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# A BILL FOR AN ACT

RELATING TO CERTIFIED NURSE AIDES.

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

1           SECTION 1. Act 93, Session Laws of Hawaii 2012, was  
2 enacted to improve the efficiency, capacity, and quality of  
3 state health care services provided by the department of human  
4 services and the department of health, as they relate to various  
5 health care services, by transferring to the department of  
6 health office of health care assurance on July 1, 2014, the  
7 programs of the department of human services relating to home  
8 and community-based case management, community care foster  
9 family homes, and adult day care centers. As a result, certain  
10 statutory provisions are no longer applicable to the department  
11 of human services. The purpose of this Act is to delete  
12 duplicative or obsolete statutory provisions.

13           SECTION 2. Section 457A-1.5, Hawaii Revised Statutes, is  
14 amended by amending the definition of "state-licensed or state-  
15 certified health care settings" to read as follows:

16           ""State-licensed or state-certified health care settings"  
17 means health care settings, other than [a] medicare or medicaid

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1 certified nursing facilities, which are regulated by the  
2 department of health [~~or the department of human services~~]."

3 SECTION 3. Section 457A-2, Hawaii Revised Statutes, is  
4 amended by amending subsection (c) to read as follows:

5 "(c) The director of human services shall implement this  
6 chapter in accordance with 42 United States Code sections 1395i-  
7 3 and 1396r, that relate to[~~-~~

8 ~~(1) Training]~~ training programs for nurse aides and  
9 recertification; provided that recertification shall  
10 be required not less than every two years and the  
11 number of continuing education hours required for  
12 recertification shall not exceed twenty-four hours,  
13 except as specified by federal law[~~, and~~

14 ~~(2) Disciplining of certified nurse aides employed in~~  
15 ~~health care settings licensed or certified by the~~  
16 ~~department of human services]."~~

17 SECTION 4. Section 457A-3, Hawaii Revised Statutes, is  
18 amended by amending subsection (b) to read as follows:

19 "(b) The director shall issue certificates to qualified  
20 nurse aides and shall be responsible for maintenance of an up-  
21 to-date nurse aide registry that shall include the names of  
22 certified nurse aides, their places of employment, and all

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1 information that is [~~required to be~~] reported by the department  
2 of health and the department of human services. The director's  
3 role, with regard to the disciplining of certified nurse aides,  
4 shall be limited to the placement into the certified nurse aide  
5 registry of all information and substantiated findings from the  
6 department of health [~~and the department of human services~~], as  
7 required by 42 United States Code sections 1395i-3 and 1396r,  
8 and the department of human services, within ten working days of  
9 the finding, which information shall permanently remain in the  
10 registry except if:

- 11 (1) The finding was made in error;
- 12 (2) The individual is found not guilty in court; or
- 13 (3) The State receives notification of the individual's  
14 death."

15 SECTION 5. Section 346-47, Hawaii Revised Statutes, is  
16 repealed.

17 [~~"§346-47 Certified nurse aides; investigations of abuse~~  
18 ~~and neglect.~~] The department shall adopt rules pursuant to  
19 chapter 91 relating to:

- 20 (1) ~~The investigation of:~~


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1           ~~(A) Abuse or neglect by a certified nurse aide~~  
2                   ~~working in a health care setting licensed or~~  
3                   ~~certified by the department; and~~  
4           ~~(B) Misappropriation of an individual's property by a~~  
5                   ~~certified nurse aide working in a health care~~  
6                   ~~setting licensed or certified by the department;~~  
7                   ~~and~~  
8           ~~(2) Action taken against a certified nurse aide as a~~  
9                   ~~result of an investigation pursuant to paragraph~~  
10                   ~~(1)."]~~

11           SECTION 6. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13           SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY:   
BY REQUEST

JAN 25 2016

H.B. NO. 2345

**Report Title:**

Certified Nurse Aides

**Description:**

Repeals section 346-47 and amends sections 457A-1.5, 457A-2, and 457A-3, Hawaii Revised Statutes, to delete references to the Department of Human Services as licensing or certifying health care settings; and deletes references to the Department of Human Services investigating and disciplining certified nurse aides employed in health care settings.

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

JUSTIFICATION SHEET

DEPARTMENT: Human Services

TITLE: A BILL FOR AN ACT RELATING TO CERTIFIED NURSE AIDES.

PURPOSE: To delete references to the Department of Human Services (DHS) as licensing or certifying health care settings, and investigating and disciplining certified nurse aides employed in health care settings.

MEANS: Amend sections 457A-1.5, 457A-2(c), and 457A-3(b), and repeal section 346-47, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Act 93, Session Laws of Hawaii (SLH) 2012, provided for the consolidation of licensing and certifying of health care settings under the Department of Health. The provisions of Act 93, SLH 2012, became effective on July 1, 2014. Because DHS no longer licenses or certifies health care settings, the references to DHS licensing or certifying health care settings and DHS disciplining certified nurse aides employed in health care settings, are being deleted from sections 457A-1.5 and 457A-2, HRS.

Section 346-47, HRS, is being repealed because the provisions pertaining to investigations of abuse and neglect by certified nurse aides in health care settings licensed or certified by DHS are no longer applicable. As of July 1, 2014, DHS no longer licenses or certifies health care settings. Also, section 346-47, HRS, is unnecessary because sections 346-224 and 346-227, HRS, pertaining to Adult Protective Services, already require DHS to investigate reports of vulnerable adult abuse or neglect by individuals in health-related occupations as well as individuals employed by agencies

or institutions providing social, medical, hospital, and mental health services.

Section 457A-3(b), HRS, is being revised to clarify that DHS is not required by 42 United States Code sections 1395i-3 and 1396r to report substantiated findings to the Department of Commerce and Consumer Affairs (DCCA). Substantiated findings resulting from an adult protective services investigation conducted by DHS are reported to DCCA pursuant to section 346-225, HRS, and section 17-1401.1-6, Hawaii Administrative Rules.

Impact on the public: None.

Impact on the department and other agencies: None. The Department of Commerce and Consumer Affairs, Professional and Vocational Licensing Division; Department of Health, Office of Health Care Assurance; and the Med-QUEST Division of the Department of Human Services were contacted regarding the proposed statutory amendments. There were no objections raised about the changes being proposed, and no changes to current operations are anticipated.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: HMS 601.

OTHER AFFECTED AGENCIES: Department of Commerce and Consumer Affairs; Department of Health; Department of Human Services, Med-QUEST Division.

EFFECTIVE DATE: Upon approval.