
A BILL FOR AN ACT

RELATING TO PERSONAL HOME CARE ASSISTANTS.

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

1 SECTION 1. Section 321-14.8, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~[§]~~ §321-14.8 ~~[§]~~ Home care agencies; licensing.

4 (a) Beginning July 1, 2010, each home care agency shall be
5 licensed by the department of health to ensure the health,
6 safety, and welfare of clients.

7 ~~[(b) The department of health shall adopt rules in
8 accordance with chapter 91 to:~~

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

11 ~~(2) Provide for the licensure of home care agencies~~

12 ~~(e)]~~ A service provider agency under contract for services
13 with the city and county of Honolulu elderly affairs division
14 shall be exempt from the licensing requirement of this
15 ~~[section.]~~ subsection.

16 (b) Except as otherwise provided by this section, no home
17 care agency shall employ or contract with any individual as a
18 personal home care assistant for more than four months, on a



1 full-time, temporary, per diem, or other basis, unless the
2 individual has completed home care agency based personal care
3 training in the care required by the client and supervised by a
4 registered nurse. The home care agency shall document the
5 training received by the personal home care assistant in the
6 personal home care assistant's personnel file.

7 (c) A home care agency shall develop a written training
8 plan for services to be provided to a client that is approved by
9 the home care agency coordinator. The training plan shall
10 include:

- 11 (1) Observation, reporting, and documentation of client
12 status and the care or services furnished;
- 13 (2) Maintenance of a clean, safe, and healthy environment;
- 14 (3) Recognition of emergencies and necessary emergency
15 procedures;
- 16 (4) Safe bathing techniques;
- 17 (5) Assistance in toileting;
- 18 (6) Safe transfer techniques and ambulation;
- 19 (7) Assistance with feeding and fluid intake; and
- 20 (8) Client rights and responsibilities and the need for
21 respect for the client and for the privacy and
22 property of the client.



1 (d) No personal home care assistant shall provide personal
2 care services to a client until the personal home care assistant
3 has been oriented to the needs of the client and has
4 demonstrated to the registered nurse supervisor, competency in
5 the skills required by the training plan.

6 (e) Supervisory visits shall be made according to the
7 client need, as determined by the nursing supervisor, at least
8 once every six months.

9 (f) If a survey by the department of health determines
10 that a deficiency in personal care services is attributable to
11 insufficient personal home care assistant skill or training, the
12 department of health may require changes in the provisions of
13 the training plan related to the deficient skill.

14 (g) No personal home care assistant shall provide services
15 to a client until a criminal history background check is
16 performed in accordance with section 321-15.2.

17 (h) The department of health shall adopt rules in
18 accordance with chapter 91 to:

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

21 (2) Provide for the licensure of home care agencies; and



1 (3) Provide changes in the provisions of a training plan
2 related to a deficient skill if a survey by the
3 department of health determines that a deficiency is
4 attributable to insufficient personal home care
5 assistant skill or training.

6 [~~d~~] (i) For purposes of this section:

7 "Home care agency" means a public or proprietary agency, a
8 private, nonprofit organization, or a subdivision of an agency
9 or organization, engaged in providing home care services to
10 clients in the client's residence. The term "home care agency"
11 does not apply to an individual, including an individual who is
12 incorporated as a business, or is an unpaid or stipended
13 volunteer.

14 "Home care agency coordinator" means a licensed practical
15 nurse who is responsible and accountable for the functioning of
16 the home care agency and the services provided.

17 "Home care services" include but are not limited to:

- 18 (1) Personal care, including assistance with dressing,
19 feeding, and personal hygiene to facilitate self-care;
- 20 (2) Homemaker assistance, including housekeeping,
21 shopping, and meal planning and preparation; and



1 (3) Respite care and assistance and support provided to
2 the family.

3 "Home health aide" means a person who has successfully
4 completed the basic prescribed nurse aide course in the
5 community college system, or an equivalent course, with
6 additional training and supervision to prepare the person for
7 this role.

8 "Personal home care assistant" means an individual employed
9 by a home care agency, who provides nonmedical personal care to
10 clients in their temporary or permanent place of residence for a
11 fee, and regardless of whether the individual is a home health
12 aide."

13 SECTION 2. Section 321-15.2, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) For the purposes of this section:

16 "Adults" means individuals aged eighteen years or older.

17 "Applicant" means a person or entity seeking licensure to
18 operate a healthcare facility. If the applicant is an entity,
19 the term "applicant" shall also include its principals,
20 directors, partners, managers, agents, and representatives to
21 the extent that any of these individuals will have access to or



1 contact with clients, their finances, assets, personal property,
2 medical records, or individually identifiable information.

3 "Conviction for a relevant crime" means any federal or
4 state conviction for any relevant crime as defined in this
5 section.

6 "Criminal history record name inquiry" means a record check
7 by name for any federal or state conviction for any relevant
8 crime as defined in this section.

9 "Department" means the department of health.

10 "Direct patient access employee" means any individual,
11 including a volunteer, who has access to a patient or resident
12 of a healthcare facility, or any provider through employment or
13 through an agreement or contract with such a facility or
14 provider. Such individuals include but are not limited to:
15 physicians, nurses, nursing assistants, home health aides,
16 personal home care assistants, therapists, activities personnel,
17 and support staff (i.e., housekeeping, dietary, etc.) who have
18 direct access to patients or patient belongings.

19 "Disqualifying information" means a conviction for a
20 relevant crime or a finding of patient or resident abuse.

21 "Healthcare facility" means a facility or setting where a
22 frail, elderly, or disabled adult receives care or is provided



1 living accommodations such as a skilled nursing facility,
2 intermediate care facility, adult residential care home,
3 expanded adult residential care home, assisted living facility,
4 home health agency, home care agency, hospice, adult day health
5 center, special treatment facility, therapeutic living program,
6 intermediate care facility for the mentally retarded, hospital,
7 rural health center, and rehabilitation agency.

8 "Home care agency" has the same meaning provided in section
9 321-14.8.

10 "Name inquiry" means a criminal history record check
11 conducted by using the name and other identifying information of
12 the individual, in lieu of a fingerprint check.

13 "Operator" means an individual or entity that is licensed
14 or is seeking licensure to operate a healthcare facility and is
15 responsible for the management and overall operations of that
16 healthcare facility.

17 "Personal home care assistant" has the same meaning
18 provided in section 321-14.8.

19 "Relevant crime" means:

20 (1) Any offense described in 42 United States Code
21 [~~§1320a-7~~] Section 1320a-7 (Section 1128(a) of the
22 Social Security Act); or



1 (2) A crime of such a serious nature or circumstance that
 2 the department finds its perpetrator to pose a risk to
 3 the health, safety, or well-being of a patient or
 4 resident. This includes but is not limited to murder,
 5 manslaughter, assault, sex offenses, domestic
 6 violence, theft or forgery, arson, kidnapping, or
 7 possession, use, sale, manufacture, or distribution of
 8 dangerous drugs or controlled substances."

9 SECTION 3. Statutory material to be repealed is bracketed
 10 and stricken. New statutory material is underscored.

11 SECTION 4. This Act shall take effect on January 1, 2011,
 12 and shall be repealed on June 30, 2014 when section 321-14.8,
 13 Hawaii Revised Statutes, is repealed by section 8 of Act 21,
 14 Special Session Laws of Hawaii 2009; provided that section 321-
 15 15.2, Hawaii Revised Statutes, shall be reenacted in form in
 16 which it read on the day before the effective date of this Act.

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[Handwritten signatures and text]
 INTRODUCED BY:
[Signature: John M. ...]
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[Signature: Tom Braun ...]
[Signature: ...]

Report Title:

Personal Home Care Assistants; Home Care Agency Training

Description:

Provides for Personal Home Care Assistants to receive training by the Home Care Agency they are employed with to ensure quality home health care services.

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