

JAN 19 2007

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 shall investigate allegations of abuse,
2 neglect, and misappropriation of an individual's property by
3 certified nurse aides pursuant to chapter 91, and shall:

4 (1) Provide its findings to the department of commerce and
5 consumer affairs for the purposes of placement in the
6 nurse aide registry; and

7 (2) Impose a penalty of up to \$1,000 per substantiated
8 allegation on the certified nurse aide."

9 SECTION 3. Chapter 346, Hawaii Revised Statutes, is
10 amended by adding two new sections to be appropriately
11 designated and to read as follows:

12 "§346- Training programs. The director shall be
13 responsible for:

14 (1) Approving training programs for nurse aides and
15 ensuring that they comply with all applicable federal
16 and state requirements;

17 (2) Approving and arranging for the recertification
18 examinations for nurse aides who work in
19 medicare/medicaid certified nursing facilities; and

20 (3) Approving the recertification process for nurse aides
21 who work in state licensed or state certified health
22 care settings.



1 §346- Enforcement. (a) The director shall investigate
2 allegations of abuse, neglect, and misappropriation of an
3 individual or their property committed by a certified nurse aide
4 that is employed in a health care setting that is licensed or
5 certified pursuant to chapter 91.

6 (b) The director shall provide the findings from the
7 investigation under subsection (a) to the department of commerce
8 and consumer affairs for the purposes of placement in the nurse
9 aide registry."

10 SECTION 4. Chapter 457A, Hawaii Revised Statutes, is
11 amended by adding three new sections to be appropriately
12 designated and to read as follows:

13 "§457A- Definitions. As used in this chapter, unless
14 the context clearly indicates otherwise:

15 "Certified nurse aide" means a nurse aide who has met the
16 requirements of this chapter.

17 "Director" means the director of commerce and consumer
18 affairs.

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

21 "Nurse aide" means a person who performs a variety of
22 duties relating to patients and patient care working under the



1 supervision of a nurse, including but not limited to assisting
2 patients in all activities of daily living such as serving and
3 collecting food trays, and helping patients get out of bed,
4 bathe, and dress. A nurse aide may also assist a nurse by
5 changing bed linens, delivering messages, and sterilizing
6 instruments.

7 §457A- Medicare/medicaid nurse aide certification. (a)

8 To be certified, an applicant shall successfully complete a
9 nurse aide examination approved by the director.

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

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

17 (d) Nurse aides employed in medicare/medicaid certified
18 nursing facilities shall meet both federal and state
19 requirements.

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



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

3 (g) Any person who works in a medicare/medicaid nursing
4 facility who holds a valid certificate to practice as a
5 certified nurse aide in this State may use the title "certified
6 nurse aide" and the abbreviation "C.N.A.". No other person
7 shall assume the title "certified nurse aide" or in any manner
8 imply that the individual is a certified nurse aide except as
9 provided in this chapter or use the abbreviation "C.N.A." or any
10 other words, letters, signs, or devices to indicate that the
11 person using the same is a certified nurse aide.

12 §457A- Nurse aide certification for state licensed or
13 state certified facilities. (a) This certification applies to
14 nurse aides working in state licensed and state certified health
15 settings other than a medicare/medicaid certified nursing
16 facility.

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

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



1 (d) Reciprocity shall be granted to qualified nurse aides
2 who have completed a state-approved program where the
3 requirements of that program are comparable to the requirements
4 of this chapter.

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

8 (f) Any person who works in a state licensed or state
9 certified health care setting and who holds a valid certificate
10 to practice as a certified nurse aide in this State may use the
11 title "certified nurse aide" and the abbreviation "C.N.A.". No
12 other person shall assume the title "certified nurse aide" or in
13 any manner imply that the individual is a certified nurse aide
14 except as provided in this chapter or use the abbreviation
15 "C.N.A." or any other words, letters, signs, or devices to
16 indicate that the person using the same is a certified nurse
17 aide. This section shall not apply to medicare/medicaid nurse
18 aides."

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

21 **"§457A-1 Findings and purpose.** (a) The legislature
22 recognizes that 42 United States Code §1395i-3 and §1396R require



1 nurse aides working in certified nursing facilities participating
2 in medicare and medicaid programs to be certified.

3 (b) The legislature also recognizes that nurse aides who
4 work in state licensed or state certified health care settings
5 should be certified for the purpose of consumer safety and held to
6 similar standards of competency and evaluation appropriate for
7 these facilities. This chapter implements 42 United States Code
8 §1395i-3 and §1396R and this chapter with respect to:

- 9 (1) Establishing the State's regulatory scheme for
10 certifying nurse aides;
- 11 (2) Defining the scope of regulation;
- 12 (3) Establishing standards for certification and biennial
13 recertification; and
- 14 (4) Establishing an interagency agreement between the
15 state agencies responsible for various aspects of the
16 program.

17 ~~[(b) As used in this chapter, "nurse aide" means a person~~
18 ~~who performs a variety of duties relating to patients and patient~~
19 ~~care working under the supervision of a nurse, including but not~~
20 ~~limited to assisting patients in all activities of daily living~~
21 ~~such as serving and collecting food trays, and helping patients~~
22 ~~get out of bed, bathe, and dress. A nurse aide may also assist a~~



1 ~~nurse by changing bed linens, delivering messages, and sterilizing~~
2 ~~instruments.] "~~

3 SECTION 6. Section 457A-2, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~§457A-2 Implementation.~~ (a) The director [~~of commerce and~~
6 ~~consumer affairs]~~ shall implement [~~the provisions of]~~ 42 United
7 States Code §1395i-3 and §1396R and this chapter, as they relate
8 only to establishing:

- 9 (1) The minimum requirements and standards necessary for
10 certification as a nurse aide;
11 (2) Examination requirements, including the passing score;
12 (3) Maintenance requirements for continued certification
13 on a biennial basis; and
14 (4) Implementation of a nurse aide registry.

15 (b) The director of health shall implement 42 United States
16 Code §1395i-3 and §1396R and this chapter, as they relate to
17 disciplining of nurse aides employed in health care settings
18 licensed or certified by the department of health, certified under
19 this chapter.

20 (c) The director of human services shall implement 42 United
21 States code §1395i-3 and §1396R and this chapter, as they relate
22 to training programs for nurse aides and recertification, and to



1 disciplining of nurse aides employed in health care settings
2 licensed or certified by the department of human services,
3 certified under this chapter."

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

6 "**§457A-3 Power of director.** (a) The director, in
7 accordance with chapters 91 and 92, shall adopt rules that may be
8 necessary to implement [~~the provisions of~~] this chapter and 42
9 United States Code §1395i-3 and §1396R, as well as the federal
10 regulations adopted pursuant thereto, as they relate only to
11 establishing:

- 12 (1) The minimum requirements necessary for certification
13 as a nurse aide;
- 14 (2) Examination requirements, including the passing score
15 and provisions for contesting examination results;
- 16 (3) Maintenance requirements for continued certification;
17 and
- 18 (4) Implementation and maintenance of a nurse aide
19 registry[~~-~~] containing nurse aides in
20 medicare/medicaid certified nursing facilities and
21 nurse aides in other state licensed and state
22 certified health care settings.



1 (b) The director shall issue certificates to qualified nurse
2 aides and shall be responsible for maintenance of an up-to-date
3 nurse aide registry which shall include the names of certified
4 nurse aides, their places of employment, and ~~[disciplinary~~
5 ~~actions. Disciplinary actions]~~ the information that is required
6 to be reported by the department of health and the department of
7 human services to the director pursuant to sections 321- and
8 346- . The director's role, with regard to certified nurse
9 aides, shall be limited to the placement of substantiated findings
10 from the department of health and the department of human services
11 into the nurse aide registry [~~within ten working days of court~~
12 settlement]."

13 SECTION 8. Any nurse aide employed in a state licensed or
14 state certified health care setting and who has been recertified
15 by July 1, 2007, may be recertified on a biennial basis under
16 this chapter if the nurse aide passes, by December 31, 2008, a
17 proficiency evaluation approved by the department of human
18 services. If the nurse aide fails to pass the evaluation, the
19 nurse aide shall instead apply for certification as a new
20 applicant and undergo recertification as required under this
21 chapter.



S.B. NO. 713

1 SECTION 9. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 10. This Act shall take effect upon approval.

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INTRODUCED BY: Randy H. Baker
Amir Y. J. J.

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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/medicaid facilities.

