
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. The legislature finds that the department of
2 health has adopted rules in accordance with chapter 91, Hawaii
3 Revised Statutes, to regulate adult residential care homes.
4 Under section 321-15.62, Hawaii Revised Statutes, a type I
5 expanded adult residential care home normally allows five or
6 fewer residents, with no more than two nursing facility level
7 residents, to live within a home; except that the department of
8 health, at its discretion, may allow more nursing facility level
9 residents. Up to six residents may be allowed to live in the
10 home, at the department's discretion. Furthermore, the primary
11 caregiver or home operator must be a certified nurse aide who
12 has completed a state-approved training program and other
13 training as required by the department of health.

14 Under section 321-15.62(c), Hawaii Revised Statutes, the
15 department may provide for the training of operators and staff
16 and is required to adopt rules to ensure that operators of
17 expanded adult residential care homes have the needed skills to
18 provide proper care and supervision in a home environment.



1 Section 11-101-8, Hawaii Administrative Rules, (department of
2 health) requires each type I expanded adult residential care
3 home to have a primary caregiver, who must be a nurse aide, to
4 reside in the home. This rule also requires a substitute
5 caregiver to be on the premises in the absence of the primary
6 caregiver. Current rules do not now allow the primary caregiver
7 to be a nonresident of the home.

8 The purpose of this Act is to allow a health care
9 organization that employs staff who meet or exceed the primary
10 caregiver requirements for type I expanded adult residential
11 care homes to be licensed as an operator of a type I expanded
12 adult residential care home; provided that the health care
13 organization staffs the care home with a nonresident registered
14 nurse to supervise and monitor on-site staff and to ensure
15 compliance with applicable department of health rules.

16 SECTION 2. Section 321-15.62, Hawaii Revised Statutes, is
17 amended to read as follows:

18 **"§321-15.62 Expanded adult residential care homes;**
19 **licensing.** (a) All expanded adult residential care homes shall
20 be licensed to ensure the health, safety, and welfare of the
21 individuals placed therein.



1 (b) The director of health shall adopt rules regarding
2 expanded adult residential care homes in accordance with chapter
3 91 that shall implement a social model of health care designed
4 to:

5 (1) Protect the health, safety, civil rights, and rights
6 of choice of residents in a nursing facility or in
7 home- or community-based care;

8 (2) Provide for the licensing of expanded adult
9 residential care homes for persons who are certified
10 by the department of human services, a physician,
11 advanced practice registered nurse, or registered
12 nurse case manager as requiring skilled nursing
13 facility level or intermediate care facility level of
14 care who have no financial relationship with the home
15 care operator or facility staff; provided that the
16 rules shall allow group living in the following two
17 categories of expanded adult residential care homes as
18 licensed by the department of health:

19 (A) A type I home shall consist of five or fewer
20 residents with no more than two nursing facility
21 level residents; provided that more nursing
22 facility level residents may be allowed at the



1 discretion of the department; and provided
2 further that up to six residents may be allowed
3 at the discretion of the department to live in a
4 type I home; provided that the primary caregiver
5 or home operator is a certified nurse aide who
6 has completed a state-approved training program
7 and other training as required by the department;
8 and

9 (B) A type II home shall consist of six 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 (c) The department may provide for the training of and
8 consultations with operators and staff of any facility licensed
9 under this section, in conjunction with any licensing thereof,
10 and shall adopt rules to ensure that expanded adult residential
11 care home operators shall have the needed skills to provide
12 proper care and supervision in a home environment as required
13 under department rules.

14 (d) The department shall establish a standard admission
15 policy and procedure [~~which~~] that shall require the provision of
16 information that includes the appropriate medical and personal
17 history of the patient, as well as the level of care needed by
18 the patient prior to the patient's referral and admission to any
19 expanded adult residential care home facility. The department
20 shall develop appropriate forms and patient summaries for this
21 purpose.



1 (e) The department shall maintain an inventory of all
2 facilities licensed under this section and shall maintain a
3 current inventory of vacancies therein to facilitate the
4 placement of individuals in such facilities.

5 (f) A hospital and medical services association operating
6 as a mutual benefit society under chapter 432 or a health
7 maintenance organization operating under chapter 432D may be
8 licensed as an operator of a type I expanded adult residential
9 care home if the mutual benefit society or health maintenance
10 organization employs:

11 (1) Permanent staff who meet or exceed the requirements of
12 a licensed operator of a type I expanded adult
13 residential care home; and

14 (2) A nonresident registered nurse to staff the care home
15 as the primary caregiver, to supervise and monitor on-
16 site staff, and to ensure compliance with all
17 applicable department of health rules;

18 provided that the nonresident registered nurse shall not act as
19 the primary caregiver for more than type I expanded adult
20 residential care homes at the same time."

21 SECTION 3. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



1 SECTION 4. This Act shall take effect upon its approval.

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Report Title:

Adult Residential Care Homes; Mutual Benefit Societies; Health Maintenance Organizations

Description:

Allows mutual benefit societies and health maintenance organizations to operate type I expanded adult residential care homes if they employ staff meeting license requirements and hire a nonresident registered nurse to act as primary caregiver. Limits the registered nurse to act as primary caregiver for no more than care homes.

