
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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INTRODUCED BY:

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(By Request)

JAN 21 2011



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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