HOUSE CONCURRENT
RESOLUTION

URGING THE DEPARTMENT OF HEALTH TO FOSTER A MORE SUPPORTIVE
REGULATORY STRUCTURE AND ENVIRONMENT FOR LICENSED OR
CERTIFIED CARE FACILITIES, INCLUDING ADULT RESIDENTIAL CARE
HOMES, EXPANDED ADULT RESIDENTIAL CARE HOMES, AND COMMUNITY
CARE FOSTER FAMILY HOMES.

WHEREAS, the proportion of Hawaii residents aged sixty-five
and older in relation to the State's total population increased
from 7.9 percent in 1980 to 17.1 percent in 2016, and is
expected to keep rising through 2030; and

WHEREAS, the growth of the State's senior population is
likely to bring about increased consumer demand for long-term
care options, including community-based living options such as
adult residential care homes, expanded adult residential care
homes, and community care foster family homes; and

WHEREAS, the Department of Health's Office of Health Care
Assurance is tasked with regulating these types of care
facilities, in addition to other facilities that provide day
care or assisted living services to seniors; and

WHEREAS, in recent years, the Legislature has required
increasingly stringent oversight of licensed adult residential
care homes, licensed expanded adult residential care homes, and
certified community care foster family homes, including
mandatory home and automobile liability insurance and mandatory
posting of inspection reports on the Department of Health's
website; and

WHEREAS, other recently enacted legislation has provided
the Department of Health with more aggressive enforcement
authority, for example:
(1) Act 184, Session Laws of Hawaii 2016, codified in part as section 321-1.9, Hawaii Revised Statutes, which requires the Department to conduct unannounced visits and inspections, including inspections for relicensing or recertification and follow-up visits to confirm the correction of deficiencies or to investigate complaints, of various types of licensed or certified care facilities, including adult residential care homes, expanded adult residential care homes, and community care foster family homes; and

(2) Act 148, Session Laws of Hawaii 2018, codified as part XXXVIIIA of Chapter 321, Hawaii Statutes, which, among other things, grants the Department authority to obtain access to an alleged unlicensed or uncertified care facility, including through a court-issued search warrant; provides the Department with the right of entry to care facilities for investigation purposes; and establishes the misdemeanor offense of intentionally operating a care facility without a license or certificate; and

WHEREAS, the testimony of the State's Long-Term Care Ombudsman dated February 14, 2018, on House Bill No. 1911, H.D. 1, which was subsequently amended and enacted as Act 148, Session Laws of Hawaii 2018, referenced the multitude of requirements that licensed or certified care facilities are subject to, including "staffing requirements, criminal background check requirements, building and fire code requirements, substitute caregiver requirements, Resident Rights requirements, knowledge of CPR requirements, TB clearance requirements, reading and speaking English requirements, housing design and self-preservation requirements, confidentiality requirements, medical records requirements, billing and financial record requirements, medication pass requirements (especially regarding the use of antipsychotic medications), infection control requirements, [and] waste removal requirements," among others; and

WHEREAS, given the complexity of navigating the applicable care facility laws and regulations, it is conceivable that some care facility operators would have difficulty staying abreast of
the latest mandates, and that a certain number of alleged
violations would, upon investigation, prove to have been
unintentionally or unknowingly committed; and

WHEREAS, the Legislature believes that in the interest of
ensuring an adequate supply of quality long-term care options,
it would be beneficial to foster a regulatory atmosphere of
openness and mutual cooperation, rather than one that is
perceived by some to be intimidating and overly punitive; now,
therefore,

BE IT RESOLVED by the House of Representatives of the
Thirtieth Legislature of the State of Hawaii, Regular Session of
2020, the Senate concurring, that the Department of Health is
urged to foster a more supportive regulatory structure and
environment for licensed or certified care facilities, including
adult residential care homes, expanded adult residential care
homes, and community care foster family homes, and to amend its
administrative rules accordingly, where applicable; and

BE IT FURTHER RESOLVED that the Department of Health
endeavor to be more proactive in providing training and
consultation to operators and staff of licensed adult
residential care homes and expanded adult residential care homes
pursuant to sections 321-15.6 and 321-15.62, Hawaii Revised
Statutes, and to offer educational and outreach activities to
all licensed or certified care facilities that are designed to
encourage and enhance compliance; and

BE IT FURTHER RESOLVED that certified copies of this
Concurrent Resolution be transmitted to the Governor and
Director of Health.

OFFERED BY: