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# 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 of the  
7 population. Hawaii's total population is expected to grow by  
8 twenty-one per cent between 2000 and 2030. However, the number  
9 of adults sixty years of age or older will increase by 93.8 per  
10 cent and those eighty-five years of age or older will increase  
11 by 174.7 per cent during the same period. The legislature  
12 further finds that there is a "silver tsunami" coming, with even  
13 more individuals 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; adult day care  
15 centers; licensing. (a) All adult residential care homes shall  
16 be licensed to ensure the health, safety, and welfare of the  
17 individuals placed therein. The department of health shall  
18 conduct unannounced visits, other than the inspection for  
19 relicensing, to every [~~licensed adult~~]:

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

21 (2) Expanded adult residential care home; and



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

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

18           "**§321-15.62 Expanded adult residential care homes; adult**  
19 **day care centers; licensing.** (a) All expanded adult  
20 residential care homes and adult day care centers that provide  
21 health care to elderly or disabled persons who are unrelated to



1 the caregiver family shall be licensed or certified and under  
2 the purview of the department of health to ensure the health,  
3 safety, and welfare of the individuals placed therein."

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

6 "§321-15.7 Penalty. Any person who intentionally operates  
7 an adult residential care home, community-based foster family  
8 home, adult foster home, adult day care center, or hospice home  
9 without a license shall be guilty of a misdemeanor."

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

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

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



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

10 SECTION 4. ~~Section 321-15.62, Hawaii Revised Statutes, is~~  
 11 ~~amended by amending subsection (a) to read as follows:~~

12 "~~(a) All expanded adult residential care homes shall be~~  
 13 ~~licensed to ensure the health, safety, and welfare of the~~  
 14 ~~individuals placed therein. The department shall conduct visits~~  
 15 ~~and inspections pursuant to section 321."~~"]

PART III

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

19 "[+] §321-1.8 [+] **Inspections; public notice.** (a)  
 20 Beginning with inspections occurring on January 1, 2015, the  
 21 department of health shall post on its website electronic copies



1 of reports for all inspections it performs of the following  
2 state-licensed care facilities:

- 3 (1) Adult day health centers;
- 4 (2) Adult day care centers;
- 5 (3) Community care foster family homes;
- 6 (4) Developmental disabilities domiciliary homes as  
7 defined in section 321-15.9;
- 8 (5) Developmentally disabled adult foster homes;
- 9 (6) Long-term care facilities as defined in section  
10 349-21(f); and
- 11 (7) Special treatment facilities as defined in section  
12 334-1.

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

- 17 (1) The date of the inspection;
- 18 (2) A description of violations of relevant state laws or  
19 rules, if applicable;
- 20 (3) Plans of correction and the status of corrective  
21 actions in response to any violations, if applicable;



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

5 (5) Other information regarding the quality and conditions  
6 of the facility the department of health deems  
7 appropriate.

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

13 (d) Beginning , in addition to the inspection  
14 information required by subsection (a), the University of Hawaii  
15 or a neutral third party may maintain a forum on its website  
16 where all state-licensed care facilities specified in subsection  
17 (a) may post vacancy information to facilitate the referral and  
18 placement of individuals therein."



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PART IV

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

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

- (1) Not more than \$ per year for adult residential care homes;
- (2) Not more than \$ per year for expanded adult residential care homes;
- (3) Not more than \$ per year for developmental disabilities domiciliary homes;
- (4) Not more than \$ per year for community care foster family homes;
- (5) Not more than \$ per year for adult day care centers;
- (6) Not more than \$ per year for adult foster homes for developmentally disabled individuals;





- 1        (7) Not more than \$ \_\_\_\_\_ per year for other homes  
2        specified in section 346-53; and
- 3        (8) Not more than \$ \_\_\_\_\_ per year for case managers  
4        having facilities specified in paragraphs (1) to (7)  
5        within their purview.
- 6        (b) The fees shall be deposited into the general fund to  
7        support the licensing, relicensing, certification, and  
8        recertification of facilities under this section.
- 9        (c) The department shall adopt rules pursuant to chapter  
10       91 as necessary to carry out the purposes of this section."

11       SECTION 8. The department of health shall submit a report  
12       to the legislature no later than twenty days before the  
13       convening of the regular session of 2020 on the following:

- 14       (1) The nexus and use of the fees collected pursuant to  
15       this part;
- 16       (2) A brief description of any operational problems or  
17       legal impediments that are anticipated to affect  
18       collection of the fees or have affected collection of  
19       the fees; and
- 20       (3) With respect to community care facilities, a cost  
21       analysis on the savings to the State in relation to



1 providing health care services to the elderly and  
2 disabled persons.

3 PART V

4 SECTION 9. (a) There is established a caregiver and case  
5 manager compensation task force within the department of health  
6 for administrative purposes to consist of the following members:

- 7 (1) A representative from the department of health;  
8 (2) A representative from the department of human  
9 services;  
10 (3) A representative from the department of health's  
11 developmental disability division;  
12 (4) A representative of the department of health's  
13 developmental disabilities council;  
14 (5) A representative of the department of health's office  
15 of health care assurance;  
16 (6) A representative of department of human services'  
17 medicaid administration;  
18 (7) A representative from care home case managers; and  
19 (8) At least one representative from care home facility  
20 organizations or operations.



1 (b) The task force shall develop recommendations to the  
2 legislature to:

3 (1) Develop a minimum compensation rate for caregivers;

4 (2) Address issues of compensation based on number of beds  
5 available at each facility; and

6 (3) Address issues of payment of late fees and the  
7 applicability of section 431:13-108, Hawaii Revised  
8 Statutes, regarding time frames for insurance  
9 reimbursement.

10 (c) The task force shall serve until it has accomplished  
11 the objectives of this part, or until twenty days prior to the  
12 convening of the regular session of 2020, whichever occurs  
13 first.

14 (d) The task force shall submit a report of its findings  
15 and recommendations, including any proposed legislation, to the  
16 legislature no later than twenty days prior to the convening of  
17 the regular session of 2020.

18 PART VI

19 SECTION 10. Section 321-483, Hawaii Revised Statutes, is  
20 amended by amending subsection (b) to read as follows:



1           "(b) The department shall adopt rules pursuant to chapter  
2 91 relating to:

3           (1) Standards of conditions and competence for the  
4 operation of community care foster family homes [7] and  
5 any other facility licensed or certified under the  
6 department;

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

10           (A) An application for an initial certificate of  
11 approval within            days after the department's  
12 receipt of the application; and

13           (B) An application to renew a certificate of approval  
14 within            days after the department's receipt  
15 of the application;

16           (3) The application fee for an initial certificate of  
17 approval and to renew a certificate of approval;  
18 provided that the application fee for an initial  
19 certificate of approval shall be \$            and the fee  
20 to renew a certificate of approval shall be \$            ;



- 1       ~~[(3)]~~ (4) Minimum grievance procedures for clients of  
2           community care foster family home services~~[+]~~ and any  
3           other facility licensed or certified under the  
4           department; and
- 5       ~~[(4)]~~ (5) Requirements for primary and substitute  
6           caregivers caring for three clients in community care  
7           foster family homes and any other facility licensed or  
8           certified under the department, including:
- 9           (A) Mandating that primary and substitute caregivers  
10           be twenty-one years of age or older;
- 11           (B) Mandating that primary and substitute caregivers  
12           complete a minimum of twelve hours of continuing  
13           education every twelve months or at least twenty-  
14           four hours of continuing education every twenty-  
15           four months;
- 16           (C) Allowing the primary caregiver to be absent from  
17           the community care foster family home or other  
18           facility for no more than twenty-eight hours in a  
19           calendar week, not to exceed five hours per day;  
20           provided that the substitute caregiver is present



1 in the community care foster family home or other  
2 facility during the primary caregiver's absence;

3 (D) Where the primary caregiver is absent from the  
4 community care foster family home or other  
5 facility in excess of the hours as prescribed in  
6 subparagraph (C), mandating that the substitute  
7 caregiver be a certified nurse aide; and

8 (E) Mandating that the substitute caregiver have, at  
9 a minimum, one year prior work experience as a  
10 caregiver in a community residential setting or  
11 in a medical facility."

12 PART VII

13 SECTION 11. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15 SECTION 12. This Act shall take effect on July 1, 2050;  
16 provided that section 5 shall take effect on June 30, 2019.



**Report Title:**

Caregivers Omnibus Bill; DOH; Inspections; Licenses; Task Force

**Description:**

Establishes and amends provisions relating to the care of the elderly and disabled in state-licensed care facilities. (HB582 HD1)

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

