

## Licensed and Certified Facilities

Aloha,

Fines and Sanctions

Subscribe

Past Issues

Translate ▼

CTA is distributing this information which is provided by the Office of Health Care Assurance. It is being distributed to all CMAs and CCFFHs.

### ABOUT COMMUNITY TIES OF AMERICA, INC.

#### Fines and Sanctions

The Office of Health Care Assurance (OHCA) has begun implementation of fines for Hawaii Administrative Rule (HAR) violations for both case management agencies (CMA) and community care foster family homes (CCFFH). Fines are allowed in the HAR under §11-800-3. Violations are referred to as deficiencies.

Action taken against an individual, facility, or agency shall be conducted with the collaborative effort between Community Ties of America, Inc (CTA), the Office of Health Care Assurance Section Supervisor, and if required, the OHCA chief, and Deputy Attorney General (Deputy AG)

The information below is intended to ensure the following:

1. Enforcement action steps are clear, concise, and understandable.

Community Ties of America, Inc. provides licensure and certification on behalf of the State of Hawaii, Office of Health Care Assurance

Our website address to find forms, information and helpful tools including COVID-19 resources:

<http://comties.com/HIforms.html>

OHCA website for posted surveys

<http://health.hawaii.gov/ohca/inspection-reports/>

2. Enforcement action for facilities not in compliance are standardized and consistently applied.
3. Facilities shall abide by the applicable state statute and rules to the licensed or certified facility.

**HAR §11-800-3 Penalty.** Any person violating section 321-481 to 321-483 and 321-485, HRS, or this chapter shall be fined not more than \$500 per **each separate violation. Each day of each violation shall constitute a separate violation.** An appeal of the department's actions shall not stay the imposition of a fine.

The following deficiencies will result in a fine (see Fine Schedule below). In addition, repeat violations of the same deficiency will result in further fines/sanctions. CTA has found the four (4) deficiencies, listed below, to be the most problematic this past year. Additional deficiencies not listed below could also result in a fine particularly those that have the potential to place a client at risk for health, safety, or welfare.

In addition to any fines issued, the CCFFH certificate may also be modified or suspended. These could include actions such as a CCFFH being suspended from new client admissions (per §11-800-14(a)(3)) or there may be a decrease in the number of approved beds (modification).

**1. A CCFFH does not submit an acceptable written corrective action plan (CAP) within thirty (30) days of receipt of Correction Action Report (CAR) or statement of deficiency (SOD) letter.**

CCFFHs must respond within the required timeframe to each deficiency they have listed on either the CAR issued during their

inspection or SOD issued as a result of a visit or complaint as required in §11-800-14(a) and §11-800-14(b). This response must be done on the approved CAP form with all areas of the form filled out. The plan must identify how the deficiencies listed in the CAR or SOD shall be corrected in order for the CCFFH to become compliant with all certification requirements. This includes the corrective action taken and the timeframe for correction. Prevention strategies must be specific detailing how the CCFFH will prevent that rule from being deficient in the future.

Instructions for how to fill out the form are on the CTA website. The CTA compliance manager will also review the CAR with the CCFFH identifying which rules were found to be deficient. CCFFHs are encouraged to contact CTA if they have questions although CTA cannot tell you what to write on the form. Each CCFFH must determine how their CCFFH can successfully make changes to prevent the deficiency from happening again. There is also an instruction video available to CCFFH operators detailing how to fill out the CAP form.

An unacceptable corrective action plan will be considered one that does not meet CAP criteria outlined in the instructions for the CAP form.

**2. A CCFFH, with clients, does not have a CTA-approved caregiver present on the property. This can be discovered through CTA visits, case management agency (CMA) visits, a complaint investigation or other various methods. §11-800-41 (a)(4) §11-800-41 (j)(2)**

Note: A CCFFH **CANNOT** leave a client for

any reason for any length of time without a CTA-approved SCG who has been trained/delegated by the client's CMA. Household members are NOT CTA approved caregivers unless they go through the process and have an approval form in the CCFFH and meet all other SCG requirements as stated in the HAR.

There are two possible deficiencies in these situations.

- a. If there is no adult present at all it will be considered leaving clients unattended.
- b. If there is an adult present but they are not an approved caregiver, it will be considered a caregiver who does not meet minimum requirements.

\*\* If there are potential imminent danger risks, clients can be immediately removed from the CCFFH by CTA, a CMA or Adult Protective Services (APS) and other actions may be taken against the foster home operator which could lead to revocation of the home's certification.

### **3. A CCFFH admits a second private-pay client without OCHA approval. §11-800-42(b)**

Note: Medicaid pending clients ARE considered private pay clients until the day Med-Quest approves their Medicaid application. However, CTA encourages CCFFHs to charge Medicaid rates for these clients. Upon approval by Med-Quest, any amount a family, friend or client has paid above the Medicaid rate has to be returned upon Medicaid approval. A CCFFH could have a contract clause that says if the person is not approved for Medicaid, they will have to pay the private pay rate back to admission

date. It is up to each CCFFH to determine how to conduct their business regarding these contracts and payment rates.

**4. A CCFFH admits a client without a CMA. §11-800-42(a)(5)**

Note: Renters are considered a client if the renter is not related and the CCFFH performs any service for that renter. Services include any homemaker or personal care services as defined in §11-800-2 of the HAR, including but not limited to, cleaning, laundry, food preparation, personal care, supervision, medication reminders, providing transportation or giving medication, etc. A renter should be 100% independent or receive services in their own home (rental unit) from service providers outside of the CCFFH.

If you have a renter, you will be expected to show CTA proof that you have a legal binding lease and are paying GE taxes on the rental income. If you do not, the CCFFH will be in violation of the HAR regarding compliance with all state and county laws, ordinances, rules and regulations (11-800-41(b)(6)).

**Fine Schedule – for each separate HAR violation, per day or hour of each separate HAR violation**

There is no statute of limitations on the time period. In other words, any repetition, regardless of the amount of time since the earlier same offense, is subject to increased enforcement action.

A combination of severity, scope, and repetition may result in additional enforcement action.

Administrative penalties or fines include but are not limited to the following specific reasons and at the stated amounts and may include other enforcement action as noted:

**Failure to submit an acceptable written corrective action plan (CAP) within thirty (30) days of the receipt of the Corrective Action Report or Statement of Deficiency Letter.**

First (1<sup>st</sup>) offense - \$50 per day from the original due date of the CAP.

Second (2<sup>nd</sup>) offense - \$100 per day from the original due date of the CAP for a consecutive time of failing to submit a CAP within the required time period.

Third (3<sup>rd</sup>) offense - \$500 per day from the original due date of the CAP PLUS revocation of the CCFH certificate.

**Leaving clients unattended in the CCFH for any length of time**

First (1<sup>st</sup>) offense - \$250 per hour or portion thereof not to exceed \$500 during a 24-hour period.

Second (2<sup>nd</sup>) offense - \$500 per hour or portion thereof not to exceed \$500 during a 24-hour period.

Third (3<sup>rd</sup>) offense– \$500 per hour or portion thereof not to exceed \$500 during a 24-hour period PLUS revocation of CCFH certificate.

**Leaving clients with a care giver who does not meet minimum requirements as defined in Hawaii Administrative Rules**

First (1<sup>st</sup>) offense - \$200 per hour or portion thereof not to exceed \$500 during a 24-hour period.

Second (2<sup>nd</sup>) offense - \$400 per hour or portion thereof not to exceed \$500 during a

24-hour period.

Third (3<sup>rd</sup>) offense - \$500 per hour or portion thereof not to exceed \$500 during a 24-hour period PLUS revocation of CCFFH certificate.

**Admitting a second private pay client without OHCA approval**

First (1<sup>st</sup>) offense- \$250.

Second (2<sup>nd</sup>) offense - \$500.

Third (3<sup>rd</sup>) offense - \$500 plus revocation of CCFFH certificate.

**Admitting a client without a CMA**

First (1<sup>st</sup>) offense - \$250.

Second (2<sup>nd</sup>) offense - \$500.

Third (3<sup>rd</sup>) offense - \$500 PLUS revocation of CCFFH certificate.

Each violation is a separate fine. For example, if a CCFFH admitted a second private pay client (\$250), without a CMA (\$250) and leave clients unattended for 10 minutes (\$250) and it is the 1<sup>st</sup> offense for each violation, these violations would result in separate fines totaling \$750.

Each violation can also be fined for each day/hour of the violation. For example, if a CCFFH admitted a second private pay client on the 1<sup>st</sup> of the month and 20 days later CTA discovers the violation, these findings would result in 20 days of a \$250 fine for a total of \$5,000 if it is the CCFFHs first offense of this particular violation.

The fines will be payable to the Office of Health Care Assurance. Providers who are in violation will receive a Notice of Violation and Order (NOVO). The NOVO will have instructions on how to dispute any violation and/or orders as allowed by law. The NOVO

will also include instructions on how to pay the administrative penalty.

Authority: Enforcement action to ensure compliance with licensing or certification requirements are authorized by:

- Hawaii Revised Statutes Sections 321-15.6; 321-15.62, 321-15.9, 321-16.5, 321-16.6, 321-20, 321-482, 321-483, 321-485
- Hawaii Administrative Rules chapters 11-89, 11-90, 11-94.1, 11-96, 11-97, 11-98, 11-99, 11-100.1, 11-700, 11-800



 [Update Subscription Preferences](#)

 [Unsubscribe](#)

 [Forward to a Friend](#)

**Mailing address: 500 Ala Moana Blvd,  
Suite 7400, Honolulu, HI 96813**

Fax number: 808-234-5470  
Phone number: 808-234-5380

This email was sent to <<Email Address>>

[why did I get this?](#) [unsubscribe from this list](#) [update subscription preferences](#)

Community Ties of America, Inc. · 500 Ala Moana Blvd Suite 7400 · Honolulu, Hawaii 96813 · USA

