
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 the 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. The department shall adopt rules
16 pursuant to chapter 91 relating to:

17 (1) The investigation of:



- 1 (A) Abuse or neglect by a certified nurse aide
- 2 working in health care settings licensed or
- 3 certified by the department; and
- 4 (B) Misappropriation of an individual's property by a
- 5 certified nurse aide working in health care
- 6 settings licensed or certified by the department;
- 7 and
- 8 (2) Action taken against a certified nurse aide as a
- 9 result of an investigation pursuant to paragraph (1)."

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

- 13 "§346- Training programs. The director shall:
- 14 (1) Approve training programs for nurse aides and ensure
- 15 that the training programs comply with all applicable
- 16 federal and state requirements;
- 17 (2) Approve and arrange for recertification examinations
- 18 for nurse aides who work in medicare or medicaid
- 19 certified nursing facilities; and
- 20 (3) Approve the recertification process for nurse aides
- 21 who work in state licensed or state certified health
- 22 care settings.



1 §346- Enforcement; certified nurses. The department
2 shall adopt rules pursuant to chapter 91 relating to:

3 (1) The investigation of:

4 (A) Abuse or neglect by a certified nurse aide
5 working in health care settings licensed or
6 certified by the department; and

7 (B) Misappropriation of an individual's property by a
8 certified nurse aide working in health care
9 settings licensed or certified by the department;

10 and

11 (2) Action taken against a certified nurse aide as a
12 result of an investigation pursuant to paragraph (1)."

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

16 "§457A- Definitions. As used in this chapter:

17 "Certified nurse aide" means a nurse aide who has met the
18 requirements of this chapter.

19 "Director" means the director of commerce and consumer
20 affairs.

21 "Finding" means documentation of an investigation,
22 including:



- 1 (1) The nature of the allegation;
- 2 (2) Any evidence in support of the allegation;
- 3 (3) The date of the hearing;
- 4 (4) The decision of the hearing;
- 5 (5) Any statement made disputing the allegation; and
- 6 (6) A criminal conviction.

7 "Medicare or medicaid certified nursing facility" means any
8 intermediate care facility or skilled nursing facility licensed
9 pursuant to section 321-11(10) and certified by the department
10 of health in accordance with 42 United States Code sections
11 1395i-3 and 1396r.

12 "Medicare or medicaid nurse aide" means a certified nurse
13 aide who works in a medicare or medicaid certified nursing
14 facility.

15 "Nurse aide" means a person who performs a variety of
16 duties relating to patients and patient care working under the
17 supervision of a nurse, including assisting patients in all
18 activities of daily living such as serving and collecting food
19 trays, and helping patients get out of bed, bathe, and dress. A
20 nurse aide may also assist a nurse by changing bed linens,
21 delivering messages, and sterilizing instruments.



1 §457A- Medicare or medicaid nurse aide certification.

2 (a) To be certified, an applicant shall successfully complete:

3 (1) Training in a state-approved training program; and

4 (2) A nurse aide examination approved by the director.

5 (b) No person shall be permitted to take the examination
6 who has not complied with the training requirements established
7 by the director of human services in accordance with 42 United
8 States Code sections 1395i-3 and 1396r.

9 (c) Reciprocity shall be granted to nurse aides who have
10 completed a state-approved program that meets both federal and
11 state requirements.

12 (d) Nurse aides employed in medicare or medicaid certified
13 nursing facilities shall meet both federal and state
14 requirements.

15 (e) Maintenance requirements for recertification shall be
16 on a biennial basis, including employment in a medicare or
17 medicaid facility as required by federal and state law.

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

20 (g) Any person who works in a medicare or medicaid
21 certified nursing facility and who holds a valid certificate to
22 practice as a certified nurse aide in this State may use the



1 title "certified nurse aide" and the abbreviation "C.N.A.". No
2 other person shall assume the title "certified nurse aide" or in
3 any manner imply that the individual is a certified nurse aide
4 or use the abbreviation "C.N.A." or any other words, letters,
5 signs, or devices to indicate that the person using the same is
6 a certified nurse aide except as provided in this chapter.

7 §457A- Nurse aide certification for state licensed or
8 state certified facilities. (a) This certification applies to
9 nurse aides working in state licensed and state certified health
10 settings other than a medicare or medicaid certified nursing
11 facility.

12 (b) To be certified, an applicant shall successfully
13 complete:

14 (1) Training in a state-approved training program; and

15 (2) A nurse aide examination approved by the director.

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

18 (d) Reciprocity shall be granted to qualified nurse aides
19 who have completed a state-approved program the requirements of
20 which are comparable to the requirements of this chapter.



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

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

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

15 "**§457A-1 Findings and purpose.** (a) The legislature
16 recognizes that 42 United States Code [~~§1395i-3 and §1396R~~]
17 sections 1395i-3 and 1396r require nurse aides working in
18 certified nursing facilities participating in medicare and
19 medicaid programs to be certified.

20 (b) The legislature also recognizes that nurse aides who
21 work in state licensed or state certified health care settings
22 should be certified for the purpose of consumer safety and held to



1 similar standards of competency and evaluation appropriate for
2 these facilities. This chapter implements 42 United States Code
3 [~~§1395i-3 and §1396R~~] sections 1395i-3 and 1396r with respect to:

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

12 [~~(b) As used in this chapter, "nurse aide" means a person~~
13 ~~who performs a variety of duties relating to patients and patient~~
14 ~~care working under the supervision of a nurse, including but not~~
15 ~~limited to assisting patients in all activities of daily living~~
16 ~~such as serving and collecting food trays, and helping patients~~
17 ~~get out of bed, bathe, and dress. A nurse aide may also assist a~~
18 ~~nurse by changing bed linens, delivering messages, and sterilizing~~
19 ~~instruments.] "~~

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



1 "§457A-2 Implementation. (a) The director [~~of commerce and~~
 2 ~~consumer affairs~~] shall implement the provisions of this chapter,
 3 in accordance with 42 United States Code [~~§1395i-3 and §1396R as~~
 4 ~~they~~] sections 1395-3 and 1396r, that relate [~~only~~] to
 5 [~~establishing~~]:

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

12 (b) The director of health shall implement the provisions of
 13 this chapter, in accordance with 42 United States Code sections
 14 1395i-3 and 1396r, that relate to disciplining certified nurse
 15 aides who are employed in health care settings licensed or
 16 certified by the department of health.

17 (c) The director of human services shall implement the
 18 provisions of this chapter, in accordance with 42 United States
 19 code sections 1395i-3 and 1396r, that relate to:

- 20 (1) Training programs for nurse aides and recertification;
- 21 and



1 (2) Disciplining of nurse aides employed in health care
2 settings licensed or certified by the department of
3 human services."

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, in
9 accordance with 42 United States Code [~~§1395i-3 and §1396R, as~~
10 well as] sections 1395i-3 and 1396r and the federal regulations
11 adopted pursuant thereto, [~~as they~~] that relate [~~only~~] to
12 [establishing]:

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



1 nurse aides in other state licensed and state
2 certified health care settings.

3 (b) The director shall issue certificates to qualified nurse
4 aides and shall be responsible for maintenance of an up-to-date
5 nurse aide registry ~~[which]~~ that shall include the names of
6 certified nurse aides, their places of employment, and
7 ~~[disciplinary actions. Disciplinary actions]~~ all information that
8 is required to be reported by the department of health and the
9 department of human services. The director's role, with regard to
10 certified nurse aides, shall be limited to the placement [of
11 ~~substantiated findings from]~~ into the nurse aide registry of all
12 information from the department of health [into the nurse aide
13 ~~registry within ten working days of court settlement.] and the~~
14 department of human services, as required by 42 United States Code
15 sections 1395i-3 and 1396r, within ten working days of the
16 finding, which information shall permanently remain in the
17 registry except if:

18 (1) The finding was made in error;
19 (2) The individual is found not guilty in court; or
20 (3) The State receives notification of the individual's
21 death."



1 SECTION 8. Any nurse aide who is employed in a state
2 licensed or state certified health care setting and who is
3 recertified by July 1, 2007, may be recertified on a biennial
4 basis under chapter 457A, Hawaii Revised Statutes, if the nurse
5 aide passes, by December 31, 2008, a proficiency evaluation
6 approved by the department of human services. If the nurse aide
7 fails to pass the proficiency evaluation, the nurse aide shall
8 apply for certification as a new applicant and undergo
9 recertification under chapter 457A, Hawaii Revised Statutes.

10 SECTION 9. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

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



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)

