
A BILL FOR AN ACT

RELATING TO HEALTH.

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

PART I

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

The recession of 2007 removed the possibility of a comfortable retirement for many of the State's elderly, and once seniors are no longer able to work or are employable, there is 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 The legislature finds that essential policies must be enacted to
4 address the issues relating to Hawaii's elderly and disabled to
5 address the impending "silver tsunami".

6 The purpose of this Act is to create and establish various
7 policies to adequately address the various issues concerning the
8 elderly and disabled and the community healthcare industry while
9 ensuring 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 its title and subsection (a) to read as
13 follows:

14 "§321-15.6 Adult residential care homes; community-based
15 care homes; adult day care centers; licensing. (a) All adult
16 residential care homes shall be licensed to ensure the health,
17 safety, and welfare of the individuals placed therein. The
18 department of health shall conduct unannounced visits, other
19 than the inspection for relicensing, to every [~~licensed adult~~]:

20 (1) Adult residential care home [~~and expanded~~];

21 (2) Expanded adult residential care home;



1 (3) Community-based care home; and
2 (4) Adult day care center,
3 licensed or certified and under the purview of the department on
4 an annual basis and at such intervals as determined by the
5 department to ensure the health, safety, and welfare of each
6 resident. Unannounced visits may be conducted during or outside
7 regular business hours. All inspections relating to follow-up
8 visits, visits to confirm correction of deficiencies, or visits
9 to investigate complaints or suspicion of abuse or neglect shall
10 be conducted unannounced during or outside regular business
11 hours. Annual inspections for relicensing may be conducted
12 during regular business hours or at intervals determined by the
13 department. Annual inspections for relicensing shall be
14 conducted with notice, unless otherwise determined by the
15 department."

16 SECTION 3. Section 321-15.62, Hawaii Revised Statutes, is
17 amended by amending its title and subsection (a) to read as
18 follows:

19 "§321-15.62 Expanded adult residential care homes;
20 community-based care homes; adult day care centers; licensing.

21 (a) All expanded adult residential care homes, community-based



1 care homes, and adult day care centers that provide health care
2 to elderly or disabled persons who are unrelated to the
3 caregiver family shall be licensed or certified and under the
4 purview of the department of health to ensure the health,
5 safety, and welfare of the individuals placed therein."

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

8 "§321-15.7 **Penalty.** Any person who intentionally operates
9 an adult residential care home, community-based foster family
10 home, adult foster home, adult day care center, or hospice home
11 without a license shall be guilty of a misdemeanor."

12 SECTION 5. Act 184, Session Laws of Hawaii 2016, is
13 amended by repealing sections 3 and 4.

14 [~~"SECTION 3. Section 321-15.6, Hawaii Revised Statutes, is~~
15 ~~amended by amending subsection (a) to read as follows:~~

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



1 ~~the department to ensure the health, safety, and welfare of each~~
2 ~~resident. Unannounced visits may be conducted during or outside~~
3 ~~regular business hours. All inspections relating to follow up~~
4 ~~visits, visits to confirm correction of deficiencies, or visits~~
5 ~~to investigate complaints or suspicion of abuse or neglect shall~~
6 ~~be conducted unannounced during or outside regular business~~
7 ~~hours. Annual inspections for relicensing may be conducted~~
8 ~~during regular business hours or at intervals determined by the~~
9 ~~department. Annual inspections for relicensing shall be~~
10 ~~conducted with notice, unless otherwise determined by the~~
11 ~~department.] visits and inspections pursuant to section 321."~~

12 ~~SECTION 4. 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 shall be~~
15 ~~licensed to ensure the health, safety, and welfare of the~~
16 ~~individuals placed therein. The department shall conduct visits~~
17 ~~and inspections pursuant to section 321."~~"]

18 ~~PART III~~

19 ~~SECTION 6. Section 321-1.8, Hawaii Revised Statutes, is~~
20 ~~amended to read as follows:~~



1 " [÷] §321-1.8 [÷] Inspections; public notice. (a)

2 Beginning with inspections occurring on January 1, 2015, the
3 department of health shall post on its website electronic copies
4 of reports for all inspections it performs of the following
5 state-licensed care facilities:

6 (1) Adult day health centers;

7 (2) Adult day care centers;

8 (3) Community care foster family homes;

9 (4) Developmental disabilities domiciliary homes as
10 defined in section 321-15.9;

11 (5) Developmentally disabled adult foster homes;

12 (6) Long-term care facilities as defined in section
13 349-21(f); and

14 (7) Special treatment facilities as defined in section
15 334-1.

16 (b) Each inspection report shall be posted on the
17 department of health's website within five working days of the
18 conclusion of each inspection and shall include the following
19 information:

20 (1) The date of the inspection;



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

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

5 (4) A list and description of all corrective actions taken
6 by the facility, if applicable, to be submitted by the
7 facility and added to the report at a later time, as
8 determined by the department; and

9 (5) Other information regarding the quality and conditions
10 of the facility the department of health deems
11 appropriate.

12 (c) Each inspection report posted on the department of
13 health's website that reports a violation committed by a state-
14 licensed care facility as described in subsection (a) shall be
15 removed from the website after three years from the date the
16 report was posted.

17 (d) Beginning _____, in addition to the inspection
18 information required by subsection (a), the department of health
19 may maintain a forum on its website where all state-licensed
20 care facilities specified in subsection (a) may post vacancy
21 information to facilitate the placement of individuals therein."



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

9 (b) The department of health shall submit a report to the
10 legislature no later than twenty days before the convening of
11 the regular session of 2019 of its findings and recommendations
12 relative to the implementation and maintenance of a forum on its
13 website, as specified in subsection (a). The report shall also
14 include feedback on the posting of vacancy information on the
15 website.

16 SECTION 8. There is appropriated out of the general
17 revenues of the State of Hawaii the sum of \$ or so much
18 thereof as may be necessary for fiscal year 2018-2019 for the
19 implementation and maintenance of a forum on the department of
20 health's website as required by this part.



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

3 PART IV

4 SECTION 9. Chapter 321, Hawaii Revised Statutes, is
5 amended by adding a new section to be appropriately designated
6 and to read as follows:

7 "§321- License, relicense, certification, and
8 recertification fees. (a) The department of health shall
9 charge and collect fees for the licensing, relicensing,
10 certification, and recertification of the following facilities:

11 (1) Not more than \$ per year for adult residential
12 care homes;

13 (2) Not more than \$ per year for expanded adult
14 residential care homes;

15 (3) Not more than \$ per year for developmental
16 disabilities domiciliary homes;

17 (4) Not more than \$ per year for community care
18 foster family homes;

19 (5) Not more than \$ per year for adult day care
20 centers;



(6) Not more than \$ _____ per year for adult foster homes
for developmentally disabled individuals;

(7) Not more than \$ _____ per year for other homes
specified in section 346-53; and

(8) Not more than \$ _____ per year for case managers
having purview of facilities specified in paragraphs
(1) to (7).

(b) The fees shall be deposited into the general fund to
support the licensing, relicensing, certification, and
recertification of facilities under this section.

(c) The department shall adopt rules pursuant to chapter
91 as necessary to carry out the purposes of this section."

SECTION 10. The department of health shall submit a report
to the legislature no later than twenty days before the
convening of the regular session of 2019 on the following:

(1) The nexus and use of the fees collected pursuant to
this part;

(2) A brief description of any operational problems or
legal impediments that are anticipated to affect
collection of the fees or have affected collection of
the fees; and



(3) With respect to community care facilities, a cost analysis on the savings to the State in relation to providing health care services to the elderly and disabled persons.

PART V

SECTION 11. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§321- Compensation for caregivers and case managers.

The department of health shall ensure caregivers are fairly compensated as follows:

(1) Not less than \$ per year for caregivers working in adult residential care homes;

(2) Not less than \$ per year for caregivers working in expanded adult residential care homes;

(3) Not less than \$ per year for caregivers working in developmental disabilities domiciliary homes;

(4) Not less than \$ per year for caregivers working in community care foster family homes;



- 1 (5) Not less than \$ per year for caregivers
2 working in adult day care centers;
- 3 (6) Not less than \$ per year for caregivers
4 working in adult foster homes for developmentally
5 disabled individuals;
- 6 (7) Not less than \$ per year for caregivers
7 working in other homes specified in section 346-53;
8 and
- 9 (8) Not less than \$ per year for case managers
10 having purview of facilities specified in paragraphs
11 (1) to (7)."

PART VI

13 SECTION 12. Chapter 321, Hawaii Revised Statutes, is
14 amended by adding a new section to be appropriately designated
15 and to read as follows:

16 "§321- Community health care facilities; case managers;
17 late payment interest. The department of health shall reimburse
18 community health care facilities and case managers with purview
19 over those facilities for the interest on late payments that are
20 overdue by at least thirty days. The interest shall be
21 calculated as a percentage of the late payment as follows:



- 1 (1) per cent for adult residential care homes;
2 (2) per cent for expanded adult residential care
3 homes;
4 (3) per cent for developmental disabilities
5 domiciliary homes;
6 (4) per cent for community care foster family homes;
7 (5) per cent for adult day care centers;
8 (6) per cent for adult foster homes for
9 developmentally disabled individuals;
10 (7) per cent for other homes specified in section
11 346-53; and
12 (8) per cent for case managers having purview of
13 facilities specified in paragraphs (1) to (7)."

14 SECTION 13. The department of health shall submit a report
15 to the legislature with respect to community health care
16 facilities no later than twenty days before the convening of the
17 regular session of 2019 on:

- 18 (1) The actions taken to ensure timely payments to
19 community health care facilities and case managers;
20 (2) Any operational problems or legal impediments that are
21 anticipated to affect or have affected the



1 department's ability to make timely payments to
2 community health care facilities and case managers;
3 and

- 4 (3) A cost analysis on the savings to the State in
5 relation to providing health care services to the
6 elderly and disabled persons.

7 PART VII

8 SECTION 14. Section 321-483, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

10 "(b) The department shall adopt rules pursuant to chapter
11 91 relating to:

- 12 (1) Standards of conditions and competence for the
13 operation of community care foster family homes[+] and
14 any other community-based care home or facility
15 licensed or certified under the department;

- 16 (2) Procedures for obtaining and renewing a certificate of
17 approval from the department; provided that the
18 department shall grant or deny:

- 19 (A) An application for an initial certificate of
20 approval within days after the department's
21 receipt of the application; and



1 (B) An application to renew a certificate of approval
2 within days after the department's receipt
3 of the application;

4 (3) The application fee for an initial certificate of
5 approval and to renew a certificate of approval;
6 provided that the application fee for an initial
7 certificate of approval shall be \$ and the fee
8 to renew a certificate of approval shall be \$;

9 [+3+] (4) Minimum grievance procedures for clients of
10 community care foster family home services[+] and any
11 other community-based care home or facility licensed
12 or certified under the department; and

13 [+4+] (5) Requirements for primary and substitute
14 caregivers caring for three clients in community care
15 foster family homes and any other community-based care
16 home or facility licensed or certified under the
17 department, including:

18 (A) Mandating that primary and substitute caregivers
19 be twenty-one years of age or older;

20 (B) Mandating that primary and substitute caregivers
21 complete a minimum of twelve hours of continuing



1 education every twelve months or at least twenty-
2 four hours of continuing education every twenty-
3 four months;

4 (C) Allowing the primary caregiver to be absent from
5 the community care foster family home or other
6 community-based care home or facility for no more
7 than twenty-eight hours in a calendar week, not
8 to exceed five hours per day; provided that the
9 substitute caregiver is present in the community
10 care foster family home or other community-based
11 care home or facility during the primary
12 caregiver's absence;

13 (D) Where the primary caregiver is absent from the
14 community care foster family home or other
15 community-based care home or facility in excess
16 of the hours as prescribed in subparagraph (C),
17 mandating that the substitute caregiver be a
18 certified nurse aide; and

19 (E) Mandating that the substitute caregiver have, at
20 a minimum, one year prior work experience as a



caregiver in a community residential setting or
in a medical facility."

PART VIII

SECTION 15. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.

SECTION 16. This Act shall take effect on July 1, 2018.

INTRODUCED BY:

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H.B. NO. 2279

Report Title:

Caregivers Omnibus Bill

Description:

Establishes and amends provisions relating to the care of the elderly and disabled in state-licensed care facilities.

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

