
A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 PART I

2 SECTION 1. The legislature finds that there are currently
3 more than 238,000 Hawaii residents aged sixty and over. This
4 population constitutes 18.7 per cent of Hawaii's total
5 population. By 2030, people aged sixty and older are projected
6 to increase to more than 27.4 per cent. Hawaii's total
7 population is expected to grow by twenty-one per cent between
8 2000 and 2030. However, the number of adults sixty years and
9 older will increase by 93.8 per cent and those eighty-five years
10 and older will increase by 174.7 per cent during the same
11 period. The legislature further finds that there is a "silver
12 tsunami" coming, with even more individuals entering their
13 senior years and retirement.

14 The recession of 2007 removed the possibility of a
15 comfortable retirement for many of the State's elderly, and once
16 seniors are no longer able to work or are employable, there is
17 no safety net to keep retired Hawaii residents out of



1 homelessness. In the next ten years, the "silver tsunami" will
 2 substantially affect the entire State and the healthcare system.
 3 Because of the "silver tsunami," the legislature finds that
 4 essential policies must be enacted to best address the care and
 5 interests of Hawaii's elderly and disabled.

6 The purpose of this Act is to create and establish policies
 7 to adequately address the issues concerning the elderly and
 8 disabled and the community healthcare industry while ensuring
 9 consumer protection for Hawaii's elderly and disabled.

10 PART II

11 SECTION 2. Section 321-15.6, Hawaii Revised Statutes, is
 12 amended by amending subsection (a) to read as follows:

13 "(a) All adult residential care homes shall be licensed to
 14 ensure the health, safety, and welfare of the individuals placed
 15 therein. The department shall conduct unannounced visits[
 16 ~~either than the inspection for relicensing,~~] to every licensed
 17 adult residential care home and expanded adult residential care
 18 home and any other community care home or day care center
 19 licensed or certified and under the purview of the department on
 20 an annual basis and at such intervals as determined by the
 21 department to ensure the health, safety, and welfare of each



1 resident. Unannounced visits may be conducted during or outside
2 regular business hours. All inspections relating to follow-up
3 visits, visits to confirm correction of deficiencies, or visits
4 to investigate complaints or suspicion of abuse or neglect shall
5 be conducted unannounced during or outside regular business
6 hours. Annual inspections for relicensing may be conducted
7 during regular business hours or at intervals determined by the
8 department. [~~Annual inspections for relicensing shall be~~
9 ~~conducted with notice, unless otherwise determined by the~~
10 ~~department.] "~~

11 PART III

12 SECTION 3. Section 321-15.62, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) All expanded adult residential care homes and any
15 community-based care home or day care center providing
16 healthcare to the elderly or disabled who are unrelated to the
17 caregiver family shall be licensed to ensure the health, safety,
18 and welfare of the individuals placed therein."

19 SECTION 4. Section 321-15.7, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "§321-15.7 Penalty. Any person who intentionally operates
2 an adult residential care home, community-based foster family
3 home, adult foster home, adult day care center, or hospice home
4 without a license shall be guilty of a misdemeanor."

5

PART IV

6 SECTION 5. Section 321-1.8, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "[+]~~§~~321-1.8[+] Inspections; public notice. (a)
9 Beginning with inspections occurring on January 1, 2015, the
10 department of health shall post on its website electronic copies
11 of reports for all inspections it performs of the following
12 state-licensed care facilities:

13 (1) Adult day health centers;

14 (2) Adult day care centers;

15 (3) Community care foster family homes;

16 (4) Developmental disabilities domiciliary homes as
17 defined in section 321-15.9;

18 (5) Developmentally disabled adult foster homes;

19 (6) Long-term care facilities as defined in section
20 349-21(f); and



1 (7) Special treatment facilities as defined in section
2 334-1.

3 (b) Each inspection report shall be posted on the
4 department of health's website within five working days of the
5 conclusion of each inspection and shall include the following
6 information:

7 (1) The date of the inspection;

8 (2) A description of violations of relevant state laws or
9 rules, if applicable;

10 (3) Plans of correction and the status of corrective
11 actions in response to any violations, if applicable;

12 (4) A list and description of all corrective actions taken
13 by the facility, if applicable, to be submitted by the
14 facility and added to the report at a later time, as
15 determined by the department; and

16 (5) Other information regarding the quality and conditions
17 of the facility the department of health deems
18 appropriate.

19 (c) Each inspection report posted on the department of
20 health's website that reports a violation committed by a state-
21 licensed care facility as described in subsection (a) shall be



1 removed from the website after three years from the date the
2 report was posted."

3 SECTION 6. (a) No later than , the department of
4 health may convene a working group to discuss and provide
5 feedback on the implementation and maintenance of a forum on its
6 website where state-licensed care facilities may post vacancy
7 information to facilitate the placement and referrals of
8 individuals in the facilities within state-licensed care
9 facilities, as specified in section 321-1.8(d), Hawaii Revised
10 Statutes.

11 (b) The department of health shall submit a report to the
12 legislature no later than twenty days before the convening of
13 the regular session of 2017 of its findings and recommendations
14 relative to the implementation and maintenance of a forum on its
15 website, as specified in subsection (a). The report shall also
16 include feedback on the posting of vacancy information on the
17 website.

18 SECTION 7. There is appropriated out of the general
19 revenues of the State of Hawaii the sum of \$ or so much
20 thereof as may be necessary for fiscal year 2016-2017 for the



1 implementation and maintenance of a forum on the department of
2 health's website as required by this part.

3 The sum appropriated shall be expended by the department of
4 health for the purposes of this part.

5 PART V

6 SECTION 8. The legislature finds that there is an ever-
7 increasing need for community care foster family homes to
8 support the health and long-term care needs of an aging
9 population and families. Community care foster family homes
10 provide an essential function in the State by providing twenty-
11 four-hour living accommodations, which include housing,
12 supervision, personal care, and assistance with daily living
13 activities for their residents. These homes provide individuals
14 who are at a nursing facility level of care with living
15 accommodations in a family-like setting, an alternative to
16 living in an institutional setting.

17 Community care foster family homes are licensed to provide
18 accommodations and services to not more than two adults at any
19 one time, at least one of whom shall be a medicaid recipient,
20 and who are at the nursing facility level of care. The
21 department of health working together with the department of



1 human services may certify a community care foster family home
2 for a third adult who is at the nursing level of care and a
3 medicaid recipient, provided that certain requirements are met.

4 The legislature further finds that not only do medicaid
5 clients have limited options for long-term care, but so do
6 individuals who do not rely on medicaid for long-term care.
7 Besides providing accommodations to medicaid recipients,
8 community care foster family homes also provide accommodations
9 to private-pay individuals. There is also a recognized need to
10 accommodate private-pay individuals who share a long-term
11 relationship. As the cost of medical care continues to rise, it
12 is becoming apparent that even those who do not rely on medicaid
13 for their long-term care cannot afford the cost of private care,
14 leaving this population, also, with limited options.

15 The purpose of this part is to recognize the varied needs
16 of the State's aging population by giving the department of
17 health the flexibility to permit two private-pay individuals to
18 be cared for in the same community care foster family home,
19 provided they meet certain qualifying conditions.



1 SECTION 9. Section 321-481, Hawaii Revised Statutes, is
2 amended by amending the definition of "community care foster
3 family home" or "home" to read as follows:

4 "Community care foster family home" or "home" means a home
5 that:

- 6 (1) Is regulated by the department in accordance with
7 rules that are equitable in relation to rules that
8 govern expanded adult residential care homes;
- 9 (2) Is issued a certificate of approval by the department
10 or its designee to provide, for a fee, twenty-four-
11 hour living accommodations, including personal care
12 and homemaker services, for not more than two adults
13 at any one time, at least one of whom shall be a
14 medicaid recipient, who are at the nursing facility
15 level of care, who are unrelated to the foster family,
16 and who are receiving the services of a licensed home
17 and community-based case management agency; provided
18 that ~~[the]~~:

19 (A) The department of health, working together with
20 the department of human services, may jointly in
21 their discretion allow two private-pay



1 individuals to be cared for in the same community
2 care foster family home if all of the following
3 are met:

4 (i) The community care foster family home is
5 certified for three beds;

6 (ii) Operators of three-bed community care foster
7 family homes immediately notify the
8 department or its designee of any vacancy in
9 writing; and

10 (iii) The two private-pay clients are in a
11 relationship with each other as a married or
12 civil union couple;

13 (B) The department, in its discretion, may certify a
14 home for a third adult who is at the nursing
15 level of care and a medicaid recipient; provided
16 further that the:

17 ~~(A)~~ (i) Home has been certified and in operation for
18 not less than one year;

19 ~~(B)~~ (ii) Primary caregiver is a certified nurse aide,
20 as defined in section 457A-1.5, who has
21 completed a state-approved training program



1 and other training as required by the
 2 department; and
 3 ~~[(c)]~~ (iii) Substitute caregiver is a nurse aide, as
 4 defined in section 457A-1.5, who has
 5 completed a state-approved training program
 6 and other training as required by the
 7 department; and

8 (3) Does not include expanded adult residential care homes
 9 or assisted living facilities."

10 SECTION 10. The department of health and the department of
 11 human services shall jointly submit a report of their findings
 12 and recommendations to the legislature, no later than twenty
 13 days prior to the convening of the regular session of 2017, on
 14 the authorization to allow two private-pay individuals to be
 15 cared for in the same community care foster family home as
 16 provided under this part, including its impact on the
 17 availability of space for medicaid clients.

18 SECTION 11. It is the intent of this part not to
 19 jeopardize the receipt of any federal aid. If this part is
 20 found to be in conflict with federal requirements that are a



1 prescribed condition for the allocation of federal funds to the
2 State, this part shall be deemed void.

3 PART VI

4 SECTION 12. The department of health shall submit a report
5 to the legislature with respect to community health care
6 facilities no later than twenty days before the convening of the
7 regular session of 2017 on:

- 8 (1) The actions taken to ensure timely payments to
9 community health care facilities and case managers;
- 10 (2) Any operational problems or legal impediments that are
11 anticipated to affect or have affected the
12 department's ability to make timely payments to
13 community health care facilities and case managers;
14 and
- 15 (3) A cost analysis on the savings to the State in
16 relation to providing health care services to the
17 elderly and disabled persons.

18 PART VII

19 SECTION 13. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 14. This Act shall take effect on July 1, 3000.



Report Title:

Caregivers Omnibus Bill

Description:

Amends provisions relating to the care of the elderly and disabled in state-licensed care facilities. (HB2005 HD1)

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

