



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
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WRITTEN TESTIMONY ONLY

**Testimony in SUPPORT of S.B. 1378, SD1  
RELATING TO UNLICENSED CARE HOMES.**

SENATOR JARRETT KEOHOKALOOLE, CHAIR  
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

SENATOR KARL RHOADS, CHAIR  
SENATE COMMITTEE ON JUDICIARY

Hearing Date: Tuesday, February 28, 2023

Room Number: 16

1 **Fiscal Implications:** None.

2 **Department Testimony:** The Department STRONGLY SUPPORTS this administration bill  
3 and appreciates the Legislature's support in our mutual aim to safeguard the public, protect aged  
4 and vulnerable persons, and ensure quality of care by requiring and enforcing that all residential  
5 care homes and other health care facilities, agencies and organizations are licensed pursuant to  
6 state law. In addition, the Department appreciates and accepts the technical amendments and  
7 clarification made by the Senate Committee on Health and Human Services.

8 The purpose of this bill is to protect the public and, specifically, vulnerable consumers of  
9 health care services in residential care facilities throughout the state by expanding the  
10 Department's ability to more thoroughly investigate complaints of unlicensed care home  
11 activities and to take appropriate enforcement action on bad actors.

12 The Department's strategy is two-fold: 1. investigate complaints and, if substantiated,  
13 close unlicensed homes; and 2. reduce or eliminate referrals to unlicensed homes.

1 Ten (10) unlicensed homes or facilities have been closed and over \$175,000 were  
2 collected or is in the process of being collected. Several other investigations are ongoing and  
3 over twenty-five (25) Notices of Violation and Order (NOVO) are in draft or awaiting draft.

4 In addition, there are a number of so-called aging-in-place care homes appearing to  
5 masquerade as rental homes with several unrelated tenants all requiring care services. These  
6 homes appear to meet the definition of residential care homes, but persons cite the exclusion  
7 clause at HRS §321-488 to refuse entry by investigators and avoid the state's enforcement of  
8 licensing requirements. One such unlicensed aging-in-place care home refused entry of the  
9 Department's investigators who were attempting to conduct a complaint investigation. With the  
10 help of the Office of the Attorney General, the Department took the unprecedented step of  
11 obtaining and serving a search warrant on the home and gathered evidence to substantiate the  
12 allegation of the home being an unlicensed care home. A NOVO was issued and the case is  
13 currently on appeal.

14 At a minimum, repealing HRS §321-488 would allow the Department to more thoroughly  
15 and timely investigate complaints of unlicensed care home activity. It would also send a  
16 powerful message that bad actors cannot hide behind an exclusion clause. Without this repeal,  
17 the state is concerned that more of these homes will open or that current licensed care homes will  
18 surrender their license and claim the exclusion, thereby increasing the risk of substandard quality  
19 of care or living conditions on consumers and our vulnerable population. The home is the  
20 environment of care and should be inspected along with the caregiver services to ensure optimal  
21 health outcomes for consumers. This would prevent consumers who require care from being in  
22 accommodations which could be hazardous to their health, safety, or welfare, such as homes or

1 bedrooms without smoke or fire detectors, or inadequate ingress or egress points for persons in  
2 wheelchairs or with walkers or other assistive devices to escape in case of fire or other  
3 emergency, or cramped and overcrowded bedrooms, or dilapidated living conditions, or home or  
4 bedrooms that don't meet county codes for occupancy, or have inadequate utilities.

5 Enforcement activities are a critical component of the state's regulatory efforts to ensure  
6 the health, safety, and welfare of consumers and our *kupuna*, and such actions deserve our  
7 support.

8 Thank you for the opportunity to testify in STRONG SUPPORT of this administration  
9 bill.

10 **Offered Amendments:** None.