

---

---

# 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 recertification 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.

20       "Director" means the director of commerce and consumer  
21       affairs.



1       "Medicare/medicaid nurse aide" means a certified nurse aide  
2 who works in a medicare or medicaid certified nursing facility.

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

11       §457A- Medicare/medicaid nurse aide certification. (a)  
12 To be certified, an applicant shall successfully complete a  
13 nurse aide examination approved by the director.

14       (b) No person shall be permitted to take the examination  
15 who has not complied with the training requirements established  
16 by the director of human services in accordance with 42 United  
17 States Code §1395i-3 and §1396R.

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



1        (d) Nurse aides employed in medicare/medicaid certified  
2 nursing facilities shall meet both federal and state  
3 requirements.

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

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

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

19        **§457A- Nurse aide certification for state licensed or**  
20 **state certified facilities.** (a) This certification applies to  
21 nurse aides working in state licensed and state certified health



1 settings other than a medicare/medicaid certified nursing  
2 facility.

3 (b) To be certified, an applicant shall successfully  
4 complete training in a state-approved training program and a  
5 nurse aide examination approved by the director.

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

8 (d) Reciprocity shall be granted to qualified nurse aides  
9 who have completed a state-approved program where the  
10 requirements of that program are comparable to the requirements  
11 of this chapter.

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

15 (f) Any person who works in a state licensed or state  
16 certified health care setting and who holds a valid certificate  
17 to practice as a certified nurse aide in this State shall have  
18 the right to use the title "certified nurse aide" and the  
19 abbreviation "C.N.A.". No other person shall assume the title  
20 "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. This section shall not apply to  
3 medicare/medicaid nurse aides."

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

6 **"§457A-1 Findings and purpose.** (a) The legislature  
7 recognizes that 42 United States Code §1395i-3 and §1396R require  
8 nurse aides working in certified nursing facilities participating  
9 in medicare and medicaid programs to be certified.

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

- 16 (1) Establishing the State's regulatory scheme for  
17 certifying nurse aides;  
18 (2) Defining the scope of regulation;  
19 (3) Establishing standards for certification and biennial  
20 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 employed in  
5 health care settings licensed or certified by the department of  
6 health, certified under this chapter.

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

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

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

21 (1) The minimum requirements necessary for certification  
22 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  
17 role, with regard to certified nurse aides, [~~Disciplinary actions~~]  
18 shall be limited to the placement of substantiated findings from  
19 the department of health and the department of human services into  
20 the 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 shall instead apply for certification as a new  
8 applicant and undergo recertification as required under this  
9 chapter.

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

12           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. (SD2)

