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## A BILL FOR AN ACT

RELATING TO CARE HOMES.

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

1           SECTION 1. Chapter 346, Hawaii Revised Statutes, is  
2 amended by adding a new part to be appropriately designated and  
3 to read as follows:

4           "PART . HOME AND COMMUNITY-BASED ADULT RESIDENTIAL CARE HOMES

5           §346-A Definitions. As used in this part:

6           "Activities of daily living" means basic services provided  
7 to residents by each tier of adult residential care homes,  
8 including personal care, shelter, protection, supervision,  
9 assistance, guidance or training, planned activities, food  
10 service, laundering of personal clothing, recognition of and  
11 provision for changes in health status, and arrangement for and  
12 transportation to medical and dental offices.

13           "Acuity level A" means an intermediate care nursing  
14 facility level of medical care for persons certified by the  
15 department, a physician, advanced practice registered nurse, or  
16 registered nurse case manager as requiring services to maintain  
17 or improve health, or to minimize disability or pain, and is a



1 lower level of services than those provided for clients at  
2 acuity level C.

3 "Acuity level C" means a skilled nursing facility level of  
4 medical care for persons certified by the department, a  
5 physician, advanced practice registered nurse, or registered  
6 nurse case manager as requiring skilled services that are either  
7 directly provided by, or under the supervision of, skilled  
8 technical or professional personnel who meet certain  
9 qualifications, including a registered nurse, occupational  
10 therapist, physical therapist, speech pathologist, and  
11 audiologist.

12 "Adult residential care home" means any facility providing  
13 twenty-four-hour living accommodations, for a fee, to adults  
14 unrelated to the family, who require at least minimal assistance  
15 in the activities of daily living, personal care services,  
16 homemaker services, protection, and health care services, and  
17 includes tier one, tier two, and tier three adult residential  
18 care homes.

19 "Community care foster family home" means a tier two or  
20 tier three adult residential care home classified as a type III  
21 facility.



1 "Developmentally disabled" means a person with  
2 developmental disabilities as defined under section 333F-1.

3 "Elder" has the same meaning as defined under section 356D-  
4 1.

5 "Expanded Adult Residential Care Home" means a tier two or  
6 tier three adult residential care home.

7 "Home and community-based case management agency" means any  
8 person, agency, or organization licensed by the department to  
9 provide, coordinate, and monitor comprehensive services to meet  
10 the needs of clients whom the agency serves in any adult  
11 residential care home or an assisted living facility.

12 "Mentally ill" means a mentally ill person as defined under  
13 section 334-1.

14 "Nursing facility level of care" means medical care at  
15 either acuity level A or acuity level C.

16 "Persons with disabilities" means persons having a  
17 disability under section 515-2.

18 "Tier one adult residential care home" means an adult  
19 residential care home providing care to persons who do not  
20 require a nursing facility level of care.



1 "Tier two adult residential care home" means an adult  
2 residential care home providing care to persons who may need a  
3 nursing facility level of care at acuity level A.

4 "Tier three adult residential care home" means an adult  
5 residential care home providing care to persons who may need a  
6 nursing facility level of care at acuity level A or C.

7 "Totally disabled person" has the same meaning as a person  
8 totally disabled as defined under section 235-1.

9 **§346-B Home and community based health care; social model.**

10 The department shall develop and adopt a social model of health  
11 care to ensure the health, safety, and welfare of individuals  
12 placed in adult residential care homes. The social model of  
13 care shall provide for aging in place and be designed to protect  
14 the health, safety, civil rights, and rights of choice of  
15 individuals to reside in home and community-based care.

16 **§346-C Licensing.** (a) All adult residential care homes  
17 shall be licensed to ensure the health, safety, and welfare of  
18 the individuals placed therein. The director shall adopt rules  
19 in accordance with chapter 91 for this purpose. The rules  
20 shall:



- 1           (1) Provide for the licensing of adult residential care  
2           homes as either a tier one, tier two, or tier three  
3           adult residential care home;
- 4           (2) Provide for the licensing of adult residential care  
5           homes for a specific resident capacity and on an  
6           individual basis as provided in section 346-D;
- 7           (3) Provide that each adult residential care home shall  
8           accept no more than twenty per cent of the home's  
9           licensed capacity as nursing facility level residents;
- 10          (4) Ensure that residents of adult residential care homes  
11          that are medicaid clients, or residents of tier two  
12          and three type three adult residential care homes  
13          receive the services of a home and community-based  
14          case management agency licensed by the department  
15          under section 346-333;
- 16          (5) Comply with applicable federal laws and regulations of  
17          Title XVI of the Social Security Act, as amended;
- 18          (6) Establish standard minimum grievance procedures for  
19          clients of adult residential care homes; and
- 20          (7) Provide penalties for the failure to comply with any  
21          rule.



1           (b) Relicensing of adult residential care homes shall be  
2 conducted on an annual basis. The department shall conduct  
3 unannounced visits, other than the inspection for relicensing,  
4 to every licensed adult residential care home on an annual basis  
5 and at such intervals as determined by the department to ensure  
6 the health, safety, and welfare of each resident. Unannounced  
7 visits may be conducted during or outside regular business  
8 hours. All inspections relating to follow-up visits, visits to  
9 confirm correction of deficiencies, or visits to investigate  
10 complaints or suspicion of abuse or neglect shall be conducted  
11 unannounced during or outside regular business hours. Annual  
12 inspections for relicensing may be conducted during regular  
13 business hours or at intervals determined by the department.  
14 Annual inspections for relicensing shall be conducted with  
15 notice, unless otherwise determined by the department.

16           (c) The department shall maintain an inventory of all  
17 facilities licensed under this section and shall maintain a  
18 current inventory of vacancies therein to facilitate the proper  
19 placement of individuals in such facilities.

20           (d) The department shall collaborate with acute care  
21 facilities and home and community-based case management agencies  
22 as defined in section 346-331 to establish a standard referral



1 and discharge system according to rules adopted in accordance  
2 with chapter 91 that takes into account each patient's required  
3 level of care, and includes the appropriate medical and personal  
4 history of the patient prior to the patient's admission to any  
5 adult residential care home facility. The department shall  
6 develop appropriate forms and patient summaries for this  
7 purpose.

8 (e) The department may provide for the training of and  
9 consultations with operators and staff of any facility licensed  
10 under this section, in conjunction with any licensing thereof,  
11 and shall adopt rules to ensure that all adult residential care  
12 home operators shall have the necessary skills to provide proper  
13 care and supervision in a home environment as required under  
14 department rules.

15 §346-D Residents; tier one; tiers two and three. (a)  
16 Tier one adult residential care homes shall allow group living  
17 in two categories:

18 (1) Type I allowing five or fewer residents; provided that  
19 up to six residents may be allowed at the discretion  
20 of the department to live in a type I home; provided  
21 further that the primary caregiver or home operator is  
22 a certified nurse aide who has completed a state-



- 1 approved training program and other training as  
2 required by the department; and
- 3 (2) Type II allowing six or more residents, including but  
4 not limited to the mentally ill, elders, persons with  
5 disabilities, the developmentally disabled, or totally  
6 disabled persons who are not related to the home  
7 operator or facility staff;
- 8 (b) Tier two and three adult residential care homes shall  
9 allow group living in three categories:
- 10 (1) Type I allowing five or fewer residents with no more  
11 than two nursing facility-level residents; provided  
12 that up to six residents may be allowed at the  
13 discretion of the department to live in a type I home;  
14 provided further that the primary caregiver or home  
15 operator is a certified nurse aide who has completed a  
16 state-approved training program and other training as  
17 required by the department; and
- 18 (2) Type II allowing six or more residents with no more  
19 than twenty per cent of the home's licensed capacity  
20 as nursing facility-level residents;
- 21 (3) Type III allowing not more than two residents who are  
22 nursing facility-level residents, at least one of whom





1 shall be a medicaid recipient, and who are receiving  
2 the services of a licensed home and community-based  
3 case management agency; provided that the department  
4 may license a home for a third nursing facility-level  
5 resident who is a medicaid recipient; provided further  
6 that the primary and substitute caregivers are  
7 certified nurse aides who have completed a state-  
8 approved training program and other training as  
9 required by the department.

10 **§346-E Adult residential care homes expanded admissions.**

11 (a) Adult residential care homes may admit an individual who  
12 has been living immediately prior to admission in the  
13 individual's own home, a hospital, or other care setting, and  
14 who has been either:

- 15 (1) Admitted to a medicaid waiver program and determined  
16 by the department of human services to require nursing  
17 facility level care to manage the individual's  
18 physical, mental, and social functions; or  
19 (2) A private-paying individual certified by a physician  
20 or advanced practice registered nurse as needing a  
21 nursing facility level of care.



1           (b) The department shall adopt rules in accordance with  
2 chapter 91 to expand admissions to adult residential care homes  
3 by level of care and to define and standardize these levels of  
4 care. The rules and standards shall provide for appropriate and  
5 adequate requirements for knowledge and training of adult  
6 residential care home operators and their employees.

7           **§346-F Penalty.** Any person who intentionally operates an  
8 adult residential care home without a license shall be guilty of  
9 a misdemeanor.

10           **§346-G Criminal history record checks.** (a) The  
11 department shall adopt rules pursuant to chapter 91 to ensure  
12 the reputable and responsible character of all prospective  
13 applicants, operators, direct patient access employees, and  
14 adult volunteers of adult residential care homes, and in the  
15 case of adult residential care homes operated in a private  
16 residence, all adults living in the home other than the clients.  
17 These rules, among other things, shall specify how the  
18 department may conduct criminal history record checks in  
19 accordance with section 846-2.7.

20           (b) All applicants and prospective operators shall:

21           (1) Be subject to criminal history record checks in  
22           accordance with section 846-2.7;



1           (2) Be subject to adult abuse perpetrator checks, if the  
2           individual has direct contact with a client. For the  
3           purposes of this section, "adult abuse perpetrator  
4           check" means a search to determine whether an  
5           individual is known to the department as a perpetrator  
6           of abuse as defined in section 346-222, by means of a  
7           search of the individual's name and birth date in the  
8           department's adult protective service file;

9           (3) Authorize the disclosure to the department of criminal  
10          history record information;

11          (4) Sign a waiver form stating that the department shall  
12          not be liable to the applicant or prospective  
13          operator; and

14          (5) Consent to be fingerprinted for the purpose of  
15          requesting criminal history record information from  
16          the Federal Bureau of Investigation and the Hawaii  
17          criminal justice data center.

18          (c) All prospective direct patient access employees and  
19          adult volunteers of adult residential care homes and, in the  
20          case of any adult residential care home operated in a private  
21          residence, all adults living in the home other than the clients  
22          shall:



- 1           (1) Consent to be fingerprinted;
- 2           (2) Be subject to adult abuse perpetrator checks. For the
- 3           purposes of this section, "adult abuse perpetrator
- 4           check" means a search to determine whether an
- 5           individual is known to the department as a perpetrator
- 6           of abuse as defined in section 346-222, by means of a
- 7           search of the individual's name and birth date in the
- 8           department's adult protective service file;
- 9           (3) Provide all necessary information to enable the
- 10           department to conduct criminal history record checks;
- 11           and
- 12           (4) Sign a waiver form stating that the department shall
- 13           not be liable to the employee or volunteer.
- 14           (d) The department may request criminal history record
- 15           information which includes Federal Bureau of Investigation data
- 16           through the Hawaii criminal justice data center on all
- 17           prospective applicants, operators, direct patient access
- 18           employees, and adult volunteers of adult residential care homes.
- 19           In addition, in the case of any adult residential care home to
- 20           be operated in a private residence, the department may request
- 21           criminal history record information which includes Federal
- 22           Bureau of Investigation data through the Hawaii criminal justice



1 data center for all adults residing in the home who are not  
2 clients.

3 (e) The department shall make a name inquiry into the  
4 criminal history records or conduct criminal history record  
5 checks of all prospective applicants, operators, direct patient  
6 access employees, and adult volunteers at all adult residential  
7 care homes, and, in the case of any adult residential care home  
8 operated in a private residence, all adults living in the home  
9 other than the clients.

10 (f) The department may revoke or suspend a current  
11 license, impose penalties or fines, or deny an application for a  
12 license under rules adopted pursuant to chapter 91 if the  
13 applicant, operator, employee, or adult volunteer at the adult  
14 residential care home or, in the case of any adult residential  
15 care home operated in a private residence, any adult living in  
16 the home other than the client:

17 (1) Refuses to authorize the department to conduct a  
18 criminal history record check, obtain criminal history  
19 record information for verification, or consent to be  
20 fingerprinted;

21 (2) has any disqualifying information; or



1           (3) Is unsuitable to work or live in close proximity to  
2           the residents of the adult residential care home such  
3           that the health, safety, and welfare of the residents  
4           of the adult residential care home could be at risk.

5           (g) Notwithstanding any other law to the contrary, for  
6 purposes of this section, the department shall be exempt from  
7 section 831-3.1 and need not conduct investigations,  
8 notifications, or hearings under this section in accordance with  
9 chapter 91.

10          (h) The fee charged by the Federal Bureau of Investigation  
11 and the Hawaii criminal justice data center to perform criminal  
12 history record checks may be passed on to all applicants,  
13 operators, direct patient access employees, and adult volunteers  
14 at the adult residential care home and, in the case of an adult  
15 residential care home operated in a private residence, all  
16 adults living in the home other than the clients.

17          (i) The department, in obtaining and relying upon criminal  
18 history record checks, is presumed to be acting in good faith  
19 and shall be immune from civil liability for taking or  
20 recommending action based upon the criminal history record  
21 information. The good faith presumption may be rebutted upon a  
22 showing by the person or entity of a lack of good faith, and



1 proof by a preponderance of the evidence, that the department  
2 relied upon information or opinion that it knew was false or  
3 misleading.

4 (j) Any applicant or operator who receives information  
5 from the department relating to a criminal history record check  
6 of a direct patient access employee or adult volunteer or, in  
7 the case of an adult residential care home operated in a private  
8 residence, an adult living in the home other than the clients,  
9 is presumed to be acting in good faith and shall be immune from  
10 civil liability for taking or recommending action based upon the  
11 department's recommendation or direction. Nothing in this  
12 section shall affect rights, obligations, remedies, liabilities,  
13 or standards of proof under chapters 368 and 378.

14 Criminal history record information shall be used  
15 exclusively by the department for the sole purpose of  
16 determining whether an applicant, operator, direct patient  
17 access employee, or adult volunteer at an adult residential care  
18 home, or in the case of an adult residential care home operated  
19 in a private residence, any adult living in the home other than  
20 the clients, is suitable for working or living in close  
21 proximity to residents of an adult residential care home such



1 that the health, safety, and welfare of the residents would not  
2 be at risk.

3 (k) For the purposes of this section:

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

5 "Applicant" means a person or entity seeking licensure to  
6 operate an adult residential care home. If the applicant is an  
7 entity, the term "applicant" shall also include its principals,  
8 directors, partners, managers, agents, and representatives to  
9 the extent that any of these individuals will have access to or  
10 contact with clients, their finances, assets, personal property,  
11 medical records, or individually identifiable information.

12 "Conviction for a relevant crime" means any federal or  
13 state conviction for any relevant crime as defined in this  
14 section.

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

18 "Direct patient access employee" means any individual,  
19 including a volunteer, who has access to a patient or resident  
20 of an adult residential care home, or any provider through  
21 employment or through an agreement or contract with such a  
22 facility or provider. Such individuals include physicians,





1 nurses, nursing assistants, therapists, activities personnel,  
2 and support staff who have direct access to patients or patient  
3 belongings.

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

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

9 "Operator" means an individual or entity that is licensed  
10 or is seeking licensure to operate an adult residential care  
11 home and is responsible for the management and overall  
12 operations of that facility.

13 "Relevant crime" means:

14 (1) Any offense described in 42 United States Code §1320a-  
15 7 (Section 1128(a) of the Social Security Act); or

16 (2) A crime of such a serious nature or circumstance that  
17 the department finds its perpetrator to pose a risk to the  
18 health, safety, or well-being of a patient or resident. This  
19 includes murder, manslaughter, assault, sex offenses, domestic  
20 violence, theft or forgery, arson, kidnapping, or possession,  
21 use, sale, manufacture, or distribution of dangerous drugs or  
22 controlled substances.



1           §346-H Criminal history disclosure of prospective adult  
2 residential care home resident. Notwithstanding any other law  
3 to the contrary, the department shall disclose to the operator  
4 of an adult residential care home, to the extent that the  
5 division or office of the department that is referring the  
6 individual to the care home possesses, the information in  
7 existing records at the time of, and as part of, the application  
8 for admission, the criminal history of a prospective resident  
9 applying for entry to the care home when the prospective  
10 resident had previously been:

- 11           (1) Convicted of an offense involving violence to a  
12           person; or
- 13           (2) Admitted to the state hospital under the jurisdiction  
14           of the department of health as a result of an  
15           acquittal under chapter 704 for an offense involving  
16           violence to a person."

17           SECTION 2. Section 46-15.3, Hawaii Revised Statutes, is  
18 amended by amending the definition of "licensed care home" to  
19 read as follows:

20           "Licensed care home" means [~~a care home licensed under~~  
21 ~~section 321-15.6-]~~ an adult residential care home licensed under  
22 section 346-C."



1 SECTION 3. Section 321-11, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§321-11 Subjects of health rules, generally. The  
4 department of health pursuant to chapter 91 may adopt rules that  
5 it deems necessary for the public health and safety respecting:

6 (1) Nuisances, foul or noxious odors, gases, vapors,  
7 waters in which mosquitoes breed or may breed, sources  
8 of filth, and causes of sickness or disease, within  
9 the respective districts of the State, and on board  
10 any vessel;

11 (2) Adulteration and misbranding of food or drugs;

12 (3) Location, air space, ventilation, sanitation,  
13 drainage, sewage disposal, and other health conditions  
14 of buildings, courts, construction projects,  
15 excavations, pools, watercourses, areas, and alleys;

16 (4) Privy vaults and cesspools;

17 (5) Fish and fishing;

18 (6) Interments and dead bodies;

19 (7) Disinterments of dead human bodies, including the  
20 exposing, disturbing, or removing of these bodies from  
21 their place of burial, or the opening, removing, or  
22 disturbing after due interment of any receptacle,



1 coffin, or container holding human remains or a dead  
2 human body or a part thereof and the issuance and  
3 terms of permits for the aforesaid disinterments of  
4 dead human bodies;

5 (8) Cemeteries and burying grounds;

6 (9) Laundries, and the laundering, sanitation, and  
7 sterilization of articles including linen and uniforms  
8 used by or in the following businesses and  
9 professions: barber shops, manicure shops, beauty  
10 parlors, electrology shops, restaurants, soda  
11 fountains, hotels, rooming and boarding houses,  
12 bakeries, butcher shops, public bathhouses, midwives,  
13 masseurs, and others in similar calling, public or  
14 private hospitals, and canneries and bottling works  
15 where foods or beverages are canned or bottled for  
16 public consumption or sale; provided that nothing in  
17 this chapter shall be construed as authorizing the  
18 prohibiting of laundering, sanitation, and  
19 sterilization by those conducting any of these  
20 businesses or professions where the laundering or  
21 sterilization is done in an efficient and sanitary  
22 manner;



- 1           (10) Hospitals, freestanding surgical outpatient  
2           facilities, skilled nursing facilities, intermediate  
3           care facilities, [~~adult residential care homes,~~] adult  
4           foster homes, assisted living facilities, special  
5           treatment facilities and programs, home health  
6           agencies, home care agencies, hospices, freestanding  
7           birthing facilities, adult day health centers,  
8           independent group residences, and therapeutic living  
9           programs, but excluding youth shelter facilities  
10          unless clinical treatment of mental, emotional, or  
11          physical disease or handicap is a part of the routine  
12          program or constitutes the main purpose of the  
13          facility, as defined in section 346-16 under "child  
14          care institution". For the purpose of this paragraph,  
15          "adult foster home" has the same meaning as provided  
16          in section 321-11.2;
- 17          (11) Hotels, rooming houses, lodging houses, apartment  
18          houses, tenements, and residences for persons with  
19          developmental disabilities including those built under  
20          federal funding;
- 21          (12) Laboratories;



1           (13) Any place or building where noisome or noxious trades  
2                   or manufacturing is carried on, or intended to be  
3                   carried on;

4           (14) Milk;

5           (15) Poisons and hazardous substances, the latter term  
6                   including any substance or mixture of substances that:

7                   (A) Is corrosive;

8                   (B) Is an irritant;

9                   (C) Is a strong sensitizer;

10                  (D) Is inflammable; or

11                  (E) Generates pressure through decomposition, heat,  
12                   or other means,

13                   if the substance or mixture of substances may cause  
14                   substantial personal injury or substantial illness  
15                   during or as a proximate result of any customary or  
16                   reasonably foreseeable handling or use, including  
17                   reasonably foreseeable ingestion by children;

18           (16) Pig and duck ranches;

19           (17) Places of business, industry, employment, and  
20                   commerce, and the processes, materials, tools,  
21                   machinery, and methods of work done therein; and



- 1 places of public gathering, recreation, or  
2 entertainment;
- 3 (18) Any restaurant, theater, market, stand, shop, store,  
4 factory, building, wagon, vehicle, or place where any  
5 food, drug, or cosmetic is manufactured, compounded,  
6 processed, extracted, prepared, stored, distributed,  
7 sold, offered for sale, or offered for human  
8 consumption or use;
- 9 (19) Foods, drugs, and cosmetics, and the manufacture,  
10 compounding, processing, extracting, preparing,  
11 storing, selling, and offering for sale, consumption,  
12 or use of any food, drug, or cosmetic;
- 13 (20) Devices as defined in section 328-1;
- 14 (21) Sources of ionizing radiation;
- 15 (22) Medical examination, vaccination, revaccination, and  
16 immunization of school children. No child shall be  
17 subjected to medical examination, vaccination,  
18 revaccination, or immunization, whose parent or  
19 guardian objects in writing thereto on grounds that  
20 the requirements are not in accordance with the  
21 religious tenets of an established church of which the  
22 parent or guardian is a member or adherent, but no



1 objection shall be recognized when, in the opinion of  
2 the department, there is danger of an epidemic from  
3 any communicable disease;

4 (23) Disinsectization of aircraft entering or within the  
5 State as may be necessary to prevent the introduction,  
6 transmission, or spread of disease or the introduction  
7 or spread of any insect or other vector of  
8 significance to health;

9 (24) Fumigation, including the process by which substances  
10 emit or liberate gases, fumes, or vapors that may be  
11 used for the destruction or control of insects,  
12 vermin, rodents, or other pests, which, in the opinion  
13 of the department, may be lethal, poisonous, noxious,  
14 or dangerous to human life;

15 (25) Ambulances and ambulance equipment;

16 (26) Development, review, approval, or disapproval of  
17 management plans submitted pursuant to the Asbestos  
18 Hazard Emergency Response Act of 1986, Public Law 99-  
19 519; and

20 (27) Development, review, approval, or disapproval of an  
21 accreditation program for specially trained persons





1           pursuant to the Residential Lead-Based Paint Hazard  
2           Reduction Act of 1992, Public Law 102-550.

3           The department of health may require any certificates,  
4           permits, or licenses that it may deem necessary to adequately  
5           regulate the conditions or businesses referred to in this  
6           section."

7           SECTION 4. Section 321-11.5, Hawaii Revised Statutes, is  
8           amended by amending subsection (b) to read as follows:

9           "(b) All fees paid and collected pursuant to this section  
10          and rules adopted in accordance with chapter 91 from facilities  
11          seeking licensure or certification by the department of health,  
12          including hospitals, nursing homes, home health agencies, home  
13          care agencies, intermediate care facilities for the mentally  
14          retarded, freestanding outpatient surgical facilities, adult day  
15          health care centers, rural health centers, laboratories, [~~adult~~  
16          ~~residential care homes, expanded adult residential care homes,~~]  
17          developmental disability domiciliary homes, assisted living  
18          facilities, therapeutic living programs, and special treatment  
19          facilities, shall be deposited into the office of health care  
20          assurance special fund created under section 321-1.4. Any other  
21          entities required by law to be licensed by the department of  
22          health shall also be subject to reasonable fees established by



1 the department of health by rules adopted in accordance with  
2 chapter 91."

3 SECTION 5. Section 321-15.1, Hawaii Revised Statutes, is  
4 amended by repealing the definitions of "adult residential care  
5 home" and "expanded adult residential care home" to read:

6 ~~["Adult residential care home" means any facility providing  
7 twenty four hour living accommodations, for a fee, to adults  
8 unrelated to the family, who require at least minimal assistance  
9 in the activities of daily living, personal care services,  
10 protection, and health care services, but who do not need the  
11 professional health services provided in an intermediate,  
12 skilled nursing, or acute care facility.~~

13 ~~"Expanded adult residential care home" means any facility  
14 providing twenty four hour living accommodations, for a fee, to  
15 adults unrelated to the family, who require at least minimal  
16 assistance in the activities of daily living, personal care  
17 services, protection, and health care services, and who may need  
18 the professional health services provided in an intermediate or  
19 skilled nursing facility.]~~

20 SECTION 6. Section 321-15.2, Hawaii Revised Statutes, is  
21 amended by amending the definition of "healthcare facility" to  
22 read as follows:



1 "Healthcare facility" means a facility or setting where a  
2 frail, elderly, or disabled adult receives care or is provided  
3 living accommodations such as a skilled nursing facility,  
4 intermediate care facility, [~~adult residential care home,~~  
5 ~~expanded adult residential care home,~~] assisted living facility,  
6 home health agency, home care agency, hospice, adult day health  
7 center, special treatment facility, therapeutic living program,  
8 intermediate care facility for the mentally retarded, hospital,  
9 rural health center, and rehabilitation agency."

10 SECTION 7. Section 321-15.7, Hawaii Revised Statutes is  
11 amended to read as follows:

12 "§321-15.7 Penalty. Any person who intentionally operates  
13 [~~an adult residential care home or~~] a hospice home without a  
14 license shall be guilty of a misdemeanor."

15 SECTION 8. Section 323D-2, Hawaii Revised Statutes, is  
16 amended by repealing the definition of "extended care adult  
17 residential care home."

18 [~~"Extended care adult residential care home" means an~~  
19 ~~adult residential care home providing twenty four hour living~~  
20 ~~accommodation for a fee, for adults unrelated to the licensee.~~  
21 ~~The primary caregiver shall be qualified to provide care to~~  
22 ~~nursing facility level individuals who have been admitted to a~~



1 ~~medicaid waiver program, or persons who pay for care from~~  
 2 ~~private funds and have been certified for this type of facility.~~  
 3 ~~There shall be two categories of extended care adult residential~~  
 4 ~~care homes, which shall be licensed in accordance with rules~~  
 5 ~~adopted by the department of health.~~

6       ~~(1) Type I home shall consist of five or less unrelated~~  
 7           ~~persons with no more than two extended care adult~~  
 8           ~~residential care home residents; and~~

9       ~~(2) Type II home shall consist of six or more unrelated~~  
 10           ~~persons and one or more persons may be extended care~~  
 11           ~~adult residential care home residents." ]~~

12       SECTION 9. Chapter 346, Hawaii Revised Statutes is amended  
 13 by amending the title of part XIV to read as follows:

14       "PART XIV. HOME AND COMMUNITY-BASED CASE MANAGEMENT AGENCIES  
 15           ~~[AND COMMUNITY CARE FOSTER FAMILY HOMES] "~~

16       SECTION 10. Section 346-53, Hawaii Revised Statutes, is  
 17 amended to read as follows:

18       "§346-53 Determination of amount of assistance. (a) This  
 19 subsection does not apply to general assistance to households  
 20 without minor dependents. The standard of need shall equal the  
 21 poverty level established by the federal government in 2006,  
 22 prorated over a twelve-month period based on family size.



1           The assistance allowance provided shall be based on a  
2 percentage of the standard of need. For other work eligible  
3 households and non-work eligible households and households in  
4 which all caretaker relatives are minors, living independently  
5 with minor dependents and attending school, the assistance  
6 allowance shall be set no higher than sixty-two and one-half per  
7 cent and no lower than forty-four per cent of the standard of  
8 need. For all other households, the assistance allowance shall  
9 be set no higher than sixty-two and one-half per cent of the  
10 standard of need and set no lower than thirty-four per cent of  
11 the standard of need. The standard of need shall be determined  
12 by dividing the 2006 federal poverty level by twelve and  
13 rounding down the quotient. The remaining quotient shall be  
14 multiplied by the per cent as set by the director by rules  
15 pursuant to chapter 91, and the final product shall be rounded  
16 down to determine the assistance allowance; provided that:

17           (1) The department may increase or reduce the assistance  
18 allowance as determined in this subsection for work  
19 eligible households for the purpose of providing work  
20 incentives or services under part XI;

21           (2) No reduction shall be allowed that jeopardizes  
22 eligibility for or receipt of federal funds;



- 1           (3) Reductions in the assistance allowance shall be  
2           limited to no more than one per year; and
- 3           (4) No work eligible household, which includes an adult  
4           who has received sixty cumulative months of temporary  
5           assistance to needy families with minor dependents,  
6           shall be eligible for an assistance allowance, unless  
7           authorized by federal regulations.
- 8           (b) The director shall determine the allowance for general  
9           assistance to households without minor dependents based upon the  
10          total amount appropriated for general assistance to households  
11          without minor dependents, among other relevant factors.
- 12          (c) The director, pursuant to chapter 91, shall determine  
13          the rate of payment for domiciliary care, including care  
14          provided in licensed developmental disabilities domiciliary  
15          homes, community care foster family homes, and certified adult  
16          foster homes, to be provided to recipients who are eligible for  
17          Federal [~~Supplementary~~] Supplemental Security Income or public  
18          assistance, or both. The director shall provide for level of  
19          care payment as follows:
- 20               (1) Beginning on July 1, 2008, for tier one adult  
21               residential care homes as defined under section 346-A  
22               and classified as facility type I, licensed



1 developmental disabilities domiciliary homes as  
2 defined under section 321-15.9, [~~community care foster~~  
3 ~~family homes as defined under section 346-331,~~]  
4 licensed tier two and tier three adult residential  
5 care homes, as defined under section 346-A, classified  
6 as facility type III, and certified adult foster homes  
7 as defined under section 321-11.2, the state  
8 supplemental payment shall not exceed \$651.90; and  
9 (2) Beginning on July 1, 2008, for [~~adult residential care~~  
10 ~~homes classified as facility type II,~~] tier one adult  
11 residential care homes, as defined under section 346-  
12 A, classified as facility type II, the state  
13 supplemental payment shall not exceed \$759.90.

14 If the operator does not provide the quality of care  
15 consistent with the needs of the individual to the satisfaction  
16 of the department, the department may remove the recipient to  
17 another facility.

18 The department shall handle abusive practices under this  
19 section in accordance with chapter 91.

20 Nothing in this subsection shall allow the director to  
21 remove a recipient from an adult residential care home or other  
22 similar institution if the recipient does not desire to be



1 removed and the operator is agreeable to the recipient  
2 remaining, except where the recipient requires a higher level of  
3 care than provided or where the recipient no longer requires any  
4 domiciliary care.

5 (d) Qualified tier two and three adult residential care  
6 home operators under section 346-C who accept residents  
7 certified by the department as requiring acuity level C skilled  
8 nursing facility level care shall be reimbursed based on the  
9 severity of the resident's disability.

10 ~~[(d)]~~ (e) On July 1, 2006, and thereafter, as the  
11 department determines a need, the department shall authorize a  
12 payment, as allowed by federal law, for resident clients  
13 receiving supplemental security income in tier one adult  
14 residential care [home] homes as defined under section 346-A and  
15 classified as type I and type II facilities, licensed  
16 developmental disabilities domiciliary homes as defined under  
17 section 321-15.9, [~~community care foster family homes as defined~~  
18 ~~under section 346-331,~~] tier two and tier three adult  
19 residential care homes, as defined under section 346-A,  
20 classified as type III facilities, and certified adult foster  
21 homes as defined under section 321-11.2, when state funds  
22 appropriated for the purpose of providing payments under





1 subsection (c) for a specific fiscal year are not expended fully  
2 within a period that meets the requirements of the department's  
3 maintenance of effort agreement with the Social Security  
4 Administration.

5 The payment shall be made with that portion of state funds  
6 identified in this subsection that has not been expended.

7 The department shall determine the rate of payment to  
8 ensure compliance with its maintenance of effort agreement with  
9 the Social Security Administration.

10 ~~(e)~~ (f) The department shall pay rental and utility (to  
11 include gas, electricity, and water only) deposits once only for  
12 any person eligible for financial assistance by the department.  
13 However, under extraordinary circumstances as determined by the  
14 department, an additional rental deposit, utility deposit, or  
15 both, may be granted.

16 ~~(f)~~ (g) Any recipient may petition the department for  
17 additional assistance when the recipient's need is due to  
18 emergencies caused by seismic wave, tsunami, hurricane, volcanic  
19 eruption, typhoon, earthquake, flood, or fire determined by the  
20 director to have caused losses as to require and justify  
21 additional assistance from the State. In addition, any  
22 recipient may petition the department for additional assistance



1 for the replacement or repair of household appliances. The  
2 additional assistance shall be paid on an emergency basis, as  
3 determined by the department, to meet the cost of replacing or  
4 repairing household appliances. If the cost of repairs of  
5 household appliances is less than one-half the unit cost of the  
6 item, the department shall pay for the cost of repairs. If the  
7 cost of repairs of household appliances is one-half the unit  
8 cost of the item or more, the department shall replace the  
9 household appliance; provided that the replacement cost shall  
10 not exceed \$350. For the purposes of this subsection,  
11 "household appliances" means a refrigerator or a range.

12 The department shall establish an emergency fund, not to  
13 exceed one per cent of total financial assistance from state  
14 funds required by this chapter in the previous fiscal year. The  
15 director shall adopt rules pursuant to chapter 91 for  
16 determining in which cases to grant lump sum payments to  
17 recipients petitioning for additional assistance.

18 [~~g~~] (h) The department shall include protective child  
19 care payment as a special needs item in the financial assistance  
20 standard for cases of child neglect or abuse requiring placement  
21 of a child in child care. The referral for protective child



1 care payment shall be from the department's child welfare  
2 program and the rate of payment shall be set by the department.

3 ~~[(h)]~~ (i) The director shall adopt rules pursuant to  
4 chapter 91 to implement this section."

5 SECTION 11. Section 346-331, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "§346-331 Definitions. As used in this part:

8 "Assisted living facility" means an assisted living  
9 facility as defined in section 321-15.1.

10 ~~["Certificate of approval" means the certificate issued by  
11 the department or its designee that authorizes a person, agency,  
12 or organization to operate a community care foster family home.]~~

13 "Client" means any person who receives home and community-  
14 based case management services to reside in ~~[a community care  
15 foster family home, expanded adult residential care home,]~~ an  
16 adult residential care home or assisted living facility.

17 ~~["Community care foster family home" or "home" means a home  
18 that, for the purposes of this part:~~

19 ~~(1) Is regulated by the department in accordance with  
20 rules that are equitable in relation to rules that  
21 govern expanded adult residential care homes;~~



1       ~~(2) Is issued a certificate of approval by the department~~  
2       ~~or its designee to provide, for a fee, twenty four~~  
3       ~~hour living accommodations, including personal care~~  
4       ~~and homemaker services, for not more than two adults~~  
5       ~~at any one time, at least one of whom shall be a~~  
6       ~~medicaid recipient, who are at the nursing facility~~  
7       ~~level of care, who are unrelated to the foster family,~~  
8       ~~and who are receiving the services of a licensed home~~  
9       ~~and community based case management agency, provided~~  
10       ~~that the department, in its discretion, may certify a~~  
11       ~~home for a third adult who is at the nursing level of~~  
12       ~~care and a medicaid recipient, provided that the~~  
13       ~~primary and substitute caregivers are certified nurse~~  
14       ~~aides who have completed a state approved training~~  
15       ~~program and other training as required by the~~  
16       ~~department, and~~

17       ~~(3) Does not include expanded adult residential care homes~~  
18       ~~or assisted living facilities, which shall continue to~~  
19       ~~be licensed by the department of health.~~

20       ~~"Designee" means a person, institution, organization, or~~  
21       ~~agency authorized by the department to issue certificates of~~  
22       ~~approval to community care foster family homes and to monitor~~



1 ~~these homes for certificate compliance and quality assurance.~~  
2 ~~The department's designee shall perform these functions for the~~  
3 ~~department and shall not at the same time function as a home and~~  
4 ~~community based case management agency or a community care~~  
5 ~~foster family home as defined in this section.~~

6 ~~"Expanded adult residential care home" means any facility~~  
7 ~~providing twenty four hour living accommodations, for a fee, to~~  
8 ~~adults unrelated to the family, who require at least minimal~~  
9 ~~assistance in the activities of daily living, personal care~~  
10 ~~services, protection, and health care services, and who may need~~  
11 ~~the professional health services provided in an intermediate or~~  
12 ~~skilled nursing facility.]~~

13 "Home and community-based case management agency" means any  
14 person, agency, or organization licensed by the department to  
15 provide, coordinate, and monitor comprehensive services to meet  
16 the needs of clients whom the agency serves in a [~~community care~~  
17 ~~foster family home or any medicaid clients in an expanded adult~~  
18 ~~residential care home, or] tier two or tier three adult  
19 residential care home classified as a type III facility, or any  
20 medicaid clients in a tier two or three adult residential care  
21 home or an assisted living facility.~~



1 "License" means an approval issued by the department or its  
2 authorized agents for a person, agency, or organization to  
3 operate as a home and community-based case management agency."

4 SECTION 12. Section 346-333, Hawaii Revised Statutes, is  
5 amended as follows:

6 1. By amending subsection (a) to read:

7 "[+] §346-333 [+] Home and community-based case management  
8 agency, authority over and evaluation of. (a) Any person,  
9 agency, or organization engaged in providing, coordinating, or  
10 monitoring comprehensive services to clients in [~~community care~~  
11 ~~foster family homes, or medicaid clients in expanded adult~~  
12 ~~residential care homes, and] tier two and tier three adult  
13 residential care homes classified as a type III facility, or any  
14 medicaid clients in tier two or three adult residential care  
15 homes and assisted living facilities, shall meet the standards  
16 of conditions, management, and competence set by the department  
17 and hold a license in good standing issued for this purpose by  
18 the department."~~

19 2. By amending subsection (c) to read:

20 "(c) As a condition for obtaining a license, a person,  
21 agency, or organization shall comply with rules adopted under  
22 subsection (b) (1), (2), and (3), and satisfy the background



1 check requirements under section 346-335. The department may  
2 deny a license if:

- 3 (1) An operator, employee, or new employee of the home and  
4 community-based case management agency has been  
5 convicted of a crime other than a minor traffic  
6 violation involving a fine of \$50 or less;
- 7 (2) The department finds that the criminal history record  
8 of an operator, employee, or new employee poses a risk  
9 to the health, safety, or well-being of adults  
10 receiving care in [~~community care foster family homes,~~  
11 ~~expanded adult residential care homes,~~] adult  
12 residential care homes or assisted living facilities;
- 13 (3) An operator, employee, or new employee of the home and  
14 community-based case management agency is a  
15 perpetrator of abuse as defined in section 346-222; or
- 16 (4) The holder of or an applicant for a home and  
17 community-based case management agency license, or one  
18 of its employees, has a [~~certificate of approval to~~  
19 ~~operate a community care foster family home, or a~~  
20 ~~license from the department of health to operate an~~  
21 ~~adult residential care home, expanded adult~~  
22 ~~residential care home, or~~] license from the department



1           to operate an adult residential care home, or a  
2           license from the department of health to operate an  
3           assisted living facility."

4           3. By amending subsection (f) to read:

5           "(f) The department may suspend or revoke a license if the  
6 department deems that the agency is unwilling or unable to  
7 comply with the rules adopted under this section; provided that:

8           (1) Upon suspension or revocation of a license, the home  
9           and community-based case management agency shall no  
10           longer be licensed and shall immediately notify the  
11           agency's clients and [~~community care foster family~~  
12           ~~homes, expanded adult residential care homes,~~] the  
13           adult residential care homes and assisted living  
14           facilities in which the agency is providing services  
15           to clients;

16           (2) A home and community-based case management agency  
17           whose license has been suspended or revoked may appeal  
18           the suspension or revocation to the department through  
19           its established process, but the appeal shall not stay  
20           the suspension or revocation;

21           (3) A suspended or revoked license may be reinstated if  
22           the department deems that the agency is willing and





1           able to comply with the rules adopted under this  
2           section; and

3           (4) A revoked license shall be restored only after a new  
4           application is made and reviewed under this part."

5           4. By amending subsections (h) and (i) to read:

6           "(h) The department shall adopt standard forms of contract  
7           that the home and community-based case management agency shall  
8           use with each of its clients, [~~community care foster family~~  
9           ~~homes, expanded adult residential care homes,~~] adult residential  
10          care homes, and assisted living facilities.

11          (i) The department shall establish a review board  
12          consisting of three operators of [~~community care foster family~~  
13          ~~homes and three operators of expanded adult residential care~~  
14          ~~homes.~~] tier two or tier three facility type III adult  
15          residential care homes and three operators of tier two or tier  
16          three facility type I or II adult residential care homes. The  
17          review board shall monitor referrals and placements of clients  
18          by each home and community-based case management agency on a  
19          monthly basis. Each home and community-based case management  
20          agency shall be required to provide monthly reports to the  
21          review board."

22          5. By amending subsection (k) to read:



1           "(k) A home and community-based case management agency  
2 shall not enter into an agreement that requires [~~a community~~  
3 ~~care foster family home~~] any tier two or tier three facility  
4 type III adult residential care home to accept that agency's  
5 clients exclusively."

6           SECTION 13. Section 346-335, Hawaii Revised Statutes, is  
7 amended to read as follows:

8           "§346-335 Background checks. (a) The department shall  
9 develop standards to ensure the reputable and responsible  
10 character of operators, employees, volunteers, and other adults  
11 regularly present, except for adults in care, of the programs  
12 identified in section 346-97.

13           (b) An applicant for the programs identified in section  
14 346-97 shall:

- 15           (1) Be subject to criminal history record checks in  
16 accordance with section 846-2.7;
- 17           (2) Be subject to adult abuse perpetrator checks, if the  
18 individual has direct contact with a client. For the  
19 purposes of this section, "adult abuse perpetrator  
20 check" means a search to determine whether an  
21 individual is known to the department as a perpetrator  
22 of abuse as defined in section 346-222, by means of a



1 search of the individual's name and birth date in the  
2 department's adult protective service file; and

3 (3) Provide consent to the department or its designee to  
4 conduct an adult abuse perpetrator check and to obtain  
5 other criminal history record information for  
6 verification.

7 (c) New employees of the programs identified in section  
8 346-97 shall be fingerprinted within five working days of  
9 employment, for the purpose of complying with the criminal  
10 history record check requirement.

11 (d) The department or its designee shall obtain criminal  
12 history record information through the Hawaii criminal justice  
13 data center in accordance with section 846-2.7 on applicants for  
14 programs identified in section 346-97. The Hawaii criminal  
15 justice data center may assess the applicants and operators,  
16 employees, and new employees a reasonable fee for each criminal  
17 history record check conducted. The information obtained shall  
18 be used exclusively for the stated purposes for which it was  
19 obtained and shall be subject to federal laws and regulations as  
20 may be now or hereafter adopted.

21 (e) The department or its designee shall make a name  
22 inquiry into the criminal history records and the adult



1 protective service file for the first two years a home and  
2 community-based case management agency is licensed and annually  
3 or biennially thereafter depending on the licensure status of  
4 the home and community-based case management agency.

5 ~~[(f) An applicant for a certificate of approval as a  
6 community care foster family home and operators and other adults  
7 residing in a community care foster family home shall:~~

- 8 ~~(1) Be subject to criminal history record checks in  
9 accordance with section 846-2.7;~~
- 10 ~~(2) Be subject to adult abuse perpetrator checks, if the  
11 individual has direct contact with a client. For the  
12 purposes of this section, "adult abuse perpetrator  
13 check" means a search to determine whether an  
14 individual is known to the department as a perpetrator  
15 of abuse as defined in section 346-222, by means of a  
16 search of the individual's name and birth date in the  
17 department's adult protective service file; and~~
- 18 ~~(3) Provide consent to the department to conduct an adult  
19 abuse perpetrator check and to obtain other criminal  
20 history record information for verification.~~

21 ~~(g) The department or its designee shall obtain criminal  
22 history record information through the Hawaii criminal justice~~



1 ~~data center on applicants for certificates of approval as~~  
2 ~~community care foster family homes and operators and other~~  
3 ~~adults residing in community care foster family homes, except~~  
4 ~~for adults receiving care. The Hawaii criminal justice data~~  
5 ~~center may assess the applicants and operators and other adults~~  
6 ~~a reasonable fee for each criminal history record check~~  
7 ~~conducted. The information obtained shall be used exclusively~~  
8 ~~for the stated purpose for which it was obtained and shall be~~  
9 ~~subject to federal laws and regulations as may be now or~~  
10 ~~hereafter adopted.~~

11 ~~(h) The department or its designee shall make a name~~  
12 ~~inquiry into the criminal history records and the adult~~  
13 ~~protective service file for the first two years a community care~~  
14 ~~foster family home is certified and annually or biennially~~  
15 ~~thereafter depending on the certification status of the~~  
16 ~~community care foster family home.] "~~

17 SECTION 14. Section 346D-4.5, Hawaii Revised Statutes, is  
18 amended by amending subsection (a) to read as follows:

19 "(a) There may be established a monthly needs allowance  
20 for individuals living in:

21 (1) Adult residential care [~~home type I and type II~~  
22 ~~facilities] homes;~~



1 (2) Licensed developmental disabilities domiciliary homes  
2 as defined in section 321-15.9;

3 ~~[-(3) Community care foster family homes as defined in  
4 section 346-331,~~

5 ~~-(4)]~~ (3) Certified adult foster homes as defined in  
6 section 321-11.2;

7 ~~[-(5)]~~ (4) Domiciliary care as defined in section 346-1;

8 ~~[-(6)]~~ (5) A nursing facility as defined in section 346E-1;  
9 or

10 ~~[-(7)]~~ (6) A community-based residence as part of the  
11 residential alternatives community care program."

12 SECTION 15. Section 349-21, Hawaii Revised Statutes, is  
13 amended by amending subsection (f) to read as follows:

14 "(f) For the purposes of this part:

15 "Conflict of interest" includes:

16 (1) Any direct involvement in the licensing or  
17 certification of a long-term care facility or of a  
18 provider of a long-term care service;

19 (2) An ownership or investment interest in a long-term  
20 care facility or a long-term care service;

21 (3) Employment by, or participation in the management of,  
22 a long-term care facility; and



1           (4) Receipt of, or the right to receive, directly or  
 2                   indirectly, remuneration under a compensation  
 3                   arrangement with an owner or operator of a long-term  
 4                   care facility.

5           "Long-term care facility" means any:

- 6           (1) Skilled nursing facility as defined in section 1819(a)  
 7                   of the Social Security Act, as amended;
- 8           (2) Nursing facility, as defined in section 1919(a) of the  
 9                   Social Security Act, as amended;
- 10          (3) Adult residential care home [~~including any expanded~~  
 11                   ~~adult residential care home~~];
- 12          (4) Assisted living facility;
- 13          (5) Intermediate care facility as defined in section  
 14                   1905(c) of the Social Security Act, as amended; and
- 15          (6) Other similar facility licensed by the State serving  
 16                   elders."

17          SECTION 16. Section 431:10H-301, Hawaii Revised Statutes,  
 18 is amended by amending subsection (c) to read as follows:

19          "(c) For the purpose of subsection (b) and for the purpose  
 20 of describing examples of services typically found in this  
 21 State, coverage shall be one or more of the following services  
 22 or any combination of services:



- 1           (1) Home health care services, as defined in section
- 2                   431:10H-201;
- 3           (2) Adult day care, as defined in section 431:10H-201;
- 4           (3) Adult residential care home, as defined in section
- 5                   ~~[321-15.17]~~ 346-A;
- 6           ~~[-(4)] Extended care adult residential care home, as defined~~
- 7                   ~~in section 323D-2;~~
- 8           ~~-(5)]~~ (4) Nursing home, as defined in section 457B-2;
- 9           ~~[-(6)]~~ (5) Skilled nursing facilities and intermediate care
- 10                   facilities, as referenced in section 321-11(10);
- 11           ~~[-(7)]~~ (6) Hospices, as referenced in section 321-11;
- 12           ~~[-(8)]~~ (7) Assisted living facility, as defined in section
- 13                   323D-2;
- 14           ~~[-(9)]~~ (8) Personal care, as defined in section 431:10H-201;
- 15           ~~[-(10)]~~ (9) Respite care, as defined in section 333F-1; and
- 16           ~~[-(11)]~~ (10) Any other care as provided by rule of the
- 17                   commissioner."

18           SECTION 17. Section 518-3, Hawaii Revised Statutes, is

19 amended to read as follows:

20           " ~~[-]~~ §518-3 ~~[+]~~ **Invalidity of certain restrictive covenants.**

21 It is the public policy of the State to establish community

22 residences in residential areas. Therefore, any restrictive



1 covenant or other private legal impediment made by any person,  
2 association, firm, or corporation which directly or indirectly  
3 prevents or restricts the establishment in an area zoned for  
4 residential use of a facility licensed by the State as ~~[an]~~ a  
5 tier one adult residential care home as defined under section  
6 ~~[321-15.17]~~ 346-A; intermediate care facility/mental  
7 retardation-community as defined under section ~~[+]~~46-4(f) ~~[+]~~; or  
8 special treatment facility as defined under section 334-1 shall  
9 be void and unenforceable as to such community residences."

10 SECTION 18. Section 846-2.7, Hawaii Revised Statutes, is  
11 amended by amending subsection (b) to read as follows:

12 "(b) Criminal history record checks may be conducted by:  
13 (1) The department of health on operators of adult foster  
14 homes or developmental disabilities domiciliary homes  
15 and their employees, as provided by section 333F-22;  
16 (2) The department of health on prospective employees,  
17 persons seeking to serve as providers, or  
18 subcontractors in positions that place them in direct  
19 contact with clients when providing non-witnessed  
20 direct mental health services as provided by section  
21 321-171.5;



- 1           (3) The department of health on all applicants for  
2           licensure for, operators for, and prospective  
3           employees, and volunteers at one or more of the  
4           following: skilled nursing facility, intermediate  
5           care facility, [~~adult residential care home, expanded~~  
6           ~~adult residential care home,~~] assisted living  
7           facility, home health agency, hospice, adult day  
8           health center, special treatment facility, therapeutic  
9           living program, intermediate care facility for the  
10          mentally retarded, hospital, rural health center and  
11          rehabilitation agency, and, in the case of any of the  
12          above-related facilities operating in a private  
13          residence, on any adult living in the facility other  
14          than the client as provided by section 321-15.2;
- 15          (4) The department of education on employees, prospective  
16          employees, and teacher trainees in any public school  
17          in positions that necessitate close proximity to  
18          children as provided by section 302A-601.5;
- 19          (5) The counties on employees and prospective employees  
20          who may be in positions that place them in close  
21          proximity to children in recreation or child care  
22          programs and services;



- 1           (6) The county liquor commissions on applicants for liquor  
2           licenses as provided by section 281-53.5;
- 3           (7) The department of human services on operators and  
4           employees of child caring institutions, child placing  
5           organizations, and foster boarding homes as provided  
6           by section 346-17;
- 7           (8) The department of human services on prospective  
8           adoptive parents as established under section 346-  
9           19.7;
- 10          (9) The department of human services on applicants to  
11          operate child care facilities, prospective employees  
12          of the applicant, and new employees of the provider  
13          after registration or licensure as provided by section  
14          346-154;
- 15          (10) The department of human services on persons exempt  
16          pursuant to section 346-152 to be eligible to provide  
17          child care and receive child care subsidies as  
18          provided by section 346-152.5;
- 19          (11) The department of human services on operators and  
20          employees of home and community-based case management  
21          agencies as provided by section 346-335, and operators  
22          and other adults, except for adults in care, [~~residing~~



1           ~~in foster family homes as provided by section 346-~~  
2           ~~335,]~~ of adult residential care homes as provided by  
3           section 346-G;

4           (12) The department of human services on staff members of  
5           the Hawaii youth correctional facility as provided by  
6           section 352-5.5;

7           (13) The department of human services on employees,  
8           prospective employees, and volunteers of contracted  
9           providers and subcontractors in positions that place  
10          them in close proximity to youth when providing  
11          services on behalf of the office or the Hawaii youth  
12          correctional facility as provided by section 352D-4.3;

13          (14) The judiciary on employees and applicants at detention  
14          and shelter facilities as provided by section 571-34;

15          (15) The department of public safety on employees and  
16          prospective employees who are directly involved with  
17          the treatment and care of persons committed to a  
18          correctional facility or who possess police powers  
19          including the power of arrest as provided by section  
20          353C-5;



- 1       (16) The department of commerce and consumer affairs on  
2            applicants for private detective or private guard  
3            licensure as provided by section 463-9;
- 4       (17) Private schools and designated organizations on  
5            employees and prospective employees who may be in  
6            positions that necessitate close proximity to  
7            children; provided that private schools and designated  
8            organizations receive only indications of the states  
9            from which the national criminal history record  
10          information was provided pursuant to section 302C-1;
- 11       (18) The public library system on employees and prospective  
12            employees whose positions place them in close  
13            proximity to children as provided by section 302A-  
14            601.5;
- 15       (19) The State or any of its branches, political  
16            subdivisions, or agencies on applicants and employees  
17            holding a position that has the same type of contact  
18            with children, vulnerable adults, or persons committed  
19            to a correctional facility as other public employees  
20            who hold positions that are authorized by law to  
21            require criminal history record checks as a condition  
22            of employment as provided by section 78-2.7;



1       (20) The department of human services on licensed adult day  
2           care center operators, employees, new employees,  
3           subcontracted service providers and their employees,  
4           and adult volunteers as provided by section 346-97;

5       (21) The department of human services on purchase of  
6           service contracted and subcontracted service providers  
7           and their employees serving clients of the adult and  
8           community care services branch, as provided by section  
9           346-97;

10       (22) The department of human services on foster grandparent  
11           program, retired and senior volunteer program, senior  
12           companion program, and respite companion program  
13           participants as provided by section 346-97;

14       (23) The department of human services on contracted and  
15           subcontracted service providers and their current and  
16           prospective employees that provide home and community-  
17           based services under Section 1915(c) of the Social  
18           Security Act (Title 42 United States Code Section  
19           1396n(c)), or under any other applicable section or  
20           sections of the Social Security Act for the purposes  
21           of providing home and community-based services, as  
22           provided by section 346-97;



- 1       (24) The department of commerce and consumer affairs on
- 2           proposed directors and executive officers of a bank,
- 3           savings bank, savings and loan association, trust
- 4           company, and depository financial services loan
- 5           company as provided by section 412:3-201;
- 6       (25) The department of commerce and consumer affairs on
- 7           proposed directors and executive officers of a
- 8           nondepository financial services loan company as
- 9           provided by section 412:3-301;
- 10       (26) The department of commerce and consumer affairs on the
- 11           original chartering applicants and proposed executive
- 12           officers of a credit union as provided by section
- 13           412:10-103;
- 14       (27) The department of commerce and consumer affairs on:
- 15           (A) Each principal of every non-corporate applicant
- 16               for a money transmitter license; and
- 17           (B) The executive officers, key shareholders, and
- 18               managers in charge of a money transmitter's
- 19               activities of every corporate applicant for a
- 20               money transmitter license,
- 21           as provided by section 489D-9;



1 (28) The department of commerce and consumer affairs on  
2 applicants for licensure and persons licensed under  
3 title 24;

4 (29) The Hawaii health systems corporation on:

5 (A) Employees;

6 (B) Applicants seeking employment;

7 (C) Current or prospective members of the corporation  
8 board or regional system board; or

9 (D) Current or prospective volunteers, providers, or  
10 contractors,

11 in any of the corporation's health facilities as  
12 provided by section 323F-5.5;

13 [+](30)[+] The department of commerce and consumer affairs on an  
14 applicant for a mortgage loan originator's license as  
15 provided by chapter 454F; and

16 [+](31)[+] Any other organization, entity, or the State, its  
17 branches, political subdivisions, or agencies as may  
18 be authorized by state law."

19 SECTION 19. Section 321-15.3, Hawaii Revised Statutes, is  
20 repealed.

21 [~~§321-15.3 Criminal history disclosure of prospective~~  
22 ~~care home resident.~~] Notwithstanding any other law to the





1 ~~contrary, the department of health shall disclose to the~~  
2 ~~operator of an adult residential care home, to the extent that~~  
3 ~~the division or office of the department that is referring the~~  
4 ~~individual to the care home possesses, the information in~~  
5 ~~existing records at the time of, and as part of, the application~~  
6 ~~for admission, the criminal history of a prospective resident~~  
7 ~~applying for entry to the care home when the prospective~~  
8 ~~resident had previously been:~~

- 9       ~~(1) Convicted of an offense involving violence to a~~  
10           ~~person, or~~
- 11       ~~(2) Admitted to the state hospital under the jurisdiction~~  
12           ~~of the department of health as a result of an~~  
13           ~~acquittal under chapter 704 for an offense involving~~  
14           ~~violence to a person." ]~~

15       SECTION 20. Section 321-15.6, Hawaii Revised Statutes, is  
16       repealed.

17       ~~["§321-15.6 Adult residential care homes; licensing. (a)~~  
18       ~~All adult residential care homes shall be licensed to ensure the~~  
19       ~~health, safety, and welfare of the individuals placed therein.~~  
20       ~~The department shall conduct unannounced visits, other than the~~  
21       ~~inspection for relicensing, to every licensed adult residential~~  
22       ~~care home and expanded adult residential care home on an annual~~



1 ~~basis and at such intervals as determined by the department to~~  
2 ~~ensure the health, safety, and welfare of each resident.~~  
3 ~~Unannounced visits may be conducted during or outside regular~~  
4 ~~business hours. All inspections relating to follow up visits,~~  
5 ~~visits to confirm correction of deficiencies, or visits to~~  
6 ~~investigate complaints or suspicion of abuse or neglect shall be~~  
7 ~~conducted unannounced during or outside regular business hours.~~  
8 ~~Annual inspections for relicensing may be conducted during~~  
9 ~~regular business hours or at intervals determined by the~~  
10 ~~department. Annual inspections for relicensing shall be~~  
11 ~~conducted with notice, unless otherwise determined by the~~  
12 ~~department.~~

13 ~~(b) The director shall adopt rules regarding adult~~  
14 ~~residential care homes in accordance with chapter 91 that shall~~  
15 ~~be designed to:~~

- 16 ~~(1) Protect the health, safety, and civil rights of~~  
17 ~~persons residing in facilities regulated;~~  
18 ~~(2) Provide for the licensing of adult residential care~~  
19 ~~homes; provided that the rules shall allow group~~  
20 ~~living in two categories of adult residential care~~  
21 ~~homes as licensed by the department of health.~~



1           ~~(A) Type I allowing five or fewer residents, provided~~  
2           ~~that up to six residents may be allowed at the~~  
3           ~~discretion of the department to live in a type I~~  
4           ~~home, provided further that the primary caregiver~~  
5           ~~or home operator is a certified nurse aide who~~  
6           ~~has completed a state approved training program~~  
7           ~~and other training as required by the department,~~  
8           ~~and~~

9           ~~(B) Type II allowing six or more residents, including~~  
10           ~~but not limited to the mentally ill, elders,~~  
11           ~~persons with disabilities, the developmentally~~  
12           ~~disabled, or totally disabled persons who are not~~  
13           ~~related to the home operator or facility staff,~~

14           ~~(3) Comply with applicable federal laws and regulations of~~  
15           ~~Title XVI of the Social Security Act, as amended; and~~

16           ~~(4) Provide penalties for the failure to comply with any~~  
17           ~~rule.~~

18           ~~For the purposes of this subsection:~~

19           ~~"Developmentally disabled" means a person with~~  
20           ~~developmental disabilities as defined under section 333F-1.~~

21           ~~"Elder" has the same meaning as defined under section 356D-~~

22           ~~1.~~



1       ~~"Mentally ill" means a mentally ill person as defined under~~  
2 ~~section 334-1.~~

3       ~~"Persons with disabilities" means persons having a~~  
4 ~~disability under section 515-2.~~

5       ~~"Totally disabled person" has the same meaning as a person~~  
6 ~~totally disabled as defined under section 235-1.~~

7       ~~(c) The department may provide for the training of and~~  
8 ~~consultations with operators and staff of any facility licensed~~  
9 ~~under this section, in conjunction with any licensing thereof,~~  
10 ~~and shall adopt rules to ensure that adult residential care home~~  
11 ~~operators shall have the needed skills to provide proper care~~  
12 ~~and supervision in a home environment as required under~~  
13 ~~department rules.~~

14       ~~(d) The department shall establish a standard admission~~  
15 ~~policy and procedure which shall require the provision of~~  
16 ~~information that includes the appropriate medical and personal~~  
17 ~~history of the patient as well as the level of care needed by~~  
18 ~~the patient prior to the patient's referral and admission to any~~  
19 ~~adult residential care home facility. The department shall~~  
20 ~~develop appropriate forms and patient summaries for this~~  
21 ~~purpose.~~



1       ~~(e) The department shall maintain an inventory of all~~  
2 ~~facilities licensed under this section and shall maintain a~~  
3 ~~current inventory of vacancies therein to facilitate the~~  
4 ~~placement of individuals in such facilities.~~

5       ~~(f) The department shall develop and adopt a social model~~  
6 ~~of health care to ensure the health, safety, and welfare of~~  
7 ~~individuals placed in adult residential care homes. The social~~  
8 ~~model of care shall provide for aging in place and be designed~~  
9 ~~to protect the health, safety, civil rights, and rights of~~  
10 ~~choice of the persons to reside in a nursing facility or in~~  
11 ~~home or community based care.~~

12       ~~(g) Any fines collected by the department of health for~~  
13 ~~violations of this section shall be deposited into the office of~~  
14 ~~health care assurance special fund." ]~~

15       SECTION 21. Section 321-15.61, Hawaii Revised Statutes, is  
16 repealed.

17       ~~["~~§321-15.61~~ Adult residential care homes expanded~~  
18 ~~admissions. (a) Adult residential care homes may admit an~~  
19 ~~individual who has been living immediately prior to admission in~~  
20 ~~the individual's own home, a hospital, or other care setting,~~  
21 ~~and who has been either:~~



1       ~~(1) Admitted to a medicaid waiver program and determined~~  
2       ~~by the department of human services to require nursing~~  
3       ~~facility level care to manage the individual's~~  
4       ~~physical, mental, and social functions; or~~  
5       ~~(2) A private paying individual certified by a physician~~  
6       ~~or advanced practice registered nurse as needing a~~  
7       ~~nursing facility level of care.~~

8       ~~(b) The department of health shall adopt rules in~~  
9       ~~accordance with chapter 91 to expand admissions to adult~~  
10      ~~residential care homes by level of care and to define and~~  
11      ~~standardize these levels of care. The rules and standards shall~~  
12      ~~provide for appropriate and adequate requirements for knowledge~~  
13      ~~and training of adult residential care home operators and their~~  
14      ~~employees." ]~~

15           SECTION 22. Section 321-15.62, Hawaii Revised Statutes, is  
16      repealed.

17           ~~[ "§321-15.62 Expanded adult residential care homes,~~  
18      ~~licensing. (a) All expanded adult residential care homes shall~~  
19      ~~be licensed to ensure the health, safety, and welfare of the~~  
20      ~~individuals placed therein.~~

21           ~~(b) The director of health shall adopt rules regarding~~  
22      ~~expanded adult residential care homes in accordance with chapter~~



1 ~~91 that shall implement a social model of health care designed~~  
2 ~~to:~~

3 ~~(1) Protect the health, safety, civil rights, and rights~~  
4 ~~of choice of residents in a nursing facility or in~~  
5 ~~home or community based care;~~

6 ~~(2) Provide for the licensing of expanded adult~~  
7 ~~residential care homes for persons who are certified~~  
8 ~~by the department of human services, a physician,~~  
9 ~~advanced practice registered nurse, or registered~~  
10 ~~nurse case manager as requiring skilled nursing~~  
11 ~~facility level or intermediate care facility level of~~  
12 ~~care who have no financial relationship with the home~~  
13 ~~care operator or facility staff; provided that the~~  
14 ~~rules shall allow group living in the following two~~  
15 ~~categories of expanded adult residential care homes as~~  
16 ~~licensed by the department of health:~~

17 ~~(A) A type I home shall consist of five or fewer~~  
18 ~~residents with no more than two nursing facility~~  
19 ~~level residents; provided that more nursing~~  
20 ~~facility level residents may be allowed at the~~  
21 ~~discretion of the department; and provided~~  
22 ~~further that up to six residents may be allowed~~



1 ~~at the discretion of the department to live in a~~  
2 ~~type I home; provided that the primary caregiver~~  
3 ~~or home operator is a certified nurse aide who~~  
4 ~~has completed a state approved training program~~  
5 ~~and other training as required by the department;~~  
6 ~~and~~

7 ~~(B) A type II home shall consist of six or more~~  
8 ~~residents, with no more than twenty per cent of~~  
9 ~~the home's licensed capacity as nursing facility~~  
10 ~~level residents; provided that more nursing~~  
11 ~~facility level residents may be allowed at the~~  
12 ~~discretion of the department; provided further~~  
13 ~~that the department shall exercise its discretion~~  
14 ~~for a resident presently residing in a type I or~~  
15 ~~type II home, to allow the resident to remain as~~  
16 ~~an additional nursing facility level resident~~  
17 ~~based upon the best interests of the resident.~~  
18 ~~The best interests of the resident shall be~~  
19 ~~determined by the department after consultation~~  
20 ~~with the resident, the resident's family, primary~~  
21 ~~physician, case manager, primary caregiver, and~~  
22 ~~home operator;~~





1       ~~(3) Comply with applicable federal laws and regulations of~~  
2           ~~Title XVI of the Social Security Act, as amended; and~~

3       ~~(4) Provide penalties for the failure to comply with any~~  
4           ~~rule.~~

5       ~~(c) The department may provide for the training of and~~  
6       ~~consultations with operators and staff of any facility licensed~~  
7       ~~under this section, in conjunction with any licensing thereof,~~  
8       ~~and shall adopt rules to ensure that expanded adult residential~~  
9       ~~care home operators shall have the needed skills to provide~~  
10       ~~proper care and supervision in a home environment as required~~  
11       ~~under department rules.~~

12       ~~(d) The department shall establish a standard admission~~  
13       ~~policy and procedure which shall require the provision of~~  
14       ~~information that includes the appropriate medical and personal~~  
15       ~~history of the patient as well as the level of care needed by~~  
16       ~~the patient prior to the patient's referral and admission to any~~  
17       ~~expanded adult residential care home facility. The department~~  
18       ~~shall develop appropriate forms and patient summaries for this~~  
19       ~~purpose.~~

20       ~~(e) The department shall maintain an inventory of all~~  
21       ~~facilities licensed under this section and shall maintain a~~



1 ~~current inventory of vacancies therein to facilitate the~~  
2 ~~placement of individuals in such facilities." ]~~

3 SECTION 23. Section 346-53.4, Hawaii Revised Statutes, is  
4 repealed.

5 ~~"[§346-53.4] Reimbursement to expanded adult residential~~  
6 ~~care home operators. Qualified expanded adult residential care~~  
7 ~~home operators under section 321-15.62 who accept residents~~  
8 ~~certified by the department as requiring skilled nursing~~  
9 ~~facility level care shall be reimbursed based on the severity of~~  
10 ~~the resident's disability." ]~~

11 SECTION 24. Section 346-332, Hawaii Revised Statutes, is  
12 repealed.

13 ~~"[§346-332] Applicability. (a) Prior to June 30, 2006,~~  
14 ~~this part shall apply to the demonstration project statewide.~~

15 ~~(b) Community care foster family homes shall be required~~  
16 ~~to reserve at least one bed for medicaid patients." ]~~

17 SECTION 25. Section 346-334, Hawaii Revised Statutes, is  
18 repealed.

19 ~~"[§346-334] Community care foster family home, authority~~  
20 ~~over and evaluation of. (a) Any person in any household who~~  
21 ~~wants to take in, for a fee, any adult who is at the nursing~~  
22 ~~facility level of care and who is unrelated to anyone in the~~



1 ~~household, for twenty four hour living accommodations, including~~  
2 ~~personal care and homemaker services, may do so only after the~~  
3 ~~household meets the required standards established for~~  
4 ~~certification and obtains a certificate of approval from the~~  
5 ~~department or its designee.~~

6 ~~(b) The department shall adopt rules pursuant to chapter~~  
7 ~~91 relating to:~~

8 ~~(1) Standards of conditions and competence for the~~  
9 ~~operation of community care foster family homes;~~

10 ~~(2) Procedures for obtaining and renewing a certificate of~~  
11 ~~approval from the department; and~~

12 ~~(3) Minimum grievance procedures for clients of community~~  
13 ~~care foster family home services.~~

14 ~~(c) As a condition for obtaining a certificate of~~  
15 ~~approval, community care foster family homes shall comply with~~  
16 ~~rules adopted under subsection (b) and satisfy the background~~  
17 ~~check requirements under section 346-335. The department or its~~  
18 ~~designee may deny a certificate of approval if:~~

19 ~~(1) An operator or other adult residing in the community~~  
20 ~~care foster family home, except for adults receiving~~  
21 ~~care, has been convicted of a crime other than a minor~~  
22 ~~traffic violation involving a fine of \$50 or less;~~



1       ~~(2) The department or its designee finds that the criminal~~  
2       ~~history record of an operator or other adult residing~~  
3       ~~in the home, except for adults receiving care, poses a~~  
4       ~~risk to the health, safety, or well being of adults in~~  
5       ~~care; or~~

6       ~~(3) An operator or other adult residing in the community~~  
7       ~~care foster family home, except for adults receiving~~  
8       ~~care, is a perpetrator of abuse as defined in section~~  
9       ~~346-222.~~

10       ~~(d) Upon approval of a community care foster family home,~~  
11       ~~the department or its designee shall issue a certificate of~~  
12       ~~approval that shall continue in force for one year, or for two~~  
13       ~~years if a community care foster family home has been certified~~  
14       ~~for at least one year and is in good standing pursuant to~~  
15       ~~standards adopted by the department, unless sooner suspended or~~  
16       ~~revoked for cause. The department or its designee shall renew~~  
17       ~~the certificate of approval only if, after an annual or biennial~~  
18       ~~evaluation, the home continues to meet the standards required~~  
19       ~~for certification.~~

20       ~~(e) Any community care foster family home shall be subject~~  
21       ~~to investigation by the department or its designee at any time~~



1 ~~and in the manner, place, and form as provided in procedures to~~  
2 ~~be established by the department.~~

3 ~~(f) The department or its designee may suspend or revoke a~~  
4 ~~certificate of approval if the department or its designee deems~~  
5 ~~that a community care foster family home is unwilling or unable~~  
6 ~~to comply with the rules adopted under subsection (b); provided~~  
7 ~~that:~~

8 ~~(1) The suspension or revocation shall be immediate when~~  
9 ~~conditions exist that constitute an imminent danger to~~  
10 ~~life, health, or safety of adults receiving care;~~

11 ~~(2) A community care foster family home whose certificate~~  
12 ~~of approval has been suspended or revoked shall~~  
13 ~~immediately notify its clients and their case~~  
14 ~~managers;~~

15 ~~(3) A community care foster family home whose certificate~~  
16 ~~of approval has been suspended or revoked may appeal~~  
17 ~~to the department through its established process, but~~  
18 ~~the appeal shall not stay the suspension or~~  
19 ~~revocation;~~

20 ~~(4) A suspended or revoked certificate of approval may be~~  
21 ~~reinstated if the department or its designee deems~~



1           ~~that the home is willing and able to comply with the~~  
2           ~~rules adopted under subsection (b); and~~  
3           ~~(5) A revoked certificate of approval shall be restored~~  
4           ~~only after a new application for a certificate of~~  
5           ~~approval is submitted to the department or its~~  
6           ~~designee and approved.~~

7           ~~(g) Any community care foster family home shall be subject~~  
8           ~~to monitoring and evaluation by the department or its designee~~  
9           ~~for certification compliance and quality assurance on an annual~~  
10           ~~or biennial basis." ]~~

11           SECTION 26. All rights, powers, functions, and duties of  
12           the department of health relating to adult residential care  
13           homes and expanded adult residential care homes are transferred  
14           to the department of human services.

15           All officers and employees whose functions are transferred  
16           by this Act shall be transferred with their functions and shall  
17           continue to perform their regular duties upon their transfer,  
18           subject to the state personnel laws and this Act.

19           No officer or employee of the State having tenure shall  
20           suffer any loss of salary, seniority, prior service credit,  
21           vacation, sick leave, or other employee benefit or privilege as  
22           a consequence of this Act, and such officer or employee may be



1 transferred or appointed to a civil service position without the  
2 necessity of examination; provided that the officer or employee  
3 possesses the minimum qualifications for the position to which  
4 transferred or appointed; and provided that subsequent changes  
5 in status may be made pursuant to applicable civil service and  
6 compensation laws.

7 An officer or employee of the State who does not have  
8 tenure and who may be transferred or appointed to a civil  
9 service position as a consequence of this Act shall become a  
10 civil service employee without the loss of salary, seniority,  
11 prior service credit, vacation, sick leave, or other employee  
12 benefits or privileges and without the necessity of examination;  
13 provided that such officer or employee possesses the minimum  
14 qualifications for the position to which transferred or  
15 appointed.

16 If an office or position held by an officer or employee  
17 having tenure is abolished, the officer or employee shall not  
18 thereby be separated from public employment, but shall remain in  
19 the employment of the State with the same pay and classification  
20 and shall be transferred to some other office or position for  
21 which the officer or employee is eligible under the personnel



1 laws of the State as determined by the head of the department or  
2 the governor.

3 SECTION 27. All appropriations, records, equipment,  
4 machines, files, supplies, contracts, books, papers, documents,  
5 maps, and other personal property heretofore made, used,  
6 acquired, or held by the department of health relating to the  
7 functions transferred to the department of human services shall  
8 be transferred with the functions to which they relate.

9 SECTION 28. All rules adopted by the department of health  
10 regulating adult residential care homes and expanded adult  
11 residential care homes in effect on the day prior to the  
12 effective date of this Act shall remain in full force and effect  
13 until such time that the department of human services adopts new  
14 rules regulating tier one, tier two, and tier three adult  
15 residential care homes.

16 SECTION 29. All deeds, leases, contracts, loans,  
17 agreements, permits, or other documents executed or entered into  
18 by or on behalf of the department of health relating to the  
19 functions transferred to the department of human services shall  
20 remain in full force and effect. Effective July 1, 2011, every  
21 reference to the department of health therein shall be construed  
22 as a reference to the department of human services.



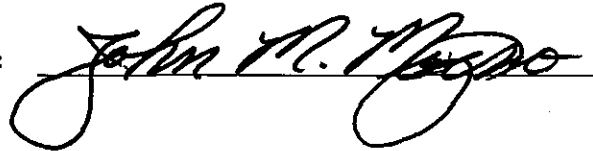


1 SECTION 30. In codifying the new sections added by section  
2 1 of this Act, the revisor of statutes shall substitute  
3 appropriate section numbers for the letters used in designating  
4 the new sections in this Act.

5 SECTION 31. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 32. This Act shall take effect on January 1, 2011.  
8

INTRODUCED BY:



JAN 27 2010



**Report Title:**

Home and Community-Based Residential Care Homes

**Description:**

Creates a uniform set of regulations concerning home and community-based residential care homes. Repeals current provisions relating to adult residential care homes, expanded adult residential care homes, and community care foster family homes.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

