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# A BILL FOR AN ACT

RELATING TO CARE HOMES.

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

1 SECTION 1. Section 46-15.3, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) For the purpose of regulation under a county's life  
4 safety code, building code, fire code, or any other ordinance of  
5 similar purpose, a licensed adult family boarding home or  
6 licensed care home which provides living accommodations for:

7 (1) The operator of the home and operator's family; and

8 (2) Up to [~~five~~] six other persons, not more than [~~two~~]

9 three of whom are incapable of self-preservation

10 because of age or physical or mental limitations;

11 shall be deemed a single-family dwelling occupied by a family."

12 SECTION 2. Section 321-15.6, Hawaii Revised Statutes, is  
13 amended by amending subsection (b) to read as follows:

14 "(b) The director shall adopt rules regarding adult  
15 residential care homes in accordance with chapter 91 which shall  
16 be designed to:

17 (1) Protect the health, safety, and civil rights of

18 persons residing in facilities regulated;



1 (2) Provide for the licensing of adult residential care  
2 homes; provided that the rules shall allow group  
3 living in two categories of adult residential care  
4 homes as licensed by the department of health:

5 (A) Type I allowing group living by [~~five~~] six or  
6 fewer unrelated persons; and

7 (B) Type II allowing [~~six~~] seven or more persons,  
8 including but not limited to the mentally ill,  
9 elders, the handicapped, the developmentally  
10 disabled, or totally disabled persons who are not  
11 related to the home operator or facility staff.

12 For purposes of this section:

13 "Mentally ill person" means a mentally ill person  
14 as defined under section 334-1.

15 "Elder" means an elder as defined under sections  
16 201G-1 and 201G-151.

17 "Handicapped person" means an individual with a  
18 physical handicap as defined under section 515-2.

19 "Developmentally disabled person" means a person  
20 with developmental disabilities as defined under  
21 section 333F-1.



- 1 "Totally disabled person" means a person totally  
2 disabled as defined under section 235-1;
- 3 (3) Comply with applicable federal laws and regulations of  
4 Title XVI of the Social Security Act, as amended; and
- 5 (4) Provide penalties for the failure to comply with any  
6 rule."

7 SECTION 3. Section 321-15.62, Hawaii Revised Statutes, is  
8 amended by amending subsection (b) to read as follows:

9 "(b) The director of health shall adopt rules regarding  
10 expanded adult residential care homes in accordance with chapter  
11 91 ~~[which]~~ that shall implement a social model of health care  
12 designed to:

- 13 (1) Protect ~~[the]~~ persons' health, safety, and civil  
14 rights, ~~[and]~~ as well as rights of choice ~~[of the~~  
15 ~~persons]~~ to reside in a nursing facility or in home-  
16 or community-based care;
- 17 (2) Provide for the licensing of expanded adult  
18 residential care homes for persons who are certified  
19 by the department of human services, a physician,  
20 advanced practice registered nurse, or registered  
21 nurse case manager as requiring skilled nursing  
22 facility level or intermediate care facility level of



1 care who have no financial relationship with the home  
2 care operator or facility staff; provided that the  
3 rules shall allow group living in the following two  
4 categories of expanded adult residential care homes as  
5 licensed by the department of health:

6 (A) [~~Type~~] A type I home shall consist of [~~five~~] six  
7 or [~~less~~] fewer residents with no more than [~~two~~]  
8 three nursing facility level residents; provided  
9 that at least one bed shall be reserved for  
10 medicaid patients; provided further that more  
11 nursing facility level residents may be allowed  
12 at the discretion of the department; and

13 (B) [~~Type~~] A type II home shall consist of [~~six~~]  
14 seven or more residents, with no more than twenty  
15 per cent of the home's licensed capacity [~~as~~] at  
16 nursing facility level [~~residents;~~] of care;  
17 provided that at least one bed shall be reserved  
18 for medicaid patients; provided further that more  
19 nursing facility level residents may be allowed  
20 at the discretion of the department;

21 provided further that the department shall exercise  
22 its discretion for a resident presently residing in a



1            [~~Type~~] type I or [~~Type~~] type II home, to allow the  
2            resident to remain as an additional nursing facility  
3            level resident based upon the best interests of the  
4            resident. The best interests of the resident shall be  
5            determined by the department after consultation with  
6            the resident, the resident's family, primary  
7            physician, case manager, primary caregiver, and home  
8            operator;

9            (3) Comply with applicable federal laws and regulations of  
10            Title XVI of the Social Security Act, as amended; and

11            (4) Provide penalties for the failure to comply with any  
12            rule."

13            SECTION 4. Section 346-331, Hawaii Revised Statutes, is  
14            amended by amending the definition of "community care foster  
15            family home" or "home" to read as follows:

16            "'Community care foster family home" or "home" means a home  
17            that, for the purposes of this part:

18            (1) Is regulated by the department in accordance with  
19            rules that are equitable in relation to rules that  
20            govern expanded adult residential care homes;

21            (2) Is issued a certificate of approval by the department  
22            or its designee to provide, for a fee, twenty-four-



1 hour living accommodations, including personal care  
2 and homemaker services, for not more than [~~two~~] three  
3 adults at any one time, at least [~~one~~] two of whom  
4 shall be [~~a~~] medicaid [~~recipient,~~] recipients, who are  
5 at the nursing facility level of care, who are  
6 unrelated to the foster family, and who are receiving  
7 the services of a licensed home and community-based  
8 case management agency; and

- 9 (3) Does not include expanded adult residential care homes  
10 or assisted living facilities, both of which shall  
11 continue to be licensed by the department of health."

12 SECTION 5. Section 346-332, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "[~~+~~]**§346-332**[~~+~~] **Applicability.** (a) Prior to June 30,  
15 2006, this part shall apply to the demonstration project  
16 statewide.

17 (b) Community care foster family homes shall be required  
18 to reserve at least [~~one bed~~] two beds for medicaid patients.

19 (c) Expanded adult residential care homes shall be  
20 required to reserve at least one bed for medicaid patients."

21 SECTION 6. Act 273, Session Laws of Hawaii 2001, as  
22 amended by Act 98, Session Laws of Hawaii 2003, and Act 153,



1 Session Laws of Hawaii 2004, is amended by amending section 6 to  
2 read as follows:

3 "SECTION 6. This Act shall take effect on July 1, 2001[  
4 ~~and shall be repealed on June 30, 2006~~]."

5 SECTION 7. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 8. This Act shall take effect on July 1, 2006.



HB 2223  
HD1

**Report Title:**

Care Homes; Capacity; Level of Care Payments

**Description:**

Expands capacity for certain types of care homes. Provides for an adjustment in level of care payments. Requires a certain number of beds for medicaid patients in certain types of care homes. Makes other clarifying amendments. (HB2223 HD1)

