

JAN 25 2006

S.B. NO. 2329

A BILL FOR AN ACT

RELATING TO INCREASING CAPACITY FOR HOME AND COMMUNITY-BASED
LONG-TERM CARE SERVICES.

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

1 SECTION 1. Section 321-15.62, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The director of health shall adopt rules regarding
4 expanded adult residential care homes in accordance with chapter
5 91 which shall implement a social model of health care designed
6 to:

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

11 (2) Provide for the licensing of expanded adult
12 residential care homes for persons who: (i) are
13 certified by the department of human services, a
14 physician, advanced practice registered nurse, or
15 registered nurse case manager as requiring skilled
16 nursing facility level or intermediate care facility
17 level of care [~~who~~]; and (ii) have no financial

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1 relationship with the home care operator or facility
2 staff; provided that the rules shall allow group
3 living in the following two categories of expanded
4 adult residential care homes as licensed by the
5 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 more nursing facility level residents may be
10 allowed at the discretion of the department; and

11 (B) [~~Type~~] A type II home shall consist of six or
12 more residents, with no more than twenty per cent
13 of the home's licensed capacity [~~as~~] at nursing
14 facility level [~~residents,~~] of care; provided
15 that more nursing facility level residents may be
16 allowed at the discretion of the department;

17 provided further that the department shall exercise
18 its discretion for a resident presently residing in a
19 [~~Type~~] type I or [~~Type~~] type II home, to allow the
20 resident to remain as an additional nursing facility
21 level resident based upon the best interests of the
22 resident. The best interests of the resident shall be

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1 determined by the department after consultation with
2 the resident, the resident's family, primary
3 physician, case manager, primary caregiver, and home
4 operator;

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

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

9 SECTION 2. Section 346-331, Hawaii Revised Statutes, is
10 amended by amending the definition of "community care foster
11 family home" or "home" to read as follows:

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

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

17 (2) Is issued a certificate of approval by the department
18 or its designee to provide, for a fee, twenty-four-
19 hour living accommodations, including personal care
20 and homemaker services, for not more than ~~two~~ three
21 adults at any one time, at least ~~one~~ two of whom
22 shall be [a] medicaid [~~recipient,~~] recipients, who are

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1 at the nursing facility level of care, who are
2 unrelated to the foster family, and who are receiving
3 the services of a licensed home and community-based
4 case management agency; and

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

8 SECTION 3. Section 346-332, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[~~+~~] **§346-332** [~~+~~] **Applicability.** (a) Prior to June 30,
11 2006, this part shall apply to the demonstration project
12 statewide.

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

15 SECTION 4. Act 273, Session Laws of Hawaii 2001, as
16 amended by Act 95, Session Laws of Hawaii 2003, Act 98, Session
17 Laws of Hawaii 2003, and Act 153, Session Laws of Hawaii 2004,
18 is amended by amending section 6 to read as follows:

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

21 SECTION 5. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.

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1 SECTION 6. This Act shall take effect on July 1, 2006,
2 except that section 4 shall take effect on June 29, 2006.

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INTRODUCED BY:  _____

5

BY REQUEST

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JUSTIFICATION SHEET

- DEPARTMENT: Human Services.
- TITLE: A BILL FOR AN ACT RELATING TO INCREASING CAPACITY FOR HOME AND COMMUNITY-BASED LONG-TERM CARE SERVICES.
- PURPOSE: The purpose of this Bill is to:
- Remove the repeal date of June 30, 2006, in Act 273, Session Laws of Hawaii (SLH) 2001, as amended by Act 153, SLH 2004, thereby making the regulation of Community Care Family Foster Homes (CCFFH) and Home and Community-Based Case Management Agencies (HCCMA) an ongoing mandate for the Department;
 - Increase the number of medicaid clients that a Community Care Family Foster Home (CCFFH) may be licensed to serve at any one time from two to three clients; and
 - Increase the number of clients that a Type I expanded adult residential care home (EARCH) may be licensed to serve at any one time from five to six clients.
- MEANS: Amend sections 321-15.62(b), 346-331, and 346-332, Hawaii Revised Statutes, and section 6 of Act 273, Session Laws of Hawaii 2001, as amended by section 2 of Act 153, Session Laws of Hawaii 2004.
- JUSTIFICATION:
- After four years of regulating CCFFHs and HCCMAs, this Department's experience and the growing demand for CCFFH services support increasing the number of medicaid clients that a CCFFH is licensed to care for at any one time from two to three clients. The additional bed space will be needed for the continued growth anticipated in the Department's Residential Alternative Community Care (RACC) program. Between fiscal years 2006-2007 and 2010-2011, the number of RACC clients is expected to increase by

approximately 31 percent, or from 1,300 to 1,700 clients.

- Changes implemented under Act 153, SLH 2004, ensure the quality of services and the competency of service providers, and remedied the conflict of interest concerns cited in the State Auditor's Office Report No. 02-22, dated December 2002. Since its inception, the program has grown steadily. In fiscal year 2004-2005, there were 615 CCFFHs and 21 HCCMAS serving 1,144 clients statewide in the RACC program.
- Hawaii's aging population is 2.5 percent older than the national average and they also live longer than in other states. This will require more options and more capacity for long-term care services. Increasing the number of clients that CCFFHs and EARCHs can serve will provide some of this needed capacity.

Impact on the public: The proposed revisions will:

- Increase the number of medicaid clients that a CCFFH can serve at any one time. This will allow the Department to use CCFFH placements for more medicaid clients, which will result in reduced State medicaid spending for higher institutional care costs.
- Make available on a permanent basis a less costly long-term care resource alternative to nursing home placement for both private citizens and medicaid recipients.
- Conflict of interest and other concerns raised by the State Auditor Office in its December 2002 report on the program have been addressed by statute changes implemented under Act 153, SLH 2004, and subsequent amendments to Administrative Rules.

Impact on the department and other

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agencies:

- Although most current CCFFHs are not expected to immediately take in three clients, an increased need for available bed space for medicaid clients is anticipated. This will help in addressing the 31 percent projected growth in the Department's RACC program between fiscal years 2006-2007 and 2010-2011.
- The availability of licensed CCFFHs and HCCMAs on an on-going basis will help to ease escalating medicaid expenditures for long-term care services by offering a reasonable, cost-effective alternative to costly institutional care, and promote the privatization of these services.
- Increasing capacity for CCFFHs and EARCHS will require increased facility and staffing requirements to ensure client safety.

GENERAL FUND:

None.

OTHER FUNDS:

None.

PPBS PROGRAM
DESIGNATION:

HMS 901 & HTH 720

OTHER AFFECTED
AGENCIES:

Department of Health.

EFFECTIVE DATE:

July 1, 2006, except that section 4 shall take effect on June 29, 2006.