
A BILL FOR AN ACT

RELATING TO NURSE AIDES.

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

1 SECTION 1. The legislature recognizes that 42 United
2 States Code sections 1395i-3 and 1396r require nurse aides
3 working in nursing facilities participating in medicare and
4 medicaid programs to be certified.

5 The purpose of this Act is to require all practicing nurse
6 aides, working in state licensed or state certified health care
7 settings, to be certified. Certifying these nurse aides will
8 allow the department of commerce and consumer affairs, the
9 department of human services, and the department of health to
10 monitor and evaluate the quality and competency of these nurse
11 aides practicing in the State.

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

15 "§321- **Enforcement.** (a) The department shall adopt
16 rules pursuant to chapter 91 as related to investigation and
17 actions taken against certified nurse aides.



1 (b) The director of health shall investigate allegations
2 of abuse, neglect, and misappropriation of an individual's
3 property by certified nurse aides pursuant to chapter 91, and
4 shall:

- 5 (1) Provide its findings to the department of commerce and
6 consumer affairs for the purposes of placement in the
7 nurse aide registry; and
8 (2) Impose a penalty of up to \$1,000 per substantiated
9 allegation on the certified nurse aide."

10 SECTION 3. Chapter 346, Hawaii Revised Statutes, is
11 amended by adding two new sections to be appropriately
12 designated and to read as follows:

13 "§346- Training programs. The director of human
14 services shall be responsible for:

- 15 (1) Approving training programs for nurse aides and
16 ensuring that they comply with all applicable federal
17 and state requirements; and
18 (2) Approving and arranging for the recertification
19 examinations for nurse aides who work in
20 medicare/medicaid certified nursing facilities.



1 (3) Approving the re-certification process for nurse aides
2 who work in state licensed or state certified health
3 care settings.

4 **§346- Enforcement.** (a) The director of human services
5 shall investigate allegations of abuse, neglect, and
6 misappropriation of an individual or their property committed by
7 a certified nurse aide that is employed in a health care setting
8 that is licensed or certified pursuant to chapter 91.

9 (b) The director of human services shall provide the
10 findings from the investigation under subsection (a) to the
11 department of commerce and consumer affairs for the purposes of
12 placement in the nurse aide registry."

13 SECTION 4. Chapter 457A, Hawaii Revised Statutes, is
14 amended by adding three new sections to be appropriately
15 designated and to read as follows:

16 **"§457A- Definitions.** As used in this chapter, unless
17 the context clearly indicates otherwise:

18 "Certified nurse aide" means a nurse aide who has met the
19 requirements of this chapter. No other person shall assume the
20 title "certified nurse aide" or in any manner imply that the
21 individual is a certified nurse aide except as provided in this
22 chapter or use the abbreviation "C.N.A." or any other words,

1 letters, signs, or devices to indicate that the person using the
2 same is a certified nurse aide.

3 "Director" means the director of commerce and consumer
4 affairs.

5 "Medicare/Medicaid nurse aide" means a certified nurse aide
6 who works in a medicare or medicaid certified nursing facility.

7 "Nurse aide" means a person who performs a variety of
8 duties relating to patients and patient care working under the
9 supervision of a nurse, including but not limited to assisting
10 patients in all activities of daily living such as serving and
11 collecting food trays, and helping patients get out of bed,
12 bathe, and dress. A nurse aide may also assist a nurse by
13 changing bed linens, delivering messages, and sterilizing
14 instruments. Any person who holds a valid certificate to
15 practice as a nurse aide in this State shall have the right to
16 use the title.

17 **§457A- Medicare/medicaid nurse aide certification.** (a)
18 To be certified, an applicant shall successfully complete a
19 nurse aide examination approved by the director.

20 (b) No person shall be permitted to take the examination
21 who has not complied with the training requirements established



1 by the director of human services in accordance with 42 United
2 States Code §1395i-3 and §1396r.

3 (c) Reciprocity shall be granted to nurse aides who have
4 completed a state-approved program where the requirements of
5 that program meet both federal and state requirements.

6 (d) Nurse aides employed in medicare/medicaid certified
7 nursing facilities shall meet both federal and state
8 requirements.

9 (e) Maintenance requirements for recertification shall be
10 on a biennial basis, including employment in a medicare/medicaid
11 facility as required by federal and state law.

12 (f) No charge shall be imposed on nurse aides for the
13 maintenance of the nurse aide registry.

14 (g) Any person who works in a medicare/medicaid nursing
15 facility who holds a certificate to practice as a certified
16 nurse aide in this State shall have the right to use the title
17 "certified nurse aide" and the abbreviation "C.N.A.". No other
18 person shall assume the title "certified nurse aide" or in any
19 manner imply that the individual is a certified nurse aide
20 except as provided in this chapter or use the abbreviation
21 "C.N.A." or any other words, letters, signs, or devices to



1 indicate that the person using the same is a certified nurse
2 aide.

3 **§457A- Nurse aide certification for state licensed or**
4 **state certified facilities.** (a) This certification applies to
5 nurse aides working in state licensed and state certified health
6 settings other than a medicare/medicaid certified nursing
7 facility.

8 (b) To be certified, an applicant shall successfully
9 complete training in a State approved training program and a
10 nurse aide examination approved by the director.

11 (c) Fees may be imposed for services rendered to carry out
12 the purposes of this section.

13 (d) Reciprocity shall be granted to qualified nurse aides
14 who have completed a state-approved program where the
15 requirements of that program are comparable to the requirements
16 of this chapter.

17 (e) Maintenance requirements for recertification shall be
18 on a biennial basis, including a recertification examination as
19 approved by the department of human services.

20 (f) No other person shall assume the title "certified
21 nurse aide" or in any manner imply that the individual is a
22 certified nurse aide except as provided in this chapter or use



1 the abbreviation "C.N.A." or any other words, letters, signs, or
2 devices to indicate that the person using the same is a
3 certified nurse aide. This section shall not apply to
4 medicare/medicaid nurse aides."

5 SECTION 5. Section 457A-1, Hawaii Revised Statutes, is
6 amended to read as follows:

7 **"§457A-1 Findings and purpose.** (a) The legislature
8 recognizes that 42 United States Code §1395i-3 and §1396R require
9 nurse aides working in certified nursing facilities participating
10 in medicare and medicaid programs to be certified.

11 (b) The legislature also recognizes that nurse aides who
12 work in State licensed or State certified health care settings
13 should be certified for the purpose of consumer safety and held to
14 similar standards of competency and evaluation appropriate for
15 these facilities. This chapter implements 42 United States Code
16 §1395i-3 and §1396r and this chapter with respect to:

- 17 (1) Establishing the State's regulatory scheme for
18 certifying nurse aides;
- 19 (2) Defining the scope of regulation;
- 20 (3) Establishing standards for certification and biennial
21 recertification; and

1 (4) Establishing an interagency agreement between the
2 state agencies responsible for various aspects of the
3 program.

4 [~~(b) As used in this chapter, "nurse aide" means a person
5 who performs a variety of duties relating to patients and patient
6 care working under the supervision of a nurse, including but not
7 limited to assisting patients in all activities of daily living
8 such as serving and collecting food trays, and helping patients
9 get out of bed, bathe, and dress. A nurse aide may also assist a
10 nurse by changing bed linens, delivering messages, and sterilizing
11 instruments.]"~~

12 SECTION 6. Section 457A-2, Hawaii Revised Statutes, is
13 amended to read as follows:

14 **"§457A-2 Implementation.** (a) The director [~~of commerce and
15 consumer affairs]~~ shall implement the provisions of 42 United
16 States Code §1395i-3 and §1396r and this chapter, as they relate
17 only to establishing:

- 18 (1) The minimum requirements and standards necessary for
19 certification as a nurse aide;
- 20 (2) Examination requirements, including the passing score;
- 21 (3) Maintenance requirements for continued certification
22 on a biennial basis; and

1 (4) Implementation of a nurse aide registry.

2 (b) The director of the department of health shall implement
3 the provisions 42 United States Code §1395i-3 and §1396r and this
4 chapter, as they relate to disciplining of nurse aides certified
5 under this chapter.

6 (c) The director of human services shall implement the
7 provisions of 42 United States code §1395i-3 and §1396r and this
8 chapter, as they relate to training programs for nurse aides and
9 recertification, and to disciplining of nurse aides employed in
10 health care settings licensed or certified by the department of
11 human services, certified under this chapter."

12 SECTION 7. Section 457A-3, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§457A-3 Power of director.** (a) The director, in
15 accordance with chapters 91 and 92, shall adopt rules that may be
16 necessary to implement the provisions of this chapter and 42
17 United States Code §1395i-3 and §1396R, as well as the federal
18 regulations adopted pursuant thereto, as they relate only to
19 establishing:

20 (1) The minimum requirements necessary for certification
21 as a nurse aide;



1 (2) Examination requirements, including the passing score
2 and provisions for contesting examination results;

3 (3) Maintenance requirements for continued certification;
4 and

5 (4) Implementation and maintenance of a nurse aide
6 registry containing nurse aides in medicare/medicaid
7 certified nursing facilities and nurse aides in other
8 State licensed and State certified health care
9 settings.

10 (b) The director shall issue certificates to qualified nurse
11 aides and shall be responsible for maintenance of an up-to-date
12 nurse aide registry which shall include the names of certified
13 nurse aides, their places of employment, and [~~disciplinary~~
14 ~~actions.~~] the information that is required to be reported by the
15 department of health and the department of human services to the
16 director pursuant to sections 321 and 346. The director's role,
17 with regard to certified nurse aides, [~~Disciplinary actions~~] shall
18 be limited to the placement of substantiated findings from the
19 department of health and the department of human services into the
20 nurse aide registry [~~within ten working days of court~~
21 ~~settlement]."~~



1 SECTION 8. Any nurse aide employed in a State licensed or
2 State certified health care setting and who has been recertified
3 by June 30, 2006 may be recertified on a biennial basis under
4 this chapter if the nurse aide passes, by December 31, 2007, a
5 proficiency evaluation approved by the department of human
6 services. If the nurse aide fails to pass the evaluation, the
7 nurse aide [~~is no longer eligible to become recertified under~~
8 ~~this chapter, and~~] shall instead apply for certification as a
9 new applicant and undergo recertification as required under this
10 chapter.

11 SECTION 9. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 10. This Act shall take effect on July 1, 2006.



Report Title:

Nurse Aides; Certification

Description:

Establishes certification procedures for nurse aides employed in State licensed or State certified health care settings and medicare/medicaid facilities. (SD1)

