
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 provide for the certification
6 and recertification of nurse aides who work in nursing
7 facilities participating in medicare and medicaid programs and
8 in other state licensed and certified health care settings.
9 Certifying these nurse aides will allow the department of
10 commerce and consumer affairs, the department of human services,
11 and the department of health to monitor and evaluate the quality
12 and competency of the nurse aides practicing in the State.

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

16 "§321- Enforcement. The department shall adopt rules
17 pursuant to chapter 91 relating to:



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

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

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



1 (3) Approve the recertification process for nurse aides
2 who work in state licensed or state certified health
3 care settings.

4 §346- Enforcement; certified nurses. The department
5 shall adopt rules pursuant to chapter 91 relating to:

6 (1) The investigation of:

7 (A) Abuse or neglect, as defined by law, by a
8 certified nurse aide working in health care
9 settings licensed or certified by the department;
10 and

11 (B) Misappropriation of an individual's property by a
12 certified nurse aide working in health care
13 settings licensed or certified by the department;
14 and

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

17 SECTION 4. Chapter 457A, Hawaii Revised Statutes, is
18 amended by adding four new sections to be appropriately
19 designated and to read as follows:

20 "§457A- Definitions. As used in this chapter:

21 "Certified nurse aide" means a nurse aide who has met the
22 requirements of this chapter.



1 "Director" means the director of commerce and consumer
2 affairs.

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

8 "Medicare or medicaid nurse aide" means a certified nurse
9 aide who works in a medicare or medicaid certified nursing
10 facility.

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

18 "State licensed or state certified health care setting"
19 means settings, other than medicare or medicaid certified
20 nursing facilities that are regulated by the department of
21 health or the department of human services.



1 "Substantiated finding" means documentation of the State's
2 investigation, including:

- 3 (1) The nature of the allegation and the evidence that led
4 the State to conclude that the allegation was valid;
- 5 (2) The date of the hearing, if the individual chose to
6 have one, and its outcome;
- 7 (3) A statement of the individual disputing the
8 allegation, if the individual chose to make one; or
- 9 (4) A criminal conviction.

10 §457A- Certification required. Except as otherwise
11 provided in this chapter, it shall be unlawful for any person
12 to:

- 13 (1) Represent that the person is a certified nurse aide;
- 14 (2) Imply, in any manner, that the person is a certified
15 nurse aide; or
- 16 (3) Use the abbreviation "C.N.A." or any other words,
17 letters, signs, or devices to identify the person as a
18 certified nurse aide;

19 without having first obtained certification as provided in this
20 chapter.

21 §457A- Medicare or medicaid nurse aide certification.

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

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

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

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

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

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

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

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

19 §457A- Nurse aide certification for state licensed or
20 state certified facilities. (a) This certification applies to
21 nurse aides working in state licensed and state certified health



1 settings other than a medicare or medicaid certified nursing
2 facility.

3 (b) To be certified, an applicant shall successfully
4 complete:

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

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

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

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

12 (e) Maintenance requirements for recertification shall be
13 on a biennial basis, including a competency evaluation as
14 approved by the department of human services and employment in a
15 state licensed or state certified health care setting."

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

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



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

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

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



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

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

8 (1) The minimum requirements and standards [~~necessary~~] for
9 certification as a nurse aide;

10 (2) Examination requirements, including the passing score;

11 (3) Maintenance requirements for continued certification
12 on a biennial basis; and

13 (4) Implementation of a certified nurse aide registry.

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

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



- 1 (1) Training programs for nurse aides and recertification;
- 2 and
- 3 (2) Disciplining of certified nurse aides employed in
- 4 health care settings licensed or certified by the
- 5 department of human services."

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

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

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



1 medicare or medicaid certified nursing facilities and
2 certified nurse aides in other state licensed and
3 state certified health care settings.

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

- 19 (1) The finding was made in error;
20 (2) The individual is found not guilty in court; or
21 (3) The State receives notification of the individual's
22 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 on July 1, 2050.



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. (SD2)

