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## A BILL FOR AN ACT

RELATING TO PERSONAL HOME CARE ASSISTANTS.

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

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

3           "~~[+]§321-14.8[+]~~ Home care agencies; licensing. (a)  
4 Beginning July 1, 2010, each home care agency shall be licensed  
5 by the department of health to ensure the health, safety, and  
6 welfare of clients.

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

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

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

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

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



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

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

11 (1) Observation, reporting, and documentation of client  
12 status and the care or services furnished;

13 (2) Maintenance of a clean, safe, and healthy environment;

14 (3) Recognition of emergencies and necessary emergency  
15 procedures;

16 (4) Safe bathing techniques;

17 (5) Assistance in toileting;

18 (6) Safe transfer techniques and ambulation;

19 (7) Assistance with feeding and fluid intake; and

20 (8) Client rights and responsibilities and the need to  
21 respect the privacy and property of a client.



1        (d) No personal home care assistant shall provide personal  
2 care services to a client unless the personal home care  
3 assistant has been trained with respect to the needs of the  
4 client and has demonstrated to the registered nurse supervisor  
5 that the personal home care assistant has attained competency in  
6 the skills required by the training plan.

7        (e) Supervisory visits shall be made at least once every  
8 six months according to a client's needs, as determined by the  
9 nursing supervisor.

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

16       (g) No personal home care assistant shall provide services  
17 to a client without a criminal history background check  
18 performed in accordance with section 321-15.2.

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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

15 "Applicant" means a person or entity seeking licensure to  
16 operate a healthcare facility. If the applicant is an entity,  
17 the term "applicant" shall also include its principals,  
18 directors, partners, managers, agents, and representatives to  
19 the extent that any of these individuals will have access to or  
20 contact with clients, their finances, assets, personal property,  
21 medical records, or individually identifiable information.



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

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

7 "Department" means the department of health.

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

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

19 "Healthcare facility" means a facility or setting where a  
20 frail, elderly, or disabled adult receives care or is provided  
21 living accommodations such as a skilled nursing facility,  
22 intermediate care facility, adult residential care home,



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

6 "Home care agency" has the same meaning provided in section  
7 321-14.8.

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

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

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

17 "Relevant crime" means:

18 (1) Any offense described in 42 United States Code  
19 [~~§1320a-7~~] section 1320a-7 (~~[Section]~~ section 1128(a)  
20 of the Social Security Act); or

21 (2) A crime of such a serious nature or circumstance that  
22 the department finds its perpetrator to pose a risk to



1 the health, safety, or well-being of a patient or  
 2 resident. This includes but is not limited to murder,  
 3 manslaughter, assault, sex offenses, domestic  
 4 violence, theft or forgery, arson, kidnapping, or  
 5 possession, use, sale, manufacture, or distribution of  
 6 dangerous drugs or controlled substances."

7 SECTION 3. Statutory material to be repealed is bracketed  
 8 and stricken. New statutory material is underscored.

9 SECTION 4. This Act shall take effect on January 1, 2012,  
 10 and shall be repealed on June 30, 2014; provided that section  
 11 321-15.2(a), Hawaii Revised Statutes, shall be reenacted in the  
 12 form in which it read on June 30, 2009.

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INTRODUCED BY:

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**Report Title:**

Personal Home Care Assistants; Home Care Agency Training

**Description:**

Requires personal home care assistants to receive training by the home care agency they are employed by to ensure quality personal home care assistant services. Repealed on 6/30/14.

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

