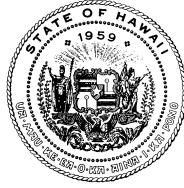


DAVID Y. IGE
GOVERNOR OF HAWAII



ELIZABETH A. CHAR, M.D.
DIRECTOR OF HEALTH

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, HD2
RELATING TO HEALTH.**

REPRESENTATIVE SYLVIA LUKE, CHAIR
HOUSE COMMITTEE ON FINANCE

Hearing Date: Monday, February 28, 2022

Room Number: Video Conference

1 **Fiscal Implications:** None.

2 **Department Testimony:** The Department STRONGLY SUPPORTS this bill as drafted and
3 appreciates the Legislature's support in our mutual aim to safeguard the public, protect aged and
4 vulnerable persons, and ensure quality of care by requiring and enforcing that all residential care
5 homes and other health care facilities, agencies and organizations are licensed pursuant to state
6 law. The purpose of this bill is to protect the public and, specifically, vulnerable consumers of
7 health care services in residential care facilities throughout the state. This bill is a carryover
8 from the 2021 legislative session and the Department is appreciative of the Chair's desire to hear
9 it and protect our vulnerable *kupuna*. This bill is also identical to HB1746 making its way
10 through the 2022 session with the support of the House Health and Consumer Protection
11 Committees.

12 The Department is actively investigating 69 complaints from a total of 200 complaints
13 received over the past two (2) years. Enforcement action was taken to protect consumers and the
14 public. Some investigations were closed without further action and other investigations are
15 pending. Enforcement includes issuing notices of violation and orders (NOVOs) which include

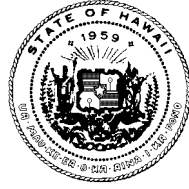
1 immediate cease and desist orders, the required discharge or transfer of residents to licensed care
2 homes or facilities, and issuing administrative penalties. To date, the Department has closed
3 seven (7) homes or facilities and collected approximately \$175,000 in administrative penalties
4 and several other homes are in the appeal hearings process. The Department anticipates being
5 successful in the appeals hearings so additional patients will be safeguarded by homes becoming
6 closed and administrative penalties collected. Penalties are aimed to prevent operators from
7 profiting from unlicensed care home operations and to disincentivize operators of future
8 unlicensed homes.

9 In addition, there are a small but growing number of care homes appearing to masquerade
10 as rental homes with several unrelated tenants all requiring care services. Homes usually meet
11 the definition of residential care homes, but landlords cite the exclusion clause to avoid the
12 state's enforcement of licensing requirements. The state is concerned that more of these homes
13 will open or that current licensed care homes will surrender their license and claim the exclusion,
14 increasing the risk of substandard quality of care or living conditions on consumers and our
15 vulnerable population. The home is the environment of care and should be inspected along with
16 the caregiver services to ensure optimal health outcomes for consumers. This would prevent
17 consumers who require care from being in accommodations which could be hazardous to their
18 health, safety, or welfare, such as homes or bedrooms without smoke or fire detectors, or
19 inadequate ingress or egress points for persons in wheelchairs or with walkers or other assistive
20 devices to escape in case of fire or other emergency, or cramped and overcrowded bedrooms, or
21 dilapidated living conditions, or home or bedrooms that don't meet county codes for occupancy,
22 or have inadequate utilities.

1 Enforcement activities are a critical component of the state’s regulatory efforts to ensure
2 the health, safety, and welfare of consumers and our *kupuna*, and such actions deserve our
3 support.

4 Thank you for the opportunity to testify in STRONG SUPPORT of this bill.

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 27, 2022

TO: The Honorable Representative Sylvia Luke, Chair
House Committee on Finance

FROM: Cathy Betts, Director

SUBJECT: **HB 227 HD2 - RELATING TO HEALTH**

Hearing: Monday, February 28, 2022, 12:30 p.m.
Via videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) Human Services (DHS) provides comments and defers to the Department of Health.

PURPOSE: The purpose of the 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. (HD2)

The HD1 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.

The HD2 amended the measure by:

[C]larifying the group of professionals who are prohibited from knowingly referring or transferring patients to an uncertified or unlicensed care facility, to avoid

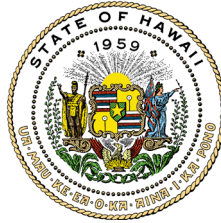
inadvertently omitting professions that are in the business of referring vulnerable persons or families.

As drafted, the passage of this bill would not change the delivery of services provided by DHS Adult Protective and Community Services Branch (APCSB). For the Legislature's information, when DHS receives a report of alleged abuse in a suspected uncertified or unlicensed home or facility, DHS procedure is to cross report to the Department of Health, Office of Health Care Assurance. However, DHS is not required to do so.

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

DAVID Y. IGE
GOVERNOR OF HAWAII

ELIZABETH A. CHAR, M.D.
DIRECTOR OF HEALTH



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HONOLULU, HAWAII 96813-2831

**Testimony in SUPPORT of HB227 HD2
Relating to Health**

COMMITTEE ON FINANCE
REPRESENTATIVE SYLVIA LUKE, CHAIR
REPRESENTATIVE KYLE T. YAMASHITA, VICE CHAIR

Testimony of Caroline Cadirao
Director, Executive Office on Aging
Attached Agency to the Department of Health

Hearing Date: February 28, 2022
12:30 PM

Room Number: 329
via Videoconference

EOA's Position: The Executive Office on Aging (EOA), an attached agency to the Department of Health, is in strong support of HB227 HD2, Relating to Health.

Fiscal Implications: There are no fiscal appropriations included with this measure.

Purpose and Justification: The purpose of this bill is to bolster the Department of Health's enforcement activities to protect the health, safety, and welfare of the State's elderly and vulnerable populations by:

- (1) More clearly defining the group of professionals who are prohibited from knowingly referring or transferring patients to an uncertified or unlicensed care facility;
- (2) Repealing the provision that a landlord, under specified conditions, shall not be deemed to be providing home care services or operating a care facility that requires a license; and

1 (3) Requiring the Department of Health to prioritize complaint allegations based on
2 severity for investigations of state-licensed or state-certified care facilities.

3 Elder abuse and neglect continue to be a hidden epidemic. Unlicensed care facilities are often
4 operating in single family homes in residential neighborhoods and are hidden in plain sight.

5 Unlicensed care facilities pose serious potential risks to the health and safety of the elderly and
6 vulnerable adults and are in danger of potential abuse and neglect. While increased monitoring

7 and investigation of unlicensed and uncertified care facilities are encouraged it is just as

8 important to stop those who are referring patients to these facilities. This measure will make it

9 illegal for any person or corporation in the healthcare or human services community to

10 knowingly refer a patient to an unlicensed or uncertified care facility and establishes fines for

11 such violations.

12 This measure will also enhance the authority of State health officials to make unannounced visits

13 and inspections for state-licensed and state-certified facilities. Unannounced visits and

14 inspections will help to make care facilities more accountable and can ensure that the quality of

15 care and conditions of the facility are maintained regularly and not just for an announced visit.

16 **Recommendation:** The EOA strongly supports HB227 HD2 which will help to protect the

17 rights of and ensure the quality of care for the State's elderly and vulnerable populations.

18 Thank you for the opportunity to testify.

HB-227-HD-2

Submitted on: 2/27/2022 2:44:47 PM

Testimony for FIN on 2/28/2022 12:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Maria Corazon E. Cariaga	Big Island Adult foster home operators	Support	No

Comments:

Good afternoon to all of the legislators who are involved in the hearing of this HD 227. On behalf of the Big Island Adult Foster Home Operators, I am in support of this HD227. Thank you for waking up and the hearing of this bill. We need to work together to stop the unlicensed homes for the safety of our Kupunas and needy population of our community. We need to safeguard the needs of our clients. Certified and licensed homes possessed all the documents needed by the HAWAII ADMINISTRATIVE RULE to be credentialed by Agencies in servicing these clients in our own residences. While the unlicensed/ uncertified homes does not obtain all of these documents. Which is very unfair for us . Because we spend dollars to obtain all the documents required by the State. I'm hoping that these unlicensed/ uncertified homes will be stop soon. Thank you for allowing me to submit my testimonies.



**Testimony to the House Committee on Finance
Monday, February 28, 2022; 12:30 p.m.
State Capitol, Conference Room 308
Via Videoconference**

RE: HOUSE BILL NO. 0227, HOUSE DRAFT 1, RELATING TO HEALTH.

Chair Luke, Vice Chair Yamashita, and Members of the Committee:

The Hawaii Primary Care Association (HPCA) is a 501(c)(3) organization established to advocate for, expand access to, and sustain high quality care through the statewide network of Community Health Centers throughout the State of Hawaii. The HPCA **OPPOSES** House Bill No. 0227, House Draft 2, RELATING TO HEALTH.

By way of background, the HPCA represents Hawaii's Federally Qualified Health Centers (FQHCs). FQHCs provide desperately needed medical services at the frontlines to over 150,000 patients each year who live in rural and underserved communities. Long considered champions for creating a more sustainable, integrated, and wellness-oriented system of health, FQHCs provide a more efficient, more effective and more comprehensive system of healthcare.

Among other things, this bill would:

- (1) Clarify the group of professionals who are prohibited from knowingly referring or transferring patients to an uncertified or unlicensed care facility;
- (2) Repeal the provision that a landlord, under specified conditions, not be deemed to be providing home care services or operating a care facility that requires a license; and
- (3) Require the Department of Health to prioritize complaint allegations based on severity for investigations of state-licensed or state-certified care facilities.

This bill would take effect on July 1, 2060.

Testimony on House Bill No. 0227, House Draft 2
Monday, February 28, 2022; 12:30 a.m.
Page 2

This bill was introduced during the 2021 Regular Session and carried over to 2022 after it was reported from the Committee on Consumer Protection and Commerce (CPC) on February 19, 2021. We also note that this bill is substantively similar to House Bill No. 1746, House Draft 1, which was reported from CPC on February 17, 2022.

According to SECTION 2 of this bill, ". . . any person, corporation, or any other entity in the health care or human services community. . ." who ". . . knowingly refer[s] or transfer[s] patients to an uncertified or unlicensed facility. . ." would be subject to an administrative penalty of \$500 for the first violation, \$1,000 for the second violation, and \$2,000 for the third and each succeeding violation.

This provision places the onus on health care providers to determine the licensure and certification status of any and all care facilities prior to referring a patient to the facility. During the provision of primary care to Hawaii's Medicaid population and rural and underserved communities, it is not uncommon for our physicians or support service personnel to occasionally make referrals to adult residential care homes and other facilities regulated under Chapter 321, Hawaii Revised Statutes.

When such referrals are made, FQHC performs its reasonable due diligence to make sure that the facility to which the patient is referred is operating lawfully. However, the HPCA recognizes that the certification and licensure standards for these facilities are extensive, and that conceivably such a facility might violate a condition or requirement for many reasons beyond anyone's control. Examples that immediately come to mind include:

- (1) A power outage that prevents medication to be refrigerated at the site where care is provided;
- (2) A nurse calls in sick and the facility experiences difficulty in finding a replacement before the shift is scheduled to start;
- (3) The check that was sent in for a licensure fee is received late.

In discussions with our medical staff, because it is unclear whether the protections provided to FQHCs under the federal Tort Claims Act would apply to liability resulting from this statute, the enactment of this provision will likely result **in FQHCs no longer referring patients to these types of care facilities.** This will place even more pressure on patients and their families to address their immediate needs.

Testimony on House Bill No. 0227, House Draft 2
Monday, February 28, 2022; 12:30 a.m.
Page 3

It is for this reason that the HPCA respectfully urges this committee to file this bill.

Thank you for the opportunity to testify. Should you have any questions, please do not hesitate to contact Public Affairs and Policy Director Erik K. Abe at 536-8442, or eabe@hawaiiipca.net.

HB-227-HD-2

Submitted on: 2/27/2022 4:07:44 PM

Testimony for FIN on 2/28/2022 12:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Carina Ocampo	United Caregivers of Hawaii	Support	No

Comments:

To the Committees,

I strongly agree to support this bill HB227 to be fair with healthcare operators who are in compliance with state rules and regulations upon providing healthcare services to our Kupunas.

With sincere thanks,

Carina Ocampo

President, United Caregivers of Hawaii

ADULT FOSTER HOMECARE **ASSOCIATION OF HAWAII**

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

February 28, 2022

Maribel Tan
President

Testimony in Support of HB 227 HD2 – FIN - Feb. 28, 2022, 12:30 p.m., Rm. 308

Chair Luke, Vice Chair Yamashita, and Members of the Committee:

The Adult Foster Home 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.

HB-227-HD-2

Submitted on: 2/27/2022 12:56:51 PM

Testimony for FIN on 2/28/2022 12:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Lisa Smith	Individual	Support	No

Comments:

I am submitting testimony in support of HB227 which is a consumer protection bill.

Hawaii's community care home industry is very good and is licensed by the State Department of Health. These care homes are subject to unannounced visits by the Department anytime day or night to ensure the safety of its patients.

However, these illegal and unlicensed care homes violate the law, as they do not pay taxes for the patients they have, they are not vetted via a background check, they do not have insurance like the legal and licensed care homes and stuff elderly and disabled together without concern of proper space. However, because these illegal care homes are not licensed the Department of Health cannot inspect them.

Please pass HB227 to protect Hawaii's elderly and disabled population. This is a major consumer protection bill for all of Hawaii.

HB-227-HD-2

Submitted on: 2/27/2022 2:36:17 PM

Testimony for FIN on 2/28/2022 12:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Imelda Viernes	AFHA	Support	No

Comments:

I strongly support HB227. Illegal homecares are to its limit, as such we don't know if they have the proper education to provide care for the elders with state standards.

Thank You.

HB-227-HD-2

Submitted on: 2/27/2022 3:27:43 PM

Testimony for FIN on 2/28/2022 12:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
MARFE RETUNDO	Individual	Support	No

Comments:

Aloha Mam and Sir,

Im writing this letter to give my support on this bill. I'm one of CCFFH here in the Big Island, as a caregiver we have rules and regulations that we need to follow. We pay our dues, update our papers, renew our certificate, to be legal and take care of our kupuna better. But if this unlicensed home still operating, how can we say as a citizen person that we protect and we took care of our kupuna.

Thank you again for giving us the time to read our testimony. Have a great day.

Mahalo

Marfe Retundo

HB-227-HD-2

Submitted on: 2/27/2022 3:39:23 PM

Testimony for FIN on 2/28/2022 12:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Craig Yahata	Individual	Support	No

Comments:

I fully support HB227 D2. There have been cases on the Big Island where CCFFHs have hidden additional clients. This endangers those clients as there is no oversight of living conditions or patient health.

HB-227-HD-2

Submitted on: 2/27/2022 3:42:23 PM

Testimony for FIN on 2/28/2022 12:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
grace c andres	Individual	Support	No

Comments:

I support HB227 D2. Unlicensed CCFFHs put their clients at risk as there is no oversight of living conditions or patient health.

HB-227-HD-2

Submitted on: 2/27/2022 5:26:42 PM

Testimony for FIN on 2/28/2022 12:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Alan Garcia	Individual	Support	No

Comments:

I support this consumer protection bill because Hawaii has a significant number of illegal, unlicensed care homes making millions of dollars and these illegal care homes are not paying taxes, they have no oversight by the Department of Health, they have no criminal background checks, they have no liability insurance like all the other legal - licensed community care homes in Hawaii.

This is a bill to protect our Kupuna and the legitimate community care home industry.

HB-227-HD-2

Submitted on: 2/27/2022 6:50:59 PM

Testimony for FIN on 2/28/2022 12:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Jasmine Ramos	Individual	Support	No

Comments:

I am in strong support for HB227, because this will add stronger language and policy to close down the illegal and unlicensed community care home industry in Hawaii.

This illegal underground group of care homes are not licensed by the Department of Health, and pay no taxes while making over \$5,000 to \$12,000 per patient in their unlicensed care home. The Department of Health needs this bill to enforce policy to close down this illegal industry.

This bill represents consumer protection.

HB-227-HD-2

Submitted on: 2/27/2022 7:17:03 PM

Testimony for FIN on 2/28/2022 12:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Louie Bernardo	Individual	Support	No

Comments:

I support HB227 because we should have the department of health guide Healthcare facilities through yearly inspections and unannounced visits inorder to maintain the good health and safety of our erderly. We should get our licenses and certificates to prove we are qualified to care for patients or residents.

HB-227-HD-2

Submitted on: 2/27/2022 7:27:28 PM

Testimony for FIN on 2/28/2022 12:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Stacey Okano	Okano Care Home	Support	No

Comments:

Please consider passing this bill, on behalf of our licensed care homes, certified adult residential foster homes, and our kupuna. I speak for myself when I say we diligently and readily keep our license in good standing by following state regulations. It is at times daunting but needed to assure we are providing the best quality of care for our kupuna so that they can live the remainder of their lives in a space with dignity, love, and respect. This needs to be across the board for any and all care facilities. We need to have regulations to ensure there are no entities knowingly transferring and/or referring our kupuna to these unlicensed facilities. Please do your due diligence in helping to protect our kupuna. Mahalo in advance.

HB-227-HD-2

Submitted on: 2/27/2022 8:40:00 PM

Testimony for FIN on 2/28/2022 12:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
rufelia s tomas	Individual	Support	No

Comments:

I support Bill HB227 HD2

HB-227-HD-2

Submitted on: 2/27/2022 10:52:38 PM

Testimony for FIN on 2/28/2022 12:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Ruth Raza	Individual	Support	No

Comments:

From: Ruth Raza RN BSN

Re: HB 227 HD2-Relating to Health for Unlicensed Care Home

Date: February 27, 2022

My name is Ruth Raza. I have been a Registered Nurse for over 20 years, and a Caregiver over 10 years. I own and managed a Licensed Care Home in Hilo.

We Licensed Care Home operators went through a lot just to acquire a licensed from Department of Health. We have oversight and monitoring to ensure the safety and well being of our Kupuna. We maintain and abide many requirements to uphold the law. Unlicensed care homes are not subject to annual inspections ,criminal background checks, and the right of the resident and family to access the services of the long term care ombudsman when the resident or responsible person needs advocate and doesn't know where to turn.

Thank you for the opportunity to testify.

Ruth Raza