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# HOUSE CONCURRENT RESOLUTION

REQUESTING THE AUDITOR TO CONDUCT A SUNRISE REVIEW OF THE  
CERTIFICATION OF NURSE AIDES WHO WORK IN SETTINGS OTHER  
THAN MEDICARE- OR MEDICAID-CERTIFIED NURSING FACILITIES AND  
THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS TO RESCIND  
ITS DECISION TO END CERTIFICATION OF THESE NURSE AIDES.

1           WHEREAS, nurse aides who work in facilities that  
2 participate in Medicare or Medicaid have been subject to  
3 certification by the Department of Commerce and Consumer Affairs  
4 (DCCA) under Chapter 457A, Hawaii Revised Statutes (HRS), and in  
5 accordance with federal regulations, since 1990; and  
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7           WHEREAS, in 1993, the Auditor conducted a sunset evaluation  
8 of Chapter 457A, HRS, which was reenacted after the Auditor  
9 concluded that regulation of nurse aides under the chapter was  
10 reasonably necessary to ensure a minimum level of competency and  
11 protect the safety of patients; and  
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13           WHEREAS, over the past 15 years, there has been confusion  
14 over whether nurse aides who work in facilities that do not  
15 receive Medicare or Medicaid funding (non-Medicare or non-  
16 Medicaid settings) are required to be certified; and  
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18           WHEREAS, although state law does not require certification  
19 of these nurse aides, many of these nurse aides have been  
20 certified and recertified by DCCA; and  
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22           WHEREAS, in 2005, DCCA notified certified nurse aides who  
23 work in non-Medicare or non-Medicaid settings that there is no  
24 state requirement for certification and they would no longer be  
25 recertified; and  
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27           WHEREAS, some facilities are concerned about their ability  
28 to receive payment from health insurance plans if their nurse  
29 aides are not certified, nurse aides have expressed concerns  
30 that they may lose their jobs if they are not recertified, and



1 there are also concerns for the safety and well-being of  
2 patients if nurse aides are not certified; and

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4 WHEREAS, DCCA, Department of Health, Department of Human  
5 Services (DHS), Hawaii Long-Term Care Association (HLTCA), and  
6 Healthcare Association of Hawaii (HAH) cooperatively drafted a  
7 bill that requires state certification of nurse aides who work  
8 in non-Medicare or non-Medicaid settings and establishes  
9 certification standards and guidelines for discipline and due  
10 process; and

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12 WHEREAS, the product of their work, S.B. No. 3277, was  
13 introduced in the 2006 legislative session and was amended by  
14 the Senate as S.B. No. 3277, S.D. 2; and

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16 WHEREAS, section 26H-6, HRS, requires measures being  
17 considered for enactment that would subject unregulated  
18 professions and vocations to licensing or other regulatory  
19 controls to be referred to the Auditor to determine whether  
20 regulation is reasonably necessary to protect the health,  
21 safety, or welfare of consumers; now, therefore,

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23 BE IT RESOLVED by the House of Representatives of the  
24 Twenty-third Legislature of the State of Hawaii, Regular Session  
25 of 2006, the Senate concurring, that the Auditor is requested to  
26 conduct a sunrise review in accordance with section 26H-6, HRS,  
27 of the regulation proposed in S.B. No. 3277, S.D. 2, of nurse  
28 aides who work in non-Medicare or non-Medicaid settings; and

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30 BE IT FURTHER RESOLVED that the Auditor is requested to  
31 report any findings and recommendations to the Legislature, at  
32 least 20 days prior to the convening of the Regular Session of  
33 2007; and

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35 BE IT FURTHER RESOLVED that DCCA is requested to rescind  
36 its decision to discontinue certification of nurse aides who  
37 work in non-Medicare and non-Medicaid settings and extend all  
38 current certifications of these nurse aides until the earlier of  
39 December 31, 2007, or the date a law requiring these nurse aides  
40 to be certified by the State is enacted by the Legislature; and



1 BE IT FURTHER RESOLVED that DCCA is requested to continue  
2 to work cooperatively with DOH, DHS, HLTCA, and HAH, review the  
3 Auditor's report, and submit a bill requiring state  
4 certification of nurse aides who work in non-Medicare or non-  
5 Medicaid settings to the Legislature for introduction in the  
6 2007 Regular Session; and  
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8 BE IT FURTHER RESOLVED that certified copies of this  
9 Concurrent Resolution be transmitted to the Auditor, Director of  
10 Commerce and Consumer Affairs, Director of Human Services,  
11 Director of Health, President of the Hawaii Long Term-Care  
12 Association, and President of the Healthcare Association of  
13 Hawaii.

