to follow the State's DOH Covid protocol. Apparently, this care/foster home operator did not have any clue what it was. She mentioned to me that she does not have any case manager. I have not seen her name listed on the DOH lists of licensed Care/Foster Home Operators, either. **This is an example of an unlicensed care/foster home operator who does not have a conscientious oversight.**
- 2.) Supplementary to the above statement, and protection for the elderly population, no person, corporation or any entity to knowingly refer or transfer patients to unlicensed care facilities, and agencies. The DOH OHCA has the lists of all licensed Care Home/Foster Home Operators, who went through formal schooling and rigid training, to take care the feeble and disabled elderly, in order to obtain the license and up to now, we are trained monthly, together with our respective case managers, and registered dietitian, to abreast knowledge and expertise in the caregiving industry.
- 3.) Caregivers who are working in these unlicensed facilities are also being paid in cash for their services. They **DO NOT** pay taxes. And some of them are getting their medical insurance from Medicaid.
- 4.) Ninety eight percent of unlicensed homes **DO NOT FOLLOW** the States' required building and fire codes.
- 5.) These unlicensed homes **DO NOT FOLLOW** the States' Health and Consumer regulations.

I beg you all legislatures to pass this bill, making the caregiving business a regulated industry.

HB-227-HD-1

Submitted on: 2/16/2021 12:20:55 PM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Victorina Agustin	APPCA	Support	No

Comments:

I strongly support HB227 HD1

Victorina Agustin

APPCA

HB-227-HD-1

Submitted on: 2/16/2021 12:24:35 PM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Marina gamatero	APPCA	Support	No

Comments:

I strongly support HB227 HD1

Marina Gamatero

APPCA

HB-227-HD-1

Submitted on: 2/16/2021 1:19:52 PM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
luzviminda godoy	Alliance of Professional Primarycare Administor	Support	No

Comments:

I strongly support HB227HD1

Luz Godoy

APPCA

HB-227-HD-1

Submitted on: 2/16/2021 1:45:49 PM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Myriam Rabut Tabaniag	Alliance of Professional Primary Care Administrato	Support	No

Comments:

Honorable Chair, Representative Aaron Johanson, Honorable Vice Chair, Representative

Lisa Kitagawa and Members of the Consumer Protection Committee, Good afternoon.

My name is Myriam Tabaniag, a Registered Nurse, who owns and operates two licensed 8-beds in Kaneohe for over 20 years now. I am also the First Vice President of Alliance of Professional Primary Care Administrators (APPCA).

Our newly formed organization, Alliance of Professional Primary Care Administrators (APPCA), is only over a year old but almost all of our members including me were formerly from ARCA. We were former members of ARCA with strong voices, lobbying here at the Capitol for almost 2 decades now, advocating for the frail elderly in the State of Hawaii.

With our new organization, we are a stronger force because we are not just comprised of Carehomes, but we have in our “pack”, Community Care Foster Family Homes (CCFHS), which include the Big Island; Developmental Disabilities Domiciliary Homes (DD Dom Homes) and Disabled Adult Foster Homes (DAFH).

I strongly **SUPPORT** the intent of the Bill, HB227 HD1.

The caregiving business is a regulated industry. Therefore, it would be unlawful to run these businesses without a valid license or certificate. They should have not been in existence in the first place. We have been fighting for the closures of these unlicensed / uncertified homes for the past 5 years. It is very frustrating and disheartening to know that these unlicensed/uncertified homes are allowed to do businesses beknowing that our frail and disabled kupunas’ lives are in jeopardy. So, please legislators, pass the law to make it unlawful for any person, corporation or any other entity to refer or transfer residents to any facility without a license or certificate, as these facilities DO NOT have

trusted government agency(ies) for a thorough inspection or oversight. I truly agree that they should be imposed a large amount of fine.

In line of the above, all caregivers who work in an unlicensed/uncertified facilities or agencies should also be fined. They are offered larger salaries and most of these caregivers are paid in cash and do not pay taxes to the government. Most of the operators who own and operate these unlicensed / uncertified facilities do not pay taxes to the government as well.

Carehome operators and caregivers in the unlicensed/uncertified homes, facilities or agencies do not have to follow required health and consumer protection regulations such as not securing TB clearances and CPR/First Aid; no criminal background checks, no formal caregiving education and experience; no or little knowledge in the Covid-19 State and CDC protocols; no knowledge in nutrition especially in the procurement of food and management in food service and no menus to follow, etc.

These unlicensed / uncertified home operators most times have multiple homes that they are operating and have up to 8 or more residents in each home. In a licensed Type II care home with 8 residents, or if a care home operator in a licensed home owns and is running multiple homes, it is mandated by the State licensing division that we have a Registered Dietitian on board as a part of the team together with the nurse / case manager to protect the health, safety and welfare of the State's elderly and vulnerable population.

I totally and strongly agree that **Section 3, Section 321-488, of the Hawaii Revised Statutes is totally repealed.** This has always been the "cop out" of the unlicensed/uncertified homes and operators as they are considering their residents as "renters" or "tenants", therefore these homes to them are not considered unlicensed or uncertified, even though these operators are housing them and also providing care services to the so called "renters/tenants".

In the unlicensed / uncertified homes, the resident or resident's representative would be signing two contracts. One would be the rental contract and the second one would be the "Caregiving Services" rendered to tenants, and most often in the amount of \$7000 to \$10,000 per month or more. They have a lot of money, and can always afford the top Lobbyists in the State and lawyers to back them up.

With that said, the frail, helpless kupunas are not being considered or thought of if they can even evacuate if there's a fire in the unlicensed/uncertified homes or facilities that they are living in because these homes with up to 10 residents or more are fire risks / hazards as there are no sprinkler systems in these ordinary homes, no fire codes that were implemented before starting the business.

Another set of landlords are those current care home operators of unlicensed homes that have made a lot of money who are buying homes to be used as care home facilities and being rented to care home operators or agencies who want to start an

unlicensed/uncertified home. Because these homes do not follow building and fire codes, they are ready to be used as unlicensed homes. While in a licensed carehome, the operator would need a minimum of \$300,000 to renovate the home to be in compliant with the building codes and fire codes for the safety of the residents and caregivers.

There are also rich investors in town that are procuring homes or building new homes in the more elite area of the State and renovating them for rentals to the “more able to pay” population.

In summary, we beg the legislators to see to it that these unlicensed/uncertified homes should not have residents, fine the caregivers who works for them, which hopefully lead to the demise of the unlicensed or uncertified homes.

Thank you for the opportunity to testify.

Myriam Tabaniag

HB-227-HD-1

Submitted on: 2/16/2021 2:37:35 PM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Samantha Alexandra Cazin	APPCA	Support	No

Comments:

Strong support of the intent of HB227 HD1.

HB-227-HD-1

Submitted on: 2/17/2021 12:42:04 PM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Maria Corazon E. Cariaga	Big Island Adult foster home operators	Support	No

Comments:

On behalf of the Big Island Adult Foster Home Operators this Bill is strongly supported for the benefit of the needy elderly and disabled population whom we are serving in our own certified/licensed homes. Thank you for allowing me to submit my testimony.

HB-227-HD-1

Submitted on: 2/16/2021 12:29:03 PM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Yolanda Collo	Individual	Support	No

Comments:

GOOD DAY TO ALL!

I Yolanda Collo STRONGLY SUPPORT THE BILL HB 227. I believe all carehome's should be

LICENSED for the betterment and safety of our elderly's. Thank you ALL very much and you all

stay safe.

Much mahalo!

Yolanda Collo

HB 227 HD1- Relating to Health
Committee on Consumer Protection and Commerce

Date: February 17, 2021(Wednesday)

Time: 2:00PM

Place: VIA Videoconference

Conference Room 329

State Capitol

415 S. Beretania St.

Hon. HI

Rep. Aaron Ling Johanson, Chair

Rep. Lisa Kitagawa, Vice Chair

And members:

My name is Lilia Fajotina, I have been a carehome administrators for 20 years. I am humble and proud for being an 2nd Vice officer of our Newly formed organization, Alliance of Professional Primary Care Administrators.(APPCA)

I STRONGLY support HB227HD1. I believed any person who open an adult family home or private home and provide healthcare to elderly or disabled individual who are not unrelated to the caregiver family by blood, marriage or anybody without licensed shall be guilty of misdemeanor and that person shall be fined or punished.

The unlicensed facilities don't have government oversight for safety and consumer protection. Also, this unlicensed facilities are undermining the government, not only because they are not following rules and regulations. Everyone, needs to be fair and equal as be we all work together in caring our kupuna.

Thank you, for allowing me to testify.

Sincerely,

Lilia Fajotina

2nd Vice President

