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# A BILL FOR AN ACT

RELATING TO HOME CARE.

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

1           SECTION 1. Chapter 321, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§321-       Home care agencies; licensing. (a) All home  
5 care agencies shall be licensed to ensure the health, safety,  
6 and welfare of clients.

7           (b) The director shall adopt rules regarding home care  
8 agencies in accordance with chapter 91 that shall be designed  
9 to:

10           (1) Protect the health, safety, and civil rights of  
11           clients of home care agencies; and

12           (2) Provide for the licensing of home care agencies.

13           (c) For purposes of this section:

14           "Home care agency" means any organization that provides  
15 home care services to clients in a place used as the client's  
16 home.



1       "Home care services" includes nursing services,  
 2 rehabilitation therapy services, social services, personal care  
 3 services, and companion services that promote the health and  
 4 safety of a client based upon an assessment of the client's  
 5 needs and the development of a plan of care prepared by the home  
 6 care agency."

7       SECTION 2. Section 321-11, Hawaii Revised Statutes, is  
 8 amended to read as follows:

9       "**§321-11 Subjects of health rules, generally.** The  
 10 department pursuant to chapter 91 may adopt rules that it deems  
 11 necessary for the public health and safety respecting:

12       (1) Nuisances, foul or noxious odors, gases, vapors,  
 13       waters in which mosquitoes breed or may breed, sources  
 14       of filth, and causes of sickness or disease, within  
 15       the respective districts of the State, and on board  
 16       any vessel;

17       (2) Adulteration and misbranding of food or drugs;

18       (3) Location, air space, ventilation, sanitation,  
 19       drainage, sewage disposal, and other health conditions  
 20       of buildings, courts, construction projects,  
 21       excavations, pools, watercourses, areas, and alleys;

22       (4) Privy vaults and cesspools;



- 1 (5) Fish and fishing;
- 2 (6) Interments and dead bodies;
- 3 (7) Disinterments of dead human bodies, including the
- 4 exposing, disturbing, or removing of these bodies from
- 5 their place of burial, or the opening, removing, or
- 6 disturbing after due interment of any receptacle,
- 7 coffin, or container holding human remains or a dead
- 8 human body or a part thereof and the issuance and
- 9 terms of permits for the aforesaid disinterments of
- 10 dead human bodies;
- 11 (8) Cemeteries and burying grounds;
- 12 (9) Laundries, and the laundering, sanitation, and
- 13 sterilization of articles including linen and uniforms
- 14 used by or in the following businesses and
- 15 professions: barber shops, manicure shops, beauty
- 16 parlors, electrology shops, restaurants, soda
- 17 fountains, hotels, rooming and boarding houses,
- 18 bakeries, butcher shops, public bathhouses, midwives,
- 19 masseurs, and others in similar calling, public or
- 20 private hospitals, and canneries and bottling works
- 21 where foods or beverages are canned or bottled for
- 22 public consumption or sale; provided that nothing in



1 this chapter shall be construed as authorizing the  
2 prohibiting of laundering, sanitation, and  
3 sterilization by those conducting any of these  
4 businesses or professions where the laundering or  
5 sterilization is done in an efficient and sanitary  
6 manner;

7 (10) Hospitals, freestanding surgical outpatient  
8 facilities, skilled nursing facilities, intermediate  
9 care facilities, adult residential care homes, adult  
10 foster homes, assisted living facilities, special  
11 treatment facilities and programs, home health  
12 agencies, home care agencies as defined in section  
13 321- , hospices, freestanding birthing facilities,  
14 adult day health centers, independent group  
15 residences, and therapeutic living programs, but  
16 excluding youth shelter facilities unless clinical  
17 treatment of mental, emotional, or physical disease or  
18 handicap is a part of the routine program or  
19 constitutes the main purpose of the facility, as  
20 defined in section 346-16 under "child care  
21 institution". For the purpose of this paragraph,



1 "adult foster home" has the same meaning as provided  
2 in section 321-11.2;

3 (11) Hotels, rooming houses, lodging houses, apartment  
4 houses, tenements, and residences for persons with  
5 developmental disabilities including, but not limited  
6 to, those built under federal funding;

7 (12) Laboratories;

8 (13) Any place or building where noisome or noxious trades  
9 or manufacturers are carried on, or intended to be  
10 carried on;

11 (14) Milk;

12 (15) Poisons and hazardous substances, the latter term  
13 including but not limited to any substance or mixture  
14 of substances which:

15 (A) Is corrosive;

16 (B) Is an irritant;

17 (C) Is a strong sensitizer;

18 (D) Is inflammable; or

19 (E) Generates pressure through decomposition, heat,  
20 or other means,

21 if the substance or mixture of substances may cause  
22 substantial personal injury or substantial illness



- 1 during or as a proximate result of any customary or  
2 reasonably foreseeable handling or use, including  
3 reasonably foreseeable ingestion by children;
- 4 (16) Pig and duck ranches;
- 5 (17) Places of business, industry, employment, and  
6 commerce, and the processes, materials, tools,  
7 machinery, and methods of work done therein; and  
8 places of public gathering, recreation, or  
9 entertainment;
- 10 (18) Any restaurant, theater, market, stand, shop, store,  
11 factory, building, wagon, vehicle, or place where any  
12 food, drug, or cosmetic is manufactured, compounded,  
13 processed, extracted, prepared, stored, distributed,  
14 sold, offered for sale, or offered for human  
15 consumption or use;
- 16 (19) Foods, drugs, and cosmetics, and the manufacture,  
17 compounding, processing, extracting, preparing,  
18 storing, selling, and offering for sale, consumption,  
19 or use of any food, drug, or cosmetic;
- 20 (20) Devices as defined in section 328-1;
- 21 (21) Sources of ionizing radiation;



- 1 (22) Medical examination, vaccination, revaccination, and  
2 immunization of school children. No child shall be  
3 subjected to medical examination, vaccination,  
4 revaccination, or immunization, whose parent or  
5 guardian objects in writing thereto on grounds that  
6 the requirements are not in accordance with the  
7 religious tenets of an established church of which the  
8 parent or guardian is a member or adherent, but no  
9 objection shall be recognized when, in the opinion of  
10 the department, there is danger of an epidemic from  
11 any communicable disease;
- 12 (23) Disinsectization of aircraft entering or within the  
13 State as may be necessary to prevent the introduction,  
14 transmission, or spread of disease or the introduction  
15 or spread of any insect or other vector of  
16 significance to health;
- 17 (24) Fumigation, including the process by which substances  
18 emit or liberate gases, fumes, or vapors which may be  
19 used for the destruction or control of insects,  
20 vermin, rodents, or other pests, which, in the opinion  
21 of the department, may be lethal, poisonous, noxious,  
22 or dangerous to human life;



- 1 (25) Ambulances and ambulance equipment;
- 2 (26) Development, review, approval, or disapproval of
- 3 management plans submitted pursuant to the Asbestos
- 4 Hazard Emergency Response Act of 1986, Public Law 99-
- 5 519; and
- 6 (27) Development, review, approval, or disapproval of an
- 7 accreditation program for specially trained persons
- 8 pursuant to the Residential Lead-Based Paint Hazard
- 9 Reduction Act of 1992, Public Law 102-550.

10 The department may require any certificates, permits, or

11 licenses that it may deem necessary to adequately regulate the

12 conditions or businesses referred to in this section."

13 SECTION 3. Section 321-11.5, Hawaii Revised Statutes, is

14 amended by amending subsection (b) to read as follows:

15 "(b) All fees paid and collected pursuant to this section

16 and rules adopted in accordance with chapter 91 from facilities

17 seeking licensure or certification by the department, including

18 hospitals, nursing homes, home health agencies, home care

19 agencies as defined in section 321- , intermediate care

20 facilities for the mentally retarded, freestanding outpatient

21 surgical facilities, laboratories, adult residential care homes,

22 developmental disability domiciliary homes, and special





1 treatment facilities, shall be deposited into the hospital and  
2 medical facilities special fund created under section 321-1.4.  
3 Any other entities required by law to be licensed by the  
4 department shall also be subject to reasonable fees established  
5 by the department by rules adopted in accordance with chapter  
6 91."

7 SECTION 4. There is appropriated out of the general  
8 revenues of the State of Hawaii the sum of \$107,000 or so much  
9 thereof as may be necessary for fiscal year 2007-2008 for one  
10 full-time equivalent position in the department of health to  
11 assist in licensure and monitoring of home care agencies.

12 The sum appropriated shall be expended by the department of  
13 health for the purposes of this Act.

14 SECTION 5. New statutory material is underscored.

15 SECTION 6. This Act shall take effect on July 1, 2007;  
16 provided that on June 30, 2012, this Act shall be repealed, and  
17 sections 321-11 and 321-11.5, Hawaii Revised Statutes, shall be  
18 reenacted in the forms in which they read on June 30, 2007.



**REPORT Title:**

Home Care; Licensing; Department of Health Licensing

**Description:**

Establishes home care agency licensing requirements. Repealed  
on June 30, 2012. (SB51 HD1)

