
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 almost three hundred thousand Hawaii residents sixty years of
4 age or over. This population constitutes 21.5 per cent of
5 Hawaii's total population. By 2030, people sixty years of age
6 or older are projected to increase to more than 28.4 per cent of
7 the population. Hawaii's total population is expected to grow
8 by twenty-one per cent between 2000 and 2030. However, during
9 this same period, the number of adults sixty years of age or
10 older will increase by 93.8 per cent and those eighty-five years
11 of age or older will increase by 174.7 per cent. The
12 legislature further finds that there is a "silver tsunami"
13 coming, with even more individuals entering their senior years
14 and retirement.

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



1 no safety net to keep retired Hawaii residents out of
2 homelessness. In the next ten years, the "silver tsunami" will
3 substantially affect the entire State and the health care
4 system. The legislature finds that essential policies must be
5 enacted to address the issues relating to the increasing number
6 of elderly and disabled persons.

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

11 PART II

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

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

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



1 (2) Expanded adult residential care home; and
2 (3) 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; adult**
20 **day care centers; licensing.** (a) All expanded adult
21 residential care homes and adult day care centers that provide

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

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

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

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

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

15 ~~"(a) All adult residential care homes shall be licensed to~~
16 ~~ensure the health, safety, and welfare of the individuals placed~~
17 ~~therein. The department shall conduct [unannounced visits,~~
18 ~~other than the inspection for relicensing, to every licensed~~
19 ~~adult residential care home and expanded adult residential care~~
20 ~~home on an annual basis and at such intervals as determined by~~
21 ~~the 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.] visits and inspections pursuant to section 321."~~

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

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

17 PART III

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

20 "[~~f~~]**\$321-1.8[~~f~~]** **Inspections; public notice.** (a)

21 Beginning with inspections occurring on January 1, 2015, the



1 department of health shall post on its website electronic copies
2 of reports for all inspections it performs, including but not
3 limited to unannounced inspections and annual inspections for
4 relicensing, of the following state-licensed care facilities:

- 5 (1) Adult day health centers;
- 6 (2) Adult day care centers;
- 7 (3) Community care foster family homes;
- 8 (4) Developmental disabilities domiciliary homes as
9 defined in section 321-15.9;
- 10 (5) Developmentally disabled adult foster homes;
- 11 (6) Long-term care facilities as defined in section
12 349-21(f); and
- 13 (7) Special treatment facilities as defined in section
14 334-1.

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

- 19 (1) The date of the inspection;
- 20 (2) A description of violations of relevant state laws or
21 rules, if applicable;



- 1 (3) Plans of correction and the status of corrective
- 2 actions in response to any violations, if applicable;
- 3 (4) A list and description of all corrective actions taken
- 4 by the facility, if applicable, to be submitted by the
- 5 facility and added to the report at a later time, as
- 6 determined by the department; and
- 7 (5) Other information regarding the quality and conditions
- 8 of the facility the department of health deems
- 9 appropriate.
- 10 (c) Each inspection report posted on the department of
- 11 health's website that reports a violation committed by a state-
- 12 licensed care facility as described in subsection (a) shall be
- 13 removed from the website after three years from the date the
- 14 report was posted.
- 15 (d) Beginning , in addition to the inspection
- 16 information required by subsection (a), the University of Hawaii
- 17 or a neutral third party may maintain a forum on its website
- 18 where all state-licensed care facilities specified in subsection
- 19 (a) may post vacancy information to facilitate the referral and
- 20 placement of individuals therein."

1 PART IV

2 SECTION 7. (a) There is established a caregiver and case
3 manager compensation task force within the department of health
4 for administrative purposes to consist of the following members:

- 5 (1) A representative from the department of health;
- 6 (2) A representative from the department of human
7 services;
- 8 (3) A representative from the department of health's
9 developmental disability division;
- 10 (4) A representative of the department of health's state
11 council on developmental disabilities;
- 12 (5) A representative of a QUEST integration health plan
13 currently contracted with the department of human
14 services' med-QUEST division;
- 15 (6) A representative of the department of human services'
16 med-QUEST division;
- 17 (7) A representative from care home case managers, upon
18 request; and
- 19 (8) At least one representative from care home facility
20 organizations or operations, upon request.



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

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

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

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

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

17 PART V

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

20 "(b) The department shall adopt rules pursuant to chapter
21 91 relating to:



- 1 (1) Standards of conditions and competence for the
2 operation of community care foster family homes[+] and
3 any other facility licensed or certified by the
4 department;
- 5 (2) Procedures for obtaining and renewing a certificate of
6 approval from the department; provided that the
7 department shall grant or deny:
- 8 (A) An application for an initial certificate of
9 approval within _____ days after the department's
10 receipt of the application; and
- 11 (B) An application to renew a certificate of approval
12 within _____ days after the department's receipt
13 of the application;
- 14 (3) Minimum grievance procedures for clients of community
15 care foster family home services[+] and any other
16 facility licensed or certified by the department; and
- 17 (4) Requirements for primary and substitute caregivers
18 caring for three clients in community care foster
19 family homes including:
- 20 (A) Mandating that primary and substitute caregivers
21 be twenty-one years of age or older;



- 1 (B) Mandating that primary and substitute caregivers
2 complete a minimum of twelve hours of continuing
3 education every twelve months or at least twenty-
4 four hours of continuing education every twenty-
5 four months;
- 6 (C) Allowing the primary caregiver to be absent from
7 the community care foster family home for no more
8 than twenty-eight hours in a calendar week, not
9 to exceed five hours per day; provided that the
10 substitute caregiver is present in the community
11 care foster family home during the primary
12 caregiver's absence;
- 13 (D) Where the primary caregiver is absent from the
14 community care foster family home in excess of
15 the hours as prescribed in subparagraph (C),
16 mandating that the substitute caregiver be a
17 certified nurse aide; and
- 18 (E) Mandating that the substitute caregiver have, at
19 a minimum, one year prior work experience as a
20 caregiver in a community residential setting or
21 in a medical facility."



1 PART VI

2 SECTION 9. Statutory material to be repealed is bracketed
3 and stricken. New statutory material is underscored.

4 SECTION 10. This Act shall take effect on July 1, 2050;
5 provided that:

6 (1) Sections 2 and 3 of this Act shall take effect on
7 June 30, 2050; and

8 (2) The amendments made to sections 321-15.6(a) and
9 321-15.62(a), Hawaii Revised Statutes, in sections 2,
10 3, and 5 of this Act shall supersede the amendments
11 made to those sections by sections 3 and 4 of Act 184,
12 Session Laws of Hawaii 2016, which take effect on
13 July 1, 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. Requires adult day care centers to be licensed or certified by the department of health. Expands the department of health's unannounced inspection authority to include adult day care centers and annual inspections. Establishes a task force within the department of health to examine issues related to caregiver facility compensation and late fees. Clarifies that the amendments made to sections 321-15.6(a) and 321-15.62(a), Hawaii Revised Statutes, by this Act shall supersede the amendments made to those sections by Act 184, Session Laws of Hawaii 2016. Effective 7/1/2050. (SD2)

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

