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

14 The recession of 2007 removed the possibility of a
15 comfortable retirement for many of Hawaii'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 The legislature finds that essential policies must be enacted to
4 address the issues relating to the increasing number of elderly
5 and disabled persons.

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."~~"]

PART III

18
 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



1 information to facilitate the referral and placement of
2 individuals therein."

3 SECTION 7. (a) No later than , the department of
4 health shall 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 referral and placement of
8 individuals within state-licensed care facilities, as specified
9 in section 321-1.8(d), Hawaii Revised Statutes.

10 (b) The department of health shall submit a report to the
11 legislature no later than twenty days before the convening of
12 the regular session of 2020 of its findings and recommendations
13 relative to the implementation and maintenance of a forum on its
14 website, as specified in subsection (a). The report shall also
15 include feedback on the posting of vacancy information on the
16 website.

17 SECTION 8. There is appropriated out of the general
18 revenues of the State of Hawaii the sum of \$ or so much
19 thereof as may be necessary for fiscal year 2019-2020 and the
20 same sum or so much thereof as may be necessary for fiscal year



1 2020-2021 for the implementation and maintenance of a forum on
2 the department of health's website as required by this part.

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

5 PART IV

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

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

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

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

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

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



1 (5) Not more than \$ _____ per year for adult day care
2 centers;

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

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

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

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

13 (c) The department shall adopt rules pursuant to chapter
14 91 as necessary to carry out the purposes of this section."

15 SECTION 10. The department of health shall submit a report
16 to the legislature no later than twenty days before the
17 convening of the regular session of 2020 on the following:

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

20 (2) A brief description of any operational problems or
21 legal impediments that are anticipated to affect



1 collection of the fees or have affected collection of
2 the fees; and

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

7 PART V

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

11 "§321- Compensation for caregivers and case managers.

12 The department of health shall ensure that caregivers are fairly
13 compensated and receive:

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

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

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



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

PART VI

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

18 "§321- _____ Community health care facilities; case managers;
 19 late payment interest. The department of health shall reimburse
 20 community health care facilities and case managers having
 21 purview over those facilities for the interest on late payments



1 that are overdue by at least thirty days. The interest shall be
2 calculated as a percentage of the late payment as follows:

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

17 SECTION 13. The department of health shall submit a report
18 to the legislature with respect to community health care
19 facilities no later than twenty days before the convening of the
20 regular session of 2020 on:



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

PART VII

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

14 "(b) The department shall adopt rules pursuant to chapter
15 91 relating to:

- 16 (1) Standards of conditions and competence for the
- 17 operation of community care foster family homes[+] and
- 18 any other community-based care home or facility
- 19 licensed or certified under the department;



1 (2) Procedures for obtaining and renewing a certificate of
2 approval from the department; provided that the
3 department shall grant or deny:

4 (A) An application for an initial certificate of
5 approval within days after the department's
6 receipt of the application; and

7 (B) An application to renew a certificate of approval
8 within days after the department's receipt
9 of the application;

10 (3) The application fee for an initial certificate of
11 approval and to renew a certificate of approval;
12 provided that the application fee for an initial
13 certificate of approval shall be \$ and the fee
14 to renew a certificate of approval shall be \$;

15 ~~[-(3)-]~~ (4) Minimum grievance procedures for clients of
16 community care foster family home services[-] and any
17 other community-based care home or facility licensed
18 or certified under the department; and

19 ~~[-(4)-]~~ (5) Requirements for primary and substitute
20 caregivers caring for three clients in community care
21 foster family homes and any other community-based care



- 1 home or facility licensed or certified under the
2 department, including:
- 3 (A) Mandating that primary and substitute caregivers
4 be twenty-one years of age or older;
- 5 (B) Mandating that primary and substitute caregivers
6 complete a minimum of twelve hours of continuing
7 education every twelve months or at least twenty-
8 four hours of continuing education every twenty-
9 four months;
- 10 (C) Allowing the primary caregiver to be absent from
11 the community care foster family home or other
12 community-based care home or facility for no more
13 than twenty-eight hours in a calendar week, not
14 to exceed five hours per day; provided that the
15 substitute caregiver is present in the community
16 care foster family home or other community-based
17 care home or facility during the primary
18 caregiver's absence;
- 19 (D) Where the primary caregiver is absent from the
20 community care foster family home or other
21 community-based care home or facility in excess



1 of the hours as prescribed in subparagraph (C),
 2 mandating that the substitute caregiver be a
 3 certified nurse aide; and

4 (E) Mandating that the substitute caregiver have, at
 5 a minimum, one year prior work experience as a
 6 caregiver in a community residential setting or
 7 in a medical facility."

8 PART VIII

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

11 SECTION 16. This Act shall take effect on July 1, 2019;
 12 provided that section 5 shall take effect on June 30, 2019.

13

INTRODUCED BY:

John M. Flinn
[Signature]
Calvin K. By

JAN 18 2019



H.B. NO. 502

Report Title:

Caregivers Omnibus Bill; DOH; Inspections; Licenses;
Appropriation

Description:

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

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