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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 or fewer
- 8 [~~unrelated persons,~~] residents; provided that up
- 9 to six residents may be allowed at the discretion
- 10 of the department to live in a type I home;
- 11 provided that the primary caregiver or home
- 12 operator is a certified nurse aide who has
- 13 completed a state-approved training program and
- 14 other training as required by the department; and
- 15 (B) Type II allowing six or more [~~persons~~] residents,
- 16 including but not limited to the mentally ill,
- 17 elders, [~~the handicapped,~~] persons with
- 18 disabilities, the developmentally disabled, or
- 19 totally disabled persons who are not related to
- 20 the home operator or facility staff[~~-~~];
- 21 [~~For purposes of this section:~~

1 ~~"Mentally ill person" means a mentally ill person~~  
2 ~~as defined under section 334-1.~~

3 ~~"Elder" means an elder as defined under sections~~  
4 ~~201G-1 and 201G-151.~~

5 ~~"Handicapped person" means an individual with a~~  
6 ~~physical handicap as defined under section 515-2.~~

7 ~~"Developmentally disabled person" means a person~~  
8 ~~with developmental disabilities as defined under~~  
9 ~~section 333F-1.~~

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

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

14 (4) Provide penalties for the failure to comply with any  
15 rule.

16 For the purposes of this subsection:

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

19 "Elder" has the same meaning as defined under section  
20 201G-1.

21 "Mentally ill" means a mentally ill person as defined under  
22 section 334-1.

1       "Persons with disabilities" means persons having a  
2 disability under section 515-2.

3       "Totally disabled person" has the same meaning as a person  
4 totally disabled as defined under section 235-1."

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

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

- 11       (1) Protect the health, safety, civil rights, and rights  
12 of choice of [~~the persons to reside~~] residents in a  
13 nursing facility or in home- or community-based care;
- 14       (2) Provide for the licensing of expanded adult  
15 residential care homes for persons who are certified  
16 by the department of human services, a physician,  
17 advanced practice registered nurse, or registered  
18 nurse case manager as requiring skilled nursing  
19 facility level or intermediate care facility level of  
20 care who have no financial relationship with the home  
21 care operator or facility staff; provided that the  
22 rules shall allow group living in the following two



1 categories of expanded adult residential care homes as  
2 licensed by the department of health:

3 (A) [~~Type~~] A type I home shall consist of five or  
4 [~~less~~] fewer residents with no more than two  
5 nursing facility level residents; provided that  
6 more nursing facility level residents may be  
7 allowed at the discretion of the department; and  
8 provided further that up to six residents may be  
9 allowed at the discretion of the department to  
10 live in a type I home; provided that the primary  
11 caregiver or home operator is a certified nurse  
12 aide who has completed a state-approved training  
13 program and other training as required by the  
14 department; and

15 (B) [~~Type~~] A type II home shall consist of six or  
16 more residents, with no more than twenty per cent  
17 of the home's licensed capacity as nursing  
18 facility level residents; provided 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 adults  
 3 at any one time, at least one of whom shall be a  
 4 medicaid recipient, who are at the nursing facility  
 5 level of care, who are unrelated to the foster family,  
 6 and who are receiving the services of a licensed home  
 7 and community-based case management agency; provided  
 8 that the department, in its discretion, may certify a  
 9 home for a third adult who is at the nursing level of  
 10 care and a medicaid recipient; provided that the  
 11 primary and substitute caregivers are certified nurse  
 12 aides who have completed a state-approved training  
 13 program and other training as required by the  
 14 department; and

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

18 SECTION 5. Statutory material to be repealed is bracketed  
 19 and stricken. New statutory material is underscored.

20 SECTION 6. This Act shall take effect on July 1, 2007.

**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. (CD1)

