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# A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 PART I

2 SECTION 1. The legislature finds that the prevalence of  
3 unlicensed care homes and facilities in the State continues to  
4 pose significant health and consumer protection issues for  
5 Hawaii's elderly and vulnerable populations. Over the past  
6 three years, the department of health has received hundreds of  
7 complaints regarding unlicensed care homes and facilities, which  
8 has resulted in the closure of several homes and facilities and  
9 the significant collection of fines by the department. Since  
10 December 2019, the department has closed at least seven  
11 unlicensed adult residential care homes and two unlicensed  
12 special treatment facilities or therapeutic living programs and  
13 imposed over \$800,000 in fines.

14 The legislature further finds that licensed care home  
15 operators and other persons are still referring or transferring  
16 patients to unlicensed care homes and facilities unbeknownst to  
17 the patient. This illegal practice has cost some patients



1 thousands of dollars due to denied insurance reimbursements and  
2 endangers patients' health and safety since unlicensed care  
3 homes and facilities do not have to follow required health and  
4 consumer protection regulations.

5 The purpose of this Act is to bolster the department of  
6 health's enforcement activities to protect the health, safety,  
7 and welfare of the State's elderly and vulnerable populations  
8 by:

9 (1) Clarifying the group of professionals who are  
10 prohibited from knowingly referring or transferring  
11 patients to an uncertified or unlicensed care  
12 facility;

13 (2) Repealing the provision that a landlord, under  
14 specified conditions, shall not be deemed to be  
15 providing home care services or operating a care  
16 facility that requires a license; and

17 (3) Requiring the department of health to prioritize  
18 complaint allegations based on severity for  
19 investigations of state-licensed or state-certified  
20 care facilities.



## 1 PART II

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

4 "(a) It shall be unlawful for [~~a certified or licensed~~  
5 ~~healthcare provider or certified or licensed care facility~~] any  
6 person, corporation, or any other entity in the health care and  
7 human services community to knowingly refer or transfer patients  
8 to an uncertified or unlicensed care facility. The department  
9 may impose a fine on any [~~certified or licensed healthcare~~  
10 ~~provider or certified or licensed care facility~~] person,  
11 corporation, or any other entity in the health care and human  
12 services community that knowingly refers or transfers patients  
13 to a care home, agency, or facility operating without a  
14 certificate or license as required by law; provided that the  
15 fine shall be no more than:

- 16 (1) \$500 for the first violation;  
17 (2) \$1,000 for the second violation; and  
18 (3) \$2,000 for the third and each succeeding violation."

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





1 department to ensure the health, safety, and welfare of each  
2 resident:

- 3 (1) Adult day health centers;
- 4 (2) Adult day care centers;
- 5 (3) Community care foster family homes;
- 6 (4) Developmental disabilities domiciliary homes;
- 7 (5) Adult foster homes;
- 8 (6) Long-term care facilities, including but not limited

9 to:

- 10 (A) Adult residential care homes;
- 11 (B) Expanded adult residential care homes;
- 12 (C) Assisted living facilities;
- 13 (D) Intermediate care facilities;
- 14 (E) Nursing facilities; and
- 15 (F) Skilled nursing facilities; and
- 16 (7) Special treatment facilities.

17 (b) Unannounced visits may be conducted during or outside  
18 regular business hours. All inspections relating to follow-up  
19 visits, visits to confirm correction of deficiencies, or visits  
20 to investigate complaints or suspicion of abuse or neglect shall  
21 be conducted unannounced during or outside regular business



1 hours. Annual inspections for relicensing or recertification  
2 may be conducted during regular business hours or at intervals  
3 determined by the department. Annual inspections for  
4 relicensing or recertification shall be conducted without  
5 notice.

6 (c) Consistent with subsection (b), the department shall  
7 prioritize complaint investigations based on the degree of  
8 severity of the allegations and shall give highest priority to  
9 allegations of actual harm or potential harm.

10 [~~e~~] (d) The department shall adopt rules pursuant to  
11 chapter 91 to effectuate the purposes of this section."

12 PART IV

13 SECTION 5. This Act does not affect rights and duties that  
14 matured, penalties that were incurred, and proceedings that were  
15 begun before its effective date.

16 SECTION 6. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 7. This Act shall take effect on July 1, 2060.



**Report Title:**

Care Facilities; Uncertified Care Facilities; Unlicensed Care Facilities; Landlord Exclusion; Complaint Allegations

**Description:**

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

