



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) More clearly defining the group of professionals who  
10 are prohibited from knowingly referring or  
11 transferring patients to an uncertified or unlicensed  
12 care 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.

21 PART II



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

4 " ~~[+] §321-487 [†]~~ Referral or transfers to uncertified or  
5 unlicensed care facility; penalty. (a) It shall be unlawful  
6 for ~~[a certified or licensed healthcare provider or certified or~~  
7 ~~licensed care facility]~~ any person, corporation, or any other  
8 entity in the health care or human services community to  
9 knowingly refer or transfer patients to an uncertified or  
10 unlicensed care facility. The department may impose ~~[a fine]~~ an  
11 administrative penalty on ~~[any certified or licensed healthcare~~  
12 ~~provider or certified or licensed care facility]~~ any person,  
13 corporation, or any other entity in the health care or human  
14 services community that knowingly refers or transfers patients  
15 to a care home, agency, or facility operating without a  
16 certificate or license as required by law; provided that this  
17 section shall not apply to a person acting in the person's  
18 individual capacity; and provided further that the ~~[fine]~~  
19 administrative penalty shall be no more than:

- 20 (1) \$500 for the first violation;
- 21 (2) \$1,000 for the second violation; and



1 (3) \$2,000 for the third and each succeeding violation."

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3 repealed.

4 ~~["§321-488] Exclusion. For purposes of this chapter, a~~  
5 ~~landlord, as defined in section 521-8, shall not be deemed to be~~  
6 ~~providing home care services or to be operating a care facility~~  
7 ~~requiring a license under this chapter solely due to a landlord~~  
8 ~~permitting a tenant to receive care services from persons~~  
9 ~~licensed to provide care services, if licensing is otherwise~~  
10 ~~required by law, and the landlord does not require a tenant to~~  
11 ~~use or pay for care services as a condition of the rental~~  
12 ~~agreement. For the purposes of this section, an operator means~~  
13 ~~an individual or entity that operates or manages a healthcare~~  
14 ~~facility or similar facility that provides care services in that~~  
15 ~~facility." ]~~

16 PART III

17 SECTION 4. Section 321-1.9, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "[~~f~~]§321-1.9[~~}]~~ Inspections; visits; state-licensed or  
20 state-certified care facilities. (a) The department of health  
21 shall conduct unannounced visits and inspections, including



1 inspections for relicensing or recertification, for the  
2 following state-licensed or state-certified care facilities on  
3 an annual basis and at [~~such~~] intervals as determined by the  
4 department to ensure the health, safety, and welfare of each  
5 resident:

6 (1) Adult day health centers;

7 (2) Adult day care centers;

8 (3) Community care foster family homes;

9 (4) Developmental disabilities domiciliary homes;

10 (5) Adult foster homes;

11 (6) Long-term care facilities, including but not limited  
12 to:

13 (A) Adult residential care homes;

14 (B) Expanded adult residential care homes;

15 (C) Assisted living facilities;

16 (D) Intermediate care facilities;

17 (E) Nursing facilities; and

18 (F) Skilled nursing facilities; and

19 (7) Special treatment facilities.

20 (b) Unannounced visits may be conducted during or outside  
21 regular business hours. All inspections relating to follow-up



1 visits, visits to confirm correction of deficiencies, or visits  
2 to investigate complaints or suspicion of abuse or neglect shall  
3 be conducted unannounced during or outside regular business  
4 hours. Annual inspections for relicensing or recertification  
5 may be conducted during regular business hours or at intervals  
6 determined by the department. Annual inspections for  
7 relicensing or recertification shall be conducted without  
8 notice.

9 (c) Consistent with subsection (b), the department shall  
10 prioritize investigations of complaints based on the degree of  
11 severity of the allegations and shall give highest priority to  
12 allegations of actual harm or potential harm.

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

15 PART IV

16 SECTION 5. This Act does not affect rights and duties that  
17 matured, penalties that were incurred, and proceedings that were  
18 begun before its effective date.

19 SECTION 6. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21 SECTION 7. This Act shall take effect on January 1, 2050.



**Report Title:**

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

**Description:**

Clearly defines the group of professionals who are prohibited from knowingly referring or transferring patients to an uncertified or unlicensed care facility. Replaces the term "fine" with "administrative penalty". 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 1/1/2050. (SD1)

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

