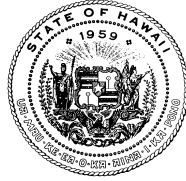


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**Testimony in OPPOSITION to H.B. 651  
RELATING TO CARE FACILITY INSPECTIONS.**

REPRESENTATIVE DELLA AU BELATTI, CHAIR  
HOUSE COMMITTEE ON HEALTH & HOMELESSNESS

Hearing Date: Wednesday, February 1, 2023

Room Number: 329

1 **Fiscal Implications:** This measure impacts the Department of Health's (DOH) Office of Health  
2 Care Assurance (OHCA) and Developmental Disabilities Division (DDD) and may impact the  
3 priorities identified in the Governor's Executive Budget Request for DOH appropriations and  
4 personnel. Resource needs would include permanent, full-time, civil service positions and funds  
5 if this bill passes.

6 **Department Testimony:** Thank you for the opportunity to testify in OPPOSITION to this bill.  
7 The intent of this bill is laudable but portions of the bill are unclear, duplicative, or would add  
8 work, and the Department's overall current performance may make this bill unnecessary since  
9 the bill's main intent may already be met.

10 **Bill Requirements:** This bill would require the following timelines to be met:

- 11 1. A report on the "initial inspection visit:" within 5 working days on the inspection;
- 12 2. A report on the violations (citations): within 15 working days of the inspection;
- 13 3. A report on the plans of correction: within 30 working days of the inspection; and
- 14 4. A list of corrective actions taken by the facility: within 60 working days of the plan of  
15 correction's submission.

1            DOH's Current Performance: On average during calendar year 2022, OHCA's survey  
2 reports were posted within 20 calendar days from inspection date to posting date. Of the 20  
3 days, 16 calendar days were taken by surveyors to write the reports and submit them for posting  
4 and 4 calendar days were taken by the posting clerk to post them.

5            Ninety-five percent (95%) of DDD's reports are posted within the bills timeframes.

6            Admittedly, averages mean that some reports are posted within the timeline while other  
7 reports are posted beyond the timeline. The Department is concerned that the strict requirement  
8 of this bill in statute would expose the Department to lawsuits similar to the one filed in 2017,  
9 which was concluded in the Department's favor. This would distract the Department from its  
10 other duties and responsibilities. Nevertheless, the Department continues to work to improve on  
11 its performance.

12           Unclear, Duplicated, and Added Requirements: If this bill passes, OHCA and DDD  
13 would be required to post online some kind of report within 5 days of the conclusion of an  
14 "initial inspection visit," but the bill does not define what an initial inspection visit is or what  
15 shall be reported from that visit. Is the initial visit the inspection when the facility is initially  
16 licensed or is it the annual inspection visit? The current HRS is also unclear on the differences  
17 of paragraphs (b)(3) and (b)(4) on pages 2 and 3, respectively. Both paragraphs discuss the  
18 facilities' plans of correction and their statuses. Since this bill would establish different  
19 timeframes for these actions, it would help to better know the legislature's intent.

20           This bill also requires duplicative information for DOH to post, i.e., a log of each report  
21 in a publically accessible database even though the reports themselves are posted. This will  
22 require additional time and effort to create and maintain. Further, DOH will defer to non-DOH

1 entities but the bill appears to create additional administrative burdens for licensed or certified  
2 care facilities to maintain records of inspections and to report initial inspections to the Executive  
3 Office on Aging (EOA) Long Term Care Ombudsman (LTCO) and county agencies on aging  
4 who shall also create additional public databases. Licensed facilities are already required to post  
5 or make available inspection reports at the facility location. This bill would also require all  
6 licensees, including the approximately 1,700-plus mom-and-pop residential care homes to create  
7 and maintain websites with online information for public access. We know from experience that  
8 residential care home licensees are often computer challenged.

9 Potential Financial Considerations: If this bill passes, the Department would require  
10 additional resources to meet its requirements. For example, surveyors could not be scheduled on  
11 back-to-back surveys so they could write reports. For the larger institutional facilities, let me use  
12 skilled nursing facilities (SNF) as an example of how this bill would impact OHCA. SNFs are  
13 surveyed by as many as 4 – 5 surveyors for as many as 4 days, sometimes longer, and they look  
14 at the multi-disciplinary processes of a facility's operation to ensure compliance with federal and  
15 state regulations to protect the health, safety, and welfare of patients. They look at everything  
16 from governance to management oversight to nursing services to multi-disciplinary care  
17 planning upon admission, discharge planning, patients' rights, kitchen and dietary, social services  
18 and activities, maintenance and housekeeping, medication management, fire and life safety, and  
19 the always important infection control practices including COVID-19 prevention and mitigation.

20 Surveyors then have ten (10) working days to write reports but typically the report  
21 writing can take longer due to the extensive and detailed nature of the report or because  
22 surveyors are assigned back-to-back surveys to keep up with the workload. This delays the

1 report writing on the first survey. OHCA would require additional surveyors to break this cycle  
2 of back-to-back surveys.

3 Thank you for the opportunity to testify in OPPOSITION on this measure.

4 **Offered Amendments:** None.