

JAN 21 2011

S.B. NO. 789

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# A BILL FOR AN ACT

RELATING TO HOME HEALTH AGENCIES.

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

1           SECTION 1. The department of health currently licenses  
2 home health agencies, but it is using a definition for "home  
3 health agency" that is overly restrictive. As a result, some  
4 agencies that are providing home health services are not  
5 licensed.

6           "Home health agency" is generally defined as an  
7 organization that provides medical care by nurses and other  
8 licensed professionals under a physician's direction to people  
9 in their own homes. It is differentiated from "home care  
10 agency", which provides non-medical care by unlicensed personnel  
11 under the direction of the client to people in their own homes.  
12 Home care includes assistance with bathing, preparing meals, and  
13 transportation.

14           The department of health is preparing to license home care  
15 agencies pursuant to Act 21, First Special Session Laws of  
16 Hawaii 2009, which requires home care agencies to be licensed.

17           Section 321-11, Hawaii Revised Statutes, authorizes the  
18 department of health to license home health agencies, and the



1 department has adopted rules for that purpose. Chapter 97 of  
2 Title 11, Hawaii Administrative Rules, defines "home health  
3 agency" for the purpose of licensing. According to that  
4 definition, a home health agency is one that provides "skilled  
5 nursing services and other therapeutic services". The  
6 department of health has interpreted that definition to mean  
7 that a home health agency provides both skilled nursing services  
8 and other therapeutic services. An agency that provides only  
9 skilled nursing services or only other therapeutic services is  
10 not deemed to be a home health agency subject to licensing by  
11 the department. This interpretation puts the public in  
12 jeopardy, since there are unlicensed agencies that are providing  
13 health care.

14 The purpose of this Act is to statutorily establish an  
15 accurate and meaningful definition of "home health agency" and  
16 to require the department of health to license these agencies so  
17 that all agencies that provide skilled nursing services or other  
18 therapeutic services, or both, are licensed.

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



1           "§321- Home health agencies; licensing. (a) All home  
2 health agencies shall be licensed by the department to ensure  
3 the health, safety, and welfare of clients.

4           (b) The department shall adopt rules in accordance with  
5 chapter 91 that shall:

- 6           (1) Protect the health, safety, and civil rights of  
7 clients of home health agencies; and  
8           (2) Provide for the licensure of home health agencies.

9           (c) For purposes of this section:

10           "Home health agency" means a public or proprietary agency,  
11 a private, nonprofit organization, or a subdivision of an agency  
12 or organization that is engaged in providing skilled nursing  
13 services, other therapeutic services, or both under a  
14 physician's direction to clients in the client's residence.

15           "Home health agency" does not apply to an individual, even when  
16 the individual is incorporated as a business, or an unpaid or  
17 stipended volunteer."

18           SECTION 3. New statutory material is underscored.

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1 SECTION 4. This Act shall take effect upon its approval.

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**Report Title:**

Home Health Agencies; Licensing; DOH

**Description:**

Defines "home health agency" to include an agency or organization that provides either skilled nursing services or other therapeutic services, or both, to ensure that these organizations are properly licensed.

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