A BILL FOR AN ACT

RELATING TO NURSE AIDES.

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

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

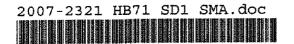
The purpose of this Act is to provide for the certification 5 and recertification of nurse aides who work in nursing 6 7 facilities participating in medicare and medicaid programs and 8 in other state licensed and certified health care settings. 9 Certifying these nurse aides will allow the department of 10 commerce and consumer affairs, the department of human services, and the department of health to monitor and evaluate the quality 11 12 and competency of the nurse aides practicing in the State. 13 SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated 14 15 and to read as follows:

16 "§321- Enforcement; certified nurse aides. The

17 department shall adopt rules pursuant to chapter 91 relating to:

18 (1) The investigation of:

	(A) Abuse or neglect by a certified nurse aide
	working in a health care setting licensed or
	certified by the department; and
	(B) Misappropriation of an individual's property by a
	certified nurse aide working in a health care
	setting licensed or certified by the department;
	and
(2)	Action taken against a certified nurse aide as a
	result of an investigation pursuant to paragraph (1)."
SECTI	ION 3. Chapter 346, Hawaii Revised Statutes, is
amended by	y adding two new sections to be appropriately
designated	d and to read as follows:
"§34€	
	5- Training programs. The director shall:
(1)	Approve training programs. The director shall:
	Approve training programs for nurse aides and ensure
	Approve training programs for nurse aides and ensure that the training programs comply with all applicable
(1)	Approve training programs for nurse aides and ensure that the training programs comply with all applicable federal and state requirements;
(1)	Approve training programs for nurse aides and ensure that the training programs comply with all applicable federal and state requirements; Approve and arrange for the recertification process
(1)	Approve training programs for nurse aides and ensure that the training programs comply with all applicable federal and state requirements; Approve and arrange for the recertification process for nurse aides who work in medicare or medicaid
<u>(1)</u> (2)	Approve training programs for nurse aides and ensure that the training programs comply with all applicable federal and state requirements; Approve and arrange for the recertification process for nurse aides who work in medicare or medicaid certified nursing facilities; and
	SECTI amended by designated



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1	<u>§346-</u>	Enforcement; certified nurse aides. The
2	department sha	all adopt rules pursuant to chapter 91 relating to:
3	<u>(1)</u> <u>The</u>	investigation of:
4	<u>(A)</u>	Abuse or neglect by a certified nurse aide
5		working in a health care setting licensed or
6		certified by the department; and
7	<u>(B)</u>	Misappropriation of an individual's property by a
8		certified nurse aide working in a health care
9		setting licensed or certified by the department;
10		and
11	(2) Act:	on taken against a certified nurse aide as a
12	resu	ilt of an investigation pursuant to paragraph (1)."
13	SECTION 4	. Chapter 457A, Hawaii Revised Statutes, is
14	amended by add	ling four new sections to be appropriately
15	designated and	to read as follows:
16	" <u>§457A-</u>	Definitions. As used in this chapter:
17	<u>"Certifie</u>	ed nurse aide" means a nurse aide who has met the
18	requirements of	of this chapter.
19	"Director	" means the director of commerce and consumer
20	affairs.	
21	"Medicare	e or medicaid certified nursing facility" means any
22	intermediate o	are facility or skilled nursing facility licensed
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1	pursuant to section 321-11(10) and certified by the department
2	of health in accordance with 42 United States Code sections
3	1395i-3 and 1396r.
4	"Medicare or medicaid nurse aide" means a certified nurse
5	aide who works in a medicare or medicaid certified nursing
6	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 assisting patients in all
10	activities of daily living such as serving and collecting food
11	trays, and helping patients get out of bed, bathe, and dress. A
12	nurse aide may also assist a nurse by changing bed linens,
13	delivering messages, and sterilizing instruments.
14	"State-licensed or state-certified health care setting"
15	means a setting, other than a medicare or medicaid certified
16	nursing facility, which is regulated by the department of health
17	or the department of human services.
18	"Substantiated finding" means documentation of the State's
19	investigation, including:
20	(1) The nature of the allegation and the evidence that led
21	the State to conclude that the allegation was valid;



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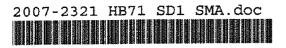
1	(2) The date of the hearing, if the individual chose to
2	have one, and its outcome;
3	(3) A statement of the individual disputing the
4	allegation, if the individual chose to make one; or
5	(4) A criminal conviction.
6	§457A- Certification required. Except as otherwise
7	provided in this chapter, no person shall, without having first
8	obtained certification as provided in this chapter:
9	(1) Represent that the person is a certified nurse aide;
10	(2) Imply, in any manner, that the person is a certified
11	nurse aide; or
12	(3) Use the abbreviation "C.N.A." or any other words,
13	letters, signs, or devices to identify the person as a
14	certified nurse aide.
15	<u>\$457A-</u> <u>Medicare or medicaid nurse aide</u> certification.
16	(a) To be certified, an applicant shall successfully complete:
17	(1) Training in a state-approved training program; and
18	(2) A nurse aide examination approved by the director.
19	(b) No person shall be permitted to take the examination
20	who has not complied with the training requirements established
21	by the director of human services in accordance with 42 United
22	States Code sections 1395i-3 and 1396r.

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1	(c) Reciprocity shall be granted to nurse aides who have
2	completed a state-approved program that meets both federal and
3	state requirements.
4	(d) Nurse aides employed in medicare or medicaid certified
5	nursing facilities shall meet both federal and state
6	requirements.
7	(e) Maintenance requirements for the recertification
8	process shall be on a biennial basis, including an annual
9	performance review, in-service training, and employment in a
10	medicare or medicaid facility as required by federal and state
11	law.
12	(f) No charge shall be imposed on nurse aides for the
13	maintenance of the nurse aide registry.
14	§457A- Nurse aide certification for state-licensed or
15	state-certified health care settings. (a) This certification
16	applies to nurse aides working in state-licensed and
17	state-certified health care settings other than a medicare or
18	medicaid certified nursing facility.
19	(b) To be certified, an applicant shall successfully
20	complete:
21	(1) Training in a state-approved training program; and
22	(2) A nurse aide examination approved by the director.

1	(c) Fees may be imposed for services rendered to carry out
2	the purposes of this section.
3	(d) Reciprocity shall be granted to qualified nurse aides
4	who have completed a state-approved program the requirements of
5	which are comparable to the requirements of this chapter.
6	(e) Maintenance requirements for the recertification
7	process shall be on a biennial basis, including a competency
8	evaluation as approved by the department of human services and
9	employment in a state licensed or state certified health care
10	setting."
11	SECTION 5. Section 457A-1, Hawaii Revised Statutes, is
12	amended to read as follows:
13	"§457A-1 Findings and purpose. (a) The legislature
14	recognizes that 42 United States Code [§1395i 3 and §1396R]
15	sections 1395i-3 and 1396r require nurse aides working in nursing
16	facilities participating in medicare and medicaid programs to be
17	certified.
18	(b) The legislature also recognizes that nurse aides who
19	work in state-licensed or state-certified health care settings
20	should be certified for the purpose of consumer safety and held to
21	similar standards of competency and evaluation appropriate for



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1	these sett	tings. This chapter implements 42 United States Code
2	[§1395i-3	and §1396R] sections 1395i-3 and 1396r with respect to:
3	(1)	Establishing the State's regulatory scheme for
4		certifying nurse aides;
5	(2)	Defining the scope of regulation;
6	(3)	Establishing standards for certification and biennial
7		recertification; and
8	(4)	Establishing an interagency agreement between the
9		state agencies responsible for various aspects of the
10		program.
11	[-(b) -	As used in this chapter, "nurse aide" means a person
12	who-perfoi	ms a variety of duties relating to patients and patient
13	care worki	ing under the supervision of a nurse, including but not
14	limited to	assisting patients in all activities of daily living
15	such as s e	erving and collecting food trays, and helping patients
16	get out of	E-bed, bathe, and dress. A nurse aide may also assist a
17	nurse by c	changing-bed-linens, delivering messages, and sterilizing
18	instrument	:s.]"
19	SECTI	ION 6. Section 457A-2, Hawaii Revised Statutes, is
20	amended to	o read as follows:
21	" §457	7A-2 Implementation. (a) The director [of commerce and
22	consumer a	ffairs] shall implement the provisions of this chapter,

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1	in accordance with 42 United States Code [§1395i-3 and §1396R as
2	they] sections 1395-3 and 1396r, that relate [only] to
3	[establishing]:
4	(1) The minimum requirements and standards [necessary] for
5	certification as a nurse aide;
6	(2) Examination requirements, including the passing score;
7	(3) Maintenance requirements for continued certification
8	on a biennial basis; and
9	(4) Implementation of a <u>certified</u> nurse aide registry.
10	(b) The director of health shall implement this chapter in
11	accordance with 42 United States Code sections 1395i-3 and 1396r,
12	that relate to disciplining certified nurse aides who are employed
13	in health care settings licensed or certified by the department of
14	health.
15	(c) The director of human services shall implement this
16	chapter in accordance with 42 United States code sections 1395i-3
17	and 1396r, that relate to:
18	(1) Training programs for nurse aides and the
19	recertification process; and
20	(2) Disciplining of certified nurse aides employed in
21	health care settings licensed or certified by the
22	department of human services."

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1	SECT	ION 7. Section 457A-3, Hawaii Revised Statutes, is
2	amended t	o read as follows:
3	"§45	7A-3 Power of director. (a) The director, in
4	accordanc	e with chapters 91 and 92, shall adopt rules [that may be
5	necessary] to implement [the provisions of] <u>this chapter in</u>
6	accordance	e with 42 United States Code [§1395i-3 and §1396R, as
7	well as]	sections 1395i-3 and 1396r and the federal regulations
8	adopted p	ursuant thereto, [as they] <u>that</u> relate [only] to
9	[establis	hing]:
10	(1)	The minimum requirements necessary for certification
11		as a nurse aide;
12	(2)	Examination requirements, including the passing score
13		and provisions for contesting examination results;
14	(3)	Maintenance requirements for continued certification;
15		and
16	(4)	Implementation and maintenance of a nurse aide
17		registry [+] containing certified nurse aides in
18		medicare or medicaid certified nursing facilities and
19		certified nurse aides in other state-licensed and
20		state-certified health care settings.
21	(b)	The director shall issue certificates to qualified nurse
22	aides and	shall be responsible for maintenance of an up-to-date



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1	nurse aide registry [which] <u>that</u> shall include the names of
2	certified nurse aides, their places of employment, and
3	[disciplinary actions. Disciplinary actions] all information that
4	is required to be reported by the department of health and the
5	department of human services. The director's role, with regard to
6	the disciplining of certified nurse aides, shall be limited to the
7	placement [of substantiated findings from] into the nurse aide
8	registry of all information and substantiated findings from the
9	department of health [into the nurse aide registry within ten
10	working days of court settlement.] and the department of human
11	services, as required by 42 United States Code sections 1395i-3
12	and 1396r, within ten working days of the finding, which
13	information shall permanently remain in the registry except if:
14	(1) The finding was made in error;
15	(2) The individual is found not guilty in court; or
16	(3) The State receives notification of the individual's
17	death."
18	SECTION 8. Any nurse aide who is employed in a state
19	licensed or state certified health care setting and who is
20	recertified by July 1, 2007, may be recertified on a biennial
21	basis under chapter 457A, Hawaii Revised Statutes, if the nurse
22	aide passes, by December 31, 2008, a proficiency evaluation
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approved by the department of human services. If the nurse aide
fails to pass the proficiency evaluation, the nurse aide shall
apply for certification as a new applicant and undergo
recertification under chapter 457A, Hawaii Revised Statutes.
SECTION 9. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.
SECTION 10. This Act shall take effect upon approval.



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Report Title: Nurse Aides; Certification

Description:

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

