

JAN 17 2007

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 on an assessment and the development of
5 a plan of care prepared by the home care agency."

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

8 "**§321-11 Subjects of health rules, generally.** The
9 department pursuant to chapter 91 may adopt rules that it deems
10 necessary for the public health and safety respecting:

- 11 (1) Nuisances, foul or noxious odors, gases, vapors,
12 waters in which mosquitoes breed or may breed, sources
13 of filth, and causes of sickness or disease, within
14 the respective districts of the State, and on board
15 any vessel;
- 16 (2) Adulteration and misbranding of food or drugs;
- 17 (3) Location, air space, ventilation, sanitation,
18 drainage, sewage disposal, and other health conditions
19 of buildings, courts, construction projects,
20 excavations, pools, watercourses, areas, and alleys;
- 21 (4) Privy vaults and cesspools;
- 22 (5) Fish and fishing;



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



1 prohibiting of laundering, sanitation, and
2 sterilization by those conducting any of these
3 businesses or professions where the laundering or
4 sterilization is done in an efficient and sanitary
5 manner;

6 (10) Hospitals, freestanding surgical outpatient
7 facilities, skilled nursing facilities, intermediate
8 care facilities, adult residential care homes, adult
9 foster homes, assisted living facilities, special
10 treatment facilities and programs, home health
11 agencies, home care agencies as defined in section
12 321-___, hospices, freestanding birthing facilities,
13 adult day health centers, independent group
14 residences, and therapeutic living programs, but
15 excluding youth shelter facilities unless clinical
16 treatment of mental, emotional, or physical disease or
17 handicap is a part of the routine program or
18 constitutes the main purpose of the facility, as
19 defined in section 346-16 under "child care
20 institution". For the purpose of this paragraph,
21 "adult foster home" has the same meaning as provided
22 in section 321-11.2;



- 1 (11) Hotels, rooming houses, lodging houses, apartment
2 houses, tenements, and residences for persons with
3 developmental disabilities including, but not limited
4 to, those built under federal funding;
- 5 (12) Laboratories;
- 6 (13) Any place or building where noisome or noxious trades
7 or manufacturers are carried on, or intended to be
8 carried on;
- 9 (14) Milk;
- 10 (15) Poisons and hazardous substances, the latter term
11 including but not limited to any substance or mixture
12 of substances which:
- 13 (A) Is corrosive;
- 14 (B) Is an irritant;
- 15 (C) Is a strong sensitizer;
- 16 (D) Is inflammable; or
- 17 (E) Generates pressure through decomposition, heat,
18 or other means,
- 19 if the substance or mixture of substances may cause
20 substantial personal injury or substantial illness
21 during or as a proximate result of any customary or



- 1 reasonably foreseeable handling or use, including
2 reasonably foreseeable ingestion by children;
- 3 (16) Pig and duck ranches;
- 4 (17) Places of business, industry, employment, and
5 commerce, and the processes, materials, tools,
6 machinery, and methods of work done therein; and
7 places of public gathering, recreation, or
8 entertainment;
- 9 (18) Any restaurant, theater, market, stand, shop, store,
10 factory, building, wagon, vehicle, or place where any
11 food, drug, or cosmetic is manufactured, compounded,
12 processed, extracted, prepared, stored, distributed,
13 sold, offered for sale, or offered for human
14 consumption or use;
- 15 (19) Foods, drugs, and cosmetics, and the manufacture,
16 compounding, processing, extracting, preparing,
17 storing, selling, and offering for sale, consumption,
18 or use of any food, drug, or cosmetic;
- 19 (20) Devices as defined in section 328-1;
- 20 (21) Sources of ionizing radiation;
- 21 (22) Medical examination, vaccination, revaccination, and
22 immunization of school children. No child shall be



1 subjected to medical examination, vaccination,
2 revaccination, or immunization, whose parent or
3 guardian objects in writing thereto on grounds that
4 the requirements are not in accordance with the
5 religious tenets of an established church of which the
6 parent or guardian is a member or adherent, but no
7 objection shall be recognized when, in the opinion of
8 the department, there is danger of an epidemic from
9 any communicable disease;

10 (23) Disinsectization of aircraft entering or within the
11 State as may be necessary to prevent the introduction,
12 transmission, or spread of disease or the introduction
13 or spread of any insect or other vector of
14 significance to health;

15 (24) Fumigation, including the process by which substances
16 emit or liberate gases, fumes, or vapors which may be
17 used for the destruction or control of insects,
18 vermin, rodents, or other pests, which, in the opinion
19 of the department, may be lethal, poisonous, noxious,
20 or dangerous to human life;

21 (25) Ambulances and ambulance equipment;



1 (26) Development, review, approval, or disapproval of
2 management plans submitted pursuant to the Asbestos
3 Hazard Emergency Response Act of 1986, Public Law 99-
4 519; and

5 (27) Development, review, approval, or disapproval of an
6 accreditation program for specially trained persons
7 pursuant to the Residential Lead-Based Paint Hazard
8 Reduction Act of 1992, Public Law 102-550.

9 The department may require any certificates, permits, or
10 licenses that it may deem necessary to adequately regulate the
11 conditions or businesses referred to in this section."

12 SECTION 3. Section 321-11.5, Hawaii Revised Statutes, is
13 amended by amending subsection (b) to read as follows:

14 "(b) All fees paid and collected pursuant to this section
15 and rules adopted in accordance with chapter 91 from facilities
16 seeking licensure or certification by the department, including
17 hospitals, nursing homes, home health agencies, home care
18 agencies as defined in section 321- , intermediate care
19 facilities for the mentally retarded, freestanding outpatient
20 surgical facilities, laboratories, adult residential care homes,
21 developmental disability domiciliary homes, and special
22 treatment facilities, shall be deposited into the hospital and



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

6 SECTION 4. There is appropriated out of the general
 7 revenues of the State of Hawaii the sum of \$, or so
 8 much thereof as may be necessary for fiscal year 2007-2008, for
 9 the establishment of two full-time equivalent (2.00 FTE)
 10 permanent positions in the department of health to license home
 11 care agencies.

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

14 SECTION 5. New statutory material is underscored.

15 SECTION 6. This Act shall take effect on July 1, 2007. On
 16 June 30, 2009, section 1 of 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 the day before the
 19 approval of this Act.

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INTRODUCED BY:

[Handwritten signatures: David Y. Lee, Randy H. Parker, Norman Sakuma, Anne Mercedes, Will Eyo, Elizabeth Chun, Alaklan, Margaret]



S.B. NO. **51**

*Russell Kolb
and Furman*



Report Title:

Home Care; Licensing; Department of Health Funding

Description:

Establishes home care agency licensing requirements.
Appropriates moneys to create permanent positions at the
department of health to license home care agencies.

