

JAN 25 2006

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# A BILL FOR AN ACT

RELATING TO ADULT RESIDENTIAL 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 provides living accommodations for:

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

8 (2) Up to [~~five~~] six other persons, not more than [~~two~~]

9 three of whom are incapable of self-preservation

10 because of age or physical or mental limitations;

11 shall be deemed a single-family dwelling occupied by a family."

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

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

17 (1) Protect the health, safety, and civil rights of

18 persons residing in facilities regulated;



1           (2) Provide for the licensing of adult residential care  
2           homes; provided that the rules shall allow group  
3           living in two categories of adult residential care  
4           homes as licensed by the department of health:

5           (A) Type I allowing group living by [~~five~~] six or  
6           fewer unrelated persons; and

7           (B) Type II allowing [~~six~~] seven or more persons  
8           including but not limited to the mentally ill,  
9           elders, the handicapped, the developmentally  
10          disabled, or totally disabled persons who are not  
11          related to the home operator or facility staff.

12          For purposes of this section:

13                 "Mentally ill person" means a mentally ill person  
14                 as defined under section 334-1.

15                 "Elder" means an elder as defined under sections  
16                 201G-1 and 201G-151.

17                 "Handicapped person" means an individual with a  
18                 physical handicap as defined under section 515-2.

19                 "Developmentally disabled person" means a person  
20                 with developmental disabilities as defined under  
21                 section 333F-1.

1                    "Totally disabled person" means a person totally  
2                    disabled as defined under section 235-1;

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

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

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

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

12                    (1) Protect the health, safety, civil rights, and rights  
13                    of choice of the persons to reside in a nursing  
14                    facility or in home- or community-based care;

15                    (2) Provide for the licensing of expanded adult  
16                    residential care homes for persons who are certified  
17                    by the department of human services, a physician,  
18                    advanced practice registered nurse, or registered  
19                    nurse case manager as requiring skilled nursing  
20                    facility level or intermediate care facility level of  
21                    care who have no financial relationship with the home  
22                    care operator or facility staff; provided that the

1 rules shall allow group living in two categories of  
2 expanded adult residential care homes as licensed by  
3 the department of health:

4 (A) Type I home shall consist of [~~five~~] six or less  
5 residents with no more than [~~two~~] three nursing  
6 facility level residents; provided that more  
7 nursing facility level residents may be allowed  
8 at the discretion of the department; and

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

15 provided further that the department shall exercise  
16 its discretion for a resident presently residing in a  
17 Type I or Type II home, to allow the resident to  
18 remain as an additional nursing facility level  
19 resident based upon the best interests of the  
20 resident. The best interests of the resident shall be  
21 determined by the department after consultation with  
22 the resident, the resident's family, primary

1 physician, case manager, primary caregiver, and home  
2 operator;

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

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

7 SECTION 4. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9 SECTION 5. This Act shall take effect upon its approval.

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**Report Title:**

Adult Residential Care Homes

**Description:**

Increases the number of residents authorized to live in a licensed adult family boarding home, licensed care home, or adult residential care homes.

