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# A BILL FOR AN ACT

RELATING TO HEALTH.

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

1           SECTION 1. Chapter 321, Hawaii Revised Statutes, is  
2 amended by adding five new sections to be appropriately  
3 designated and to read as follows:  
4           "§321-A Investigations. Upon receiving a report that a  
5 person, corporation, or any other entity may be operating a care  
6 facility without a certificate or license as required by law and  
7 issued by the department, or that a home or any type of living  
8 arrangement may be operating as a care facility without a  
9 certificate or license as required by law and issued by the  
10 department, the department may conduct an investigation for the  
11 limited purposes of determining whether the person or entity is  
12 operating without a required certificate or license in  
13 accordance with the following provisions:  
14           (1) The department may request access to the location  
15           indicated in the report; or  
16           (2) The department may file a complaint with the district  
17           court in the circuit of the location indicated in the



1 report and the district court, upon a finding of  
2 probable cause, may issue a search warrant directed to  
3 the department and the appropriate county police  
4 department, if necessary, to investigate the location  
5 pursuant to this section between the hours of sunrise  
6 and sunset.

7 §321-B Action upon investigation. Upon investigation, the  
8 department may take action on confirmed findings that the  
9 subject of a report is operating a care facility without the  
10 required certificate or license and shall have the authority to  
11 do any or all of the following:

- 12 (1) Resolve the matter in an informal fashion as is  
13 appropriate under the circumstances;  
14 (2) Exercise the department's right of entry under section  
15 321-C;  
16 (3) File a petition with the district court for  
17 enforcement, protective, or remedial action; or  
18 (4) Pursue any protective or remedial actions authorized  
19 by law.

20 §321-C Right of entry. The department, when engaged in an  
21 investigation pursuant to section 321-A shall be authorized to



1 visit and communicate with any person operating the facility,  
 2 home, or other type of living arrangement that is the subject of  
 3 a report. Any person intentionally or knowingly obstructing or  
 4 interfering with the department's right of entry, the  
 5 department's investigation of a report of operating without a  
 6 certificate or license, or the department's communication with a  
 7 vulnerable person reported to be receiving care from an  
 8 uncertified or unlicensed operator shall be guilty of a  
 9 misdemeanor.

10 §321-D Penalty. Any person who intentionally operates a  
 11 care facility without a certificate or license shall be guilty  
 12 of a misdemeanor and shall be fined not more than:

- 13 (1) \$ \_\_\_\_\_ for each day of uncertified or unlicensed
- 14 operation for the first violation;
- 15 (2) \$ \_\_\_\_\_ for each day of uncertified or unlicensed
- 16 operation for the second violation; and
- 17 (3) \$ \_\_\_\_\_ for each day of uncertified or unlicensed
- 18 operation for the third and each succeeding violation.

19 §321-E Referral or transfers to uncertified or unlicensed  
 20 care facility. It shall be unlawful for a certified or licensed  
 21 healthcare provider or certified or licensed care facility to



1 knowingly refer or transfer patients to an uncertified or  
 2 unlicensed care facility. The department shall be authorized to  
 3 enforce on any certified or licensed healthcare provider or  
 4 certified or licensed care facility that knowingly refers or  
 5 transfers patients to a care home, agency, or facility operating  
 6 without a certificate or license as required by law, a fine of  
 7 not more than:

- 8 (1) \$ \_\_\_\_\_ for the first violation;
- 9 (2) \$ \_\_\_\_\_ for the second violation; and
- 10 (3) \$ \_\_\_\_\_ for the third and each succeeding violation.

11 In addition to fines imposed under this subsection, the  
 12 department may initiate administrative proceedings to suspend or  
 13 revoke the referring or transferring care provider or facility's  
 14 certificate or license upon a third or any succeeding  
 15 violation."

16 SECTION 2. In codifying the new sections added by section  
 17 1 of this Act, the revisor of statutes shall substitute  
 18 appropriate section numbers for the letters used in designating  
 19 the new sections in this Act.

20 SECTION 3. New statutory material is underscored.

21 SECTION 4. This Act shall take effect on July 1, 3000.



**Report Title:**

Care Facilities; Uncertified; Unlicensed; Enforcement

**Description:**

Authorizes the Department of Health to investigate care facilities reported to be operating without an appropriate certificate or license issued by the Department. Establishes penalties for violations and for patient referral or transfer to uncertified or unlicensed care facilities. (HB1911 HD1)

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

