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# A BILL FOR AN ACT

RELATING TO HEALTH CARE.

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

1           SECTION 1. Chapter 321, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§321- Home care agencies; licensing. (a) All home  
5 care agencies shall be licensed to ensure the health, safety,  
6 and welfare of clients.

7           (b) The director shall adopt rules regarding home care  
8 agencies in accordance with chapter 91, which shall be designed  
9 to:

10           (1) Protect the health, safety, and civil rights of  
11           clients of home care agencies; and

12           (2) Provide for the licensing of home care agencies.

13           (c) For purposes of this section:

14           "Home care agency" means any organization that provides  
15 home care services to clients in a place used as the client's  
16 home.

17           "Home care services" includes nursing services,  
18 rehabilitation therapy services, social services, personal care



1 services, and companion services that promote the health and  
2 safety of a client based on an assessment and the development of  
3 a plan of care prepared by the home care agency."

4 SECTION 2. Section 321-11, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 **"§321-11 Subjects of health rules, generally.** The  
7 department pursuant to chapter 91 may adopt rules that it deems  
8 necessary for the public health and safety respecting:

- 9 (1) Nuisances, foul or noxious odors, gases, vapors,  
10 waters in which mosquitoes breed or may breed, sources  
11 of filth, and causes of sickness or disease, within  
12 the respective districts of the State, and on board  
13 any vessel;
- 14 (2) Adulteration and misbranding of food or drugs;
- 15 (3) Location, air space, ventilation, sanitation,  
16 drainage, sewage disposal, and other health conditions  
17 of buildings, courts, construction projects,  
18 excavations, pools, watercourses, areas, and alleys;
- 19 (4) Privy vaults and cesspools;
- 20 (5) Fish and fishing;
- 21 (6) Interments and dead bodies;



- 1           (7) Disinterments of dead human bodies, including the  
2           exposing, disturbing, or removing of these bodies from  
3           their place of burial, or the opening, removing, or  
4           disturbing after due interment of any receptacle,  
5           coffin, or container holding human remains or a dead  
6           human body or a part thereof and the issuance and  
7           terms of permits for the aforesaid disinterments of  
8           dead human bodies;
- 9           (8) Cemeteries and burying grounds;
- 10          (9) Laundries, and the laundering, sanitation, and  
11          sterilization of articles including linen and uniforms  
12          used by or in the following businesses and  
13          professions: barber shops, manicure shops, beauty  
14          parlors, electrology shops, restaurants, soda  
15          fountains, hotels, rooming and boarding houses,  
16          bakeries, butcher shops, public bathhouses, midwives,  
17          masseurs, and others in similar calling, public or  
18          private hospitals, and canneries and bottling works  
19          where foods or beverages are canned or bottled for  
20          public consumption or sale; provided that nothing in  
21          this chapter shall be construed as authorizing the  
22          prohibiting of laundering, sanitation, and



1 sterilization by those conducting any of these  
2 businesses or professions where the laundering or  
3 sterilization is done in an efficient and sanitary  
4 manner;

5 (10) Hospitals, freestanding surgical outpatient  
6 facilities, skilled nursing facilities, intermediate  
7 care facilities, adult residential care homes, adult  
8 foster homes, assisted living facilities, special  
9 treatment facilities and programs, home health  
10 agencies, home care agencies, hospices, freestanding  
11 birthing facilities, adult day health centers,  
12 independent group residences, and therapeutic living  
13 programs, but excluding youth shelter facilities  
14 unless clinical treatment of mental, emotional, or  
15 physical disease or handicap is a part of the routine  
16 program or constitutes the main purpose of the  
17 facility, as defined in section 346-16 under "child  
18 care institution". For the purpose of this paragraph,  
19 "adult foster home" has the same meaning as provided  
20 in section 321-11.2;

21 (11) Hotels, rooming houses, lodging houses, apartment  
22 houses, tenements, and residences for persons with



- 1 developmental disabilities including, but not limited  
2 to, those built under federal funding;
- 3 (12) Laboratories;
- 4 (13) Any place or building where noisome or noxious trades  
5 or manufacturers are carried on, or intended to be  
6 carried on;
- 7 (14) Milk;
- 8 (15) Poisons and hazardous substances, the latter term  
9 including but not limited to any substance or mixture  
10 of substances which:
- 11 (A) Is corrosive;
- 12 (B) Is an irritant;
- 13 (C) Is a strong sensitizer;
- 14 (D) Is inflammable; or
- 15 (E) Generates pressure through decomposition, heat,  
16 or other means, if the substance or mixture of  
17 substances may cause substantial personal injury  
18 or substantial illness during or as a proximate  
19 result of any customary or reasonably foreseeable  
20 handling or use, including reasonably foreseeable  
21 ingestion by children;
- 22 (16) Pig and duck ranches;



- 1           (17) Places of business, industry, employment, and  
2                   commerce, and the processes, materials, tools,  
3                   machinery, and methods of work done therein; and  
4                   places of public gathering, recreation, or  
5                   entertainment;
- 6           (18) Any restaurant, theater, market, stand, shop, store,  
7                   factory, building, wagon, vehicle, or place where any  
8                   food, drug, or cosmetic is manufactured, compounded,  
9                   processed, extracted, prepared, stored, distributed,  
10                  sold, offered for sale, or offered for human  
11                  consumption or use;
- 12          (19) Foods, drugs, and cosmetics, and the manufacture,  
13                  compounding, processing, extracting, preparing,  
14                  storing, selling, and offering for sale, consumption,  
15                  or use of any food, drug, or cosmetic;
- 16          (20) Devices as defined in section 328-1;
- 17          (21) Sources of ionizing radiation;
- 18          (22) Medical examination, vaccination, revaccination, and  
19                  immunization of school children. No child shall be  
20                  subjected to medical examination, vaccination,  
21                  revaccination, or immunization, whose parent or  
22                  guardian objects in writing thereto on grounds that



1 the requirements are not in accordance with the  
2 religious tenets of an established church of which the  
3 parent or guardian is a member or adherent, but no  
4 objection shall be recognized when, in the opinion of  
5 the department, there is danger of an epidemic from  
6 any communicable disease;

7 (23) Disinsectization of aircraft entering or within the  
8 State as may be necessary to prevent the introduction,  
9 transmission, or spread of disease or the introduction  
10 or spread of any insect or other vector of  
11 significance to health;

12 (24) Fumigation, including the process by which substances  
13 emit or liberate gases, fumes, or vapors which may be  
14 used for the destruction or control of insects,  
15 vermin, rodents, or other pests, which, in the opinion  
16 of the department, may be lethal, poisonous, noxious,  
17 or dangerous to human life;

18 (25) Ambulances and ambulance equipment;

19 (26) Development, review, approval, or disapproval of  
20 management plans submitted pursuant to the Asbestos  
21 Hazard Emergency Response Act of 1986, Public Law  
22 99-519; and



1 (27) Development, review, approval, or disapproval of an  
2 accreditation program for specially trained persons  
3 pursuant to the Residential Lead-Based Paint Hazard  
4 Reduction Act of 1992, Public Law 102-550.

5 The department may require any certificates, permits, or  
6 licenses that it may deem necessary to adequately regulate the  
7 conditions or businesses referred to in this section.

8 As used in this section, unless the context clearly  
9 requires otherwise:

10 "Home care agency" means any organization that provides  
11 home care services to clients in a place used as the client's  
12 home.

13 "Home care services" includes nursing services,  
14 rehabilitation therapy services, social services, personal care  
15 services, and companion services that promote the health and  
16 safety of a client based on an assessment and the development of  
17 a plan of care prepared by the home care agency."

18 SECTION 3. Section 321-11.5, Hawaii Revised Statutes, is  
19 amended by amending subsection (b) to read as follows:

20 "(b) All fees paid and collected pursuant to this section  
21 and rules adopted in accordance with chapter 91 from facilities  
22 seeking licensure or certification by the department, including





1 hospitals, nursing homes, home health agencies, home care  
2 agencies, intermediate care facilities for the mentally  
3 retarded, freestanding outpatient surgical facilities,  
4 laboratories, adult residential care homes, developmental  
5 disability domiciliary homes, and special treatment facilities,  
6 shall be deposited into the hospital and medical facilities  
7 special fund created under section 321-1.4. Any other entities  
8 required by law to be licensed by the department shall also be  
9 subject to reasonable fees established by the department by  
10 rules adopted in accordance with chapter 91."

11 SECTION 4. There is appropriated out of the general  
12 revenues of the State of Hawaii the sum of \$ , or so  
13 much thereof as may be necessary for fiscal year 2006-2007, for  
14 the establishment of two full-time equivalent (2.00 FTE)  
15 permanent positions in the department of health to license home  
16 care agencies.

17 SECTION 5. The sum appropriated shall be expended by the  
18 department of health for the purposes of this Act.

19 SECTION 6. New statutory material is underscored.

20 SECTION 7. This Act shall take effect on July 1, 2006. On  
21 June 30, 2008, sections 1, 2, and 3 of this Act shall be  
22 repealed, and sections 321-11 and 321-11.5, Hawaii Revised



1 Statutes, shall be reenacted in the forms in which they read on  
2 the day before the approval of this Act.

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HB 3145

**Report Title:**

Home Care Agencies; Licensing

**Description:**

Establishes licensing procedures for home care agencies to ensure quality health care, safety, and welfare of clients.

