

DAVID Y. IGE
GOVERNOR OF HAWAII



VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

SM: IN ST MAL 81

STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. BOX 3378
HONOLULU, HI 96801-3378

In reply, please refer to:

January 11, 2018

The Honorable Ronald D. Kouchi,
President and Members of the Senate
Twenty-Ninth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Scott K. Saiki, Speaker
and Members of the House of
Representatives
Twenty-Ninth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

For your information and consideration, I am transmitting a copy of an "Annual Report that Outlines the Status of the Office of Health Care Assurance's Aggregate Number of Announced and Unannounced visits and inspections conducted by the Department of Health on the State Licensed or State Certified Care Facilities and the General Outcomes and Corrective Actions Taken by the Department," as required by Act 184, Session Laws Hawaii 2016.

In accordance with Section 93-16, Hawaii Revised Statutes, I am also informing you that the report may be viewed electronically at:

<http://health.hawaii.gov/opppd/departement-of-health-reports-to-2018-legislature/>

Sincerely,

VIRGINIA PRESSLER

Director of Health

Enc.

- c: Senate
- House
- Legislative Reference Bureau
- SOH Library System (7 copies)
- University of Hawaii

REPORT TO THE TWENTY-NINETH LEGISLATURE
STATE OF HAWAII
2018

PURSUANT TO ACT 184, SESSION LAWS OF HAWAII (SLH) 2016, REQUESTING THE DEPARTMENT OF HEALTH TO SUBMIT AN ANNUAL REPORT THAT OUTLINES THE STATUS OF THE OFFICE OF HEALTH CARE ASSURANCE'S AGGREGATE NUMBER OF ANNOUNCED AND UNANNOUNCED VISITS AND INSPECTIONS CONDUCTED BY THE DEPARTMENT OF HEALTH ON THE STATE-LICENSED OR STATE-CERTIFIED CARE FACILITIES AND THE GENERAL OUTCOMES AND CORRECTIVE ACTIONS TAKEN BY THE DEPARTMENT.

PREPARED BY:
STATE OF HAWAII
DEPARTMENT OF HEALTH
DECEMBER 2017

EXECUTIVE SUMMARY

Pursuant to and in compliance with Act 184, Session Laws of Hawaii (SLH) 2016, the Department of Health is submitting a report to the 2018 Legislature that identifies:

(1) The annual aggregate numbers of announced and unannounced visits conducted by the department of health on the state-licensed or state-certified care facilities;

(2) The annual aggregate numbers of unannounced inspections conducted by the department of health on the state-licensed or state-certified facilities as follow-up visits, visits to confirm corrections or deficiencies, or visits to investigate complaints or suspicions of abuse or neglect; and

(3) The general outcomes and corrective actions taken because of the visits and investigations conducted by the department of health on the state-licensed or state-certified care facilities.

This report also includes recommendations to the 2018 Legislature.

**REPORT TO THE LEGISLATURE
IN COMPLIANCE WITH ACT 184, SESSION LAWS OF HAWAII (SLH) 2016**

Introduction:

The Department of Health is committed to ensure the health, welfare and safety of all individuals receiving health care services in all settings in the State. In order to achieve this goal, the department has established minimal standards for licensure and certification that is monitored through inspections and investigations. As deficiencies are identified, the department provides consultation to correct deficient practices.

Aggregate Numbers:

Licensed Facility	Visits		Inspections		Sub-Total		Total
	Ann	Unann	Ann	Unann	Ann	Unann	
Adult day health centers	0	0	0	1	0	1	1
Adult day care centers	0	4	41	0	41	4	45
Community care foster family homes (CCFFH)	0	45	930	0	930	45	975
Developmental disabilities domiciliary homes (DDDOM)	0	1	44	0	44	1	45
Adult foster homes	280	0	0	0	280	0	280
Adult residential care homes (ARCH)	0	390	201	0	201	390	591
Expanded adult residential care homes (E-ARCH)	0	470	251	0	251	470	721
Assisted living facilities (ALF)	0	0	10	0	10	0	10
Intermediate care facilities (ICF)	0	0	0	17	0	17	17
Nursing facilities (NF) and Skilled nursing facilities (SNF)	0	0	1	67	1	67	68
Special treatment facilities (STF)		1	20	0	20	1	21
Total	280	911	1,498	85	1,778	996	2,774

Ann = Announced

Unann = Unannounced

Counts do not include investigations of unlicensed activities

Definitions of Terms:

“Visits” are brief occurrences designed to quickly ascertain the status of specific target concerns. They do not include inspections for license renewals.

“Inspections” are more robust occurrences for purposes of license renewals.

General Outcomes and Corrective Actions:

Overall, most inspections result in citations for non-compliance with regulations and all citations are required to be corrected by the facility before the facility receives their renewed license or certification.

Of the 390 unannounced visits on ARCHs, four (4) ARCHs were cited for violations regarding unsupervised residents. For three (3) of the four, no caregiver was present and the residents were alone. For the 4th ARCH, the primary caregiver was asleep in family quarters upstairs in the home and the substitute caregiver was also upstairs. Residents were unattended despite the presence of the primary and secondary caregivers.

The number of ARCHs which were cited is a small but the department suspects there are more homes that are leaving residents unsupervised or in the hands of unqualified persons. Leaving residents unsupervised or in the hands of unqualified persons is a very unsafe practice with potential for great harm to the residents.

Conclusion:

Annual Inspections: Care givers have activities that take them away from the home such as previously scheduled resident medical and dental appointments and transporting residents to day programs. If residents are out of the home during the day, there is no need for a caregiver to remain in the home. An unannounced annual inspection would mean that someone would need to be present in the care home every day which is unrealistic. Otherwise, the department would need to plan on conducting the unannounced annual inspection at times when it is almost certain a caregiver would be in the home, for example, in the morning around breakfast time, prior to everyone leaving the home, or at dinner time, when residents and the caregiver return to the care home. However, an unannounced annual inspection averaging 2 to 4 hours would be extremely disruptive, not only to care home operations, but for resident care. Further, residents may not be able to keep scheduled doctors' appointments if Surveyors show up unexpectedly and stay for 2 to 4 hours. It is the duration of the annual inspection that would make it difficult to conduct these inspections unannounced.

Unannounced Visits: It is while conducting unannounced visits that the department discovered unsupervised residents as a deficiency common among the four ARCHs.

Recommendations

1. Delay by two (2) years the effective date of conducting unannounced annual inspections until July 1, 2021, while more data is gathered on outcomes of unannounced visits. Continue with the current procedure for annual inspections for purposes of license or certification renewals.

2. The department shall conduct unannounced visits with greater frequency in addition to the one (1) mandatory unannounced visit as currently allowed in statute. This may require additional staffing resources or, without additional staff, would require prioritizing unannounced visits higher than announced annual inspections.
3. The department will continue to monitor the outcomes of unannounced visits and continue to provide annual reports to the legislature on deficiencies common to ARCHs, if any.
4. The legislature should consider amending statute to provide the department the means for stronger enforcement action by the department. Specific actions can be detailed in Hawaii Administrative Rules (HAR) and implementation could specifically identify violations pertaining to unsupervised residents (no qualified caregiver in attendance). HAR enforcement actions could include:
 - a. No Harm or No Potential of Harm to Residents
 - i. First Offense:
 1. Issue a provisional licensure
 2. Additional follow up visits to monitor supervision issues during the provisional license period
 3. Report violation to the Department of Human Services (DHS) Adult Protective Services (APS)
 - ii. Second Offense Occurring at Any Time in the Care Home's History:
 1. Extend provisional licensure
 2. Report to APS
 3. Issue financial penalties
 - iii. Third Offense at Any Time in the Care Home's History:
 1. Rescind license
 2. Issue financial penalties
 - b. Harm or Potential of Harm to Residents (depends on severity of harm or potential of harm)
 - i. First Offense:
 1. Report to APS; potential to remove resident from care home
 2. Issue a provisional license requiring the presence of two (2) caregivers and additional monitoring by the department for minimum of six (6) months
 3. Deny new admissions for minimum of three (3) months
 4. Issue financial penalties
 - ii. Second Offense:
 1. Report to APS
 2. Under APD authority, remove all residents from care home
 3. Revoke license subject to appeal process
 4. Issue financial penalties