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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~~] that provides living accommodations  
7 for:

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

9 (2) Up to [~~five~~] six other persons, not more than [~~two~~]  
10 three of whom are incapable of self-preservation

11 because of age or physical or mental limitations[+],  
12 shall be deemed a single-family dwelling occupied by a family."

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

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



- 1 (1) Protect the health, safety, and civil rights of
- 2 persons residing in facilities regulated;
- 3 (2) Provide for the licensing of adult residential care
- 4 homes; provided that the rules shall allow group
- 5 living in two categories of adult residential care
- 6 homes as licensed by the department of health:
- 7 (A) Type I allowing group living by [~~five~~] six or
- 8 fewer unrelated persons; and
- 9 (B) Type II allowing [~~six~~] seven or more persons,
- 10 including but not limited to the mentally ill,
- 11 elders, the handicapped, the developmentally
- 12 disabled, or totally disabled persons who are not
- 13 related to the home operator or facility staff[~~-~~
- 14 ~~For purposes of this section:~~
- 15 ~~"Mentally ill person" means a mentally ill person~~
- 16 ~~as defined under section 334-1.~~
- 17 ~~"Elder" means an elder as defined under sections~~
- 18 ~~201G-1 and 201G-151.~~
- 19 ~~"Handicapped person" means an individual with a~~
- 20 ~~physical handicap as defined under section 515-2.~~

1                   ~~"Developmentally disabled person" means a person~~  
2                   ~~with developmental disabilities as defined under~~  
3                   ~~section 333F-1.~~

4                   ~~"Totally disabled person" means a person totally~~  
5                   ~~disabled as defined under section 235-1];~~

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

8           (4) Provide penalties for the failure to comply with any  
9           rule.

10           For the purposes of this subsection:

11           "Developmentally disabled" means a person with  
12           developmental disabilities as defined under section 333F-1.

13           "Elder" has the same meaning as defined under section 201G-  
14           1.

15           "Handicapped" means an individual with a disability as  
16           defined under section 515-2.

17           "Mentally ill" means a mentally ill person as defined under  
18           section 334-1.

19           "Totally disabled person" means a person totally disabled  
20           as defined under section 235-1."

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



1           "(b) The director of health shall adopt rules regarding  
2 expanded adult residential care homes in accordance with chapter  
3 91 [~~which~~] that shall implement a social model of health care  
4 designed to:

5           (1) Protect [~~the~~] persons' health, safety, and civil  
6 rights, [~~and~~] as well as rights of choice [~~of the~~  
7 ~~persons~~] to reside in a nursing facility or in home-  
8 or community-based care;

9           (2) Provide for the licensing of expanded adult  
10 residential care homes for persons who are certified  
11 by the department of human services, a physician,  
12 advanced practice registered nurse, or registered  
13 nurse case manager as requiring skilled nursing  
14 facility level or intermediate care facility level of  
15 care who have no financial relationship with the home  
16 care operator or facility staff; provided that the  
17 rules shall allow group living in the following two  
18 categories of expanded adult residential care homes as  
19 licensed by the department of health:

20           (A) [~~Type~~] A type I home shall consist of [~~five~~] six  
21 or [~~less~~] fewer residents with no more than [~~two~~]  
22 three nursing facility level residents; provided



1           that at least one bed shall be reserved for  
2           medicaid patients; provided further that more  
3           nursing facility level residents may be allowed  
4           at the discretion of the department; and

5           (B) [~~Type~~] A type II home shall consist of [~~six~~]  
6           seven or more residents, with no more than twenty  
7           per cent of the home's licensed capacity [~~as~~] at  
8           nursing facility level [~~residents;~~] of care;  
9           provided that at least one bed shall be reserved  
10          for medicaid patients; provided further that more  
11          nursing facility level residents may be allowed  
12          at the discretion of the department; and  
13          provided further that the department shall exercise  
14          its discretion for a resident presently residing in a  
15          [~~Type~~] type I or [~~Type~~] type II home, to allow the  
16          resident to remain as an additional nursing facility  
17          level resident based upon the best interests of the  
18          resident. The best interests of the resident shall be  
19          determined by the department after consultation with  
20          the resident, the resident's family, primary  
21          physician, case manager, primary caregiver, and home  
22          operator;



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

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

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

8 "Community care foster family home" or "home" means a home  
9 that, for the purposes of this part:

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

13 (2) Is issued a certificate of approval by the department  
14 or its designee to provide, for a fee, twenty-four-  
15 hour living accommodations, including personal care  
16 and homemaker services, for not more than [~~two~~] three  
17 adults at any one time, at least [~~one~~] two of whom  
18 shall be [~~a~~] medicaid [~~recipient,~~] recipients, who are  
19 at the nursing facility level of care, who are  
20 unrelated to the foster family, and who are receiving  
21 the services of a licensed home and community-based  
22 case management agency; and



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

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

6 "[~~f~~]**S346-332**[~~f~~] **Applicability.** (a) Prior to June 30,  
7 2006, this part shall apply to the demonstration project  
8 statewide.

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

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

13 SECTION 6. Act 273, Session Laws of Hawaii 2001, as  
14 amended by Act 95 and Act 98, Session Laws of Hawaii 2003, and  
15 Act 153, Session Laws of Hawaii 2004, is amended by amending  
16 section 6 to read as follows:

17 "SECTION 6. This Act shall take effect on July 1, 2001[~~7~~  
18 ~~and shall be repealed on June 30, 2006]."~~

19 SECTION 7. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21 SECTION 8. This Act shall take effect on July 1, 2020.



SB 3247 S02

HD2

**Report Title:**

Care Homes; Capacity

**Description:**

Expands capacity for certain types of care homes. Requires a certain number of beds for medicaid patients in certain types of care homes. Makes permanent the home- and community-based case management and community care foster family homes law. (SB3247 HD2)

SB3247 HD2 HMS 2006-3146

