

JAN 21 2021

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# A BILL FOR AN ACT

RELATING TO HEALTH.

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

1       SECTION 1. The legislature finds that, during the  
2 coronavirus disease 2019 (COVID-19) pandemic, state and federal  
3 inspectors raised numerous concerns and questions about the  
4 Yukio Okutsu State Veterans Home response to the pandemic. As a  
5 result, the group running the veterans' home in Hilo, Hawaii has  
6 been fined nearly \$30,000. Overall, nursing homes are blamed  
7 for about forty per cent of all known COVID-19 deaths in the  
8 United States, which now top over 376,000. Accordingly, to help  
9 prevent additional spread of infectious diseases, the purpose of  
10 this Act is to:

- 11       (1) Require all operators of adult residential care homes,  
12       assisted living facilities, long-term care facilities,  
13       nursing homes, and community care facilities for the  
14       elderly to establish and implement infectious disease  
15       control and prevention training and other related  
16       protocols;



- 1           (2)   Require the department of health to ensure compliance  
2               with infectious disease control and prevention  
3               training programs prior to the issuance or renewal of  
4               a license;
- 5           (3)   Authorize the department of health to conduct random  
6               audits to determine compliance with infectious disease  
7               control and prevention training program or course  
8               requirements;
- 9           (4)   Require the department of health to establish a  
10             hotline to field calls and complaints regarding  
11             violations;
- 12          (5)   Authorize the department of health to adopt rules,  
13               including emergency rules, and assess fines;
- 14          (6)   Require the department of health to conduct an annual  
15               announced and scheduled visit and inspection for all  
16               state-licensed or state-certified care facilities, in  
17               addition to its required annual inspections without  
18               notice; and
- 19          (7)   Require applicants for nursing home administrator  
20               licenses to demonstrate at least five years of



1           experience and the ability to document all training,  
2           experience, and certifications.

3           SECTION 2. Chapter 321, Hawaii Revised Statutes, is  
4 amended by adding a new section to be appropriately designated  
5 and to read as follows:

6           "§321-    Care homes; infectious disease control and  
7 prevention; licensing; rules; fines. (a) All operators of  
8 adult residential care homes, assisted living facilities, long-  
9 term care facilities, nursing homes, and community care  
10 facilities for the elderly, shall:

11           (1) Require all employees and staff to annually complete  
12 an infectious disease control and prevention training  
13 program or course that is authorized by the department  
14 or approved or accredited by an accrediting agency or  
15 body. All new employees or staff shall complete the  
16 training program or course within forty-five days of  
17 hire;

18           (2) Establish and implement an ongoing internal training  
19 program for all staff and employees, including  
20 clerical, administrative, and kitchen staff, regarding  
21 the procedures and protocols for the control and



1       prevention of infectious diseases. The internal  
2       training program shall include the protocol for  
3       notifying the Hawaii emergency management agency when  
4       necessary;

5       (3) Maintain adequate staffing to include staff or  
6       employees specifically responsible for re-directing  
7       patients who may be unable to comply with social  
8       distancing guidelines or requirements, infectious  
9       disease guidelines, or other protocols;

10      (4) Close all dining rooms, group activity rooms, common  
11      areas, and public gathering areas during times of a  
12      declared pandemic or outbreak of an infectious  
13      disease; provided that these areas may be reopened  
14      according to infectious disease protocols and  
15      guidelines established by the home or facility;

16      (5) Assign staff to designated groups or units to prevent  
17      the rotation of staff that could lead to potential  
18      cross-contamination, which shall apply to all kitchen,  
19      maintenance, or any other positions necessary in the  
20      performance of daily duties;



1       (6) Monitor the inventory of personal protective  
2       equipment, which shall include gowns, face masks,  
3       gloves, and shoe covers. Shift leaders or other  
4       authorized personnel shall review infectious disease  
5       guidelines before each shift, continue to update  
6       patient information, and document inventory of  
7       personal protective equipment at each shift change;

8       (7) Establish sanitation stations and locker rooms for  
9       staff and employees to shower and change out of work  
10      garments and shoes to be bagged and laundered after  
11      each shift. Shoes worn during a shift shall not be  
12      worn outside the home or facility; and

13      (8) Organize and maintain data on all patients including:  
14      (A) Medical conditions;  
15      (B) Advance directives;  
16      (C) Whether the patient can wear a face mask; and  
17      (D) Whether the patient wanders due to a medication  
18      or condition.

19      This data shall be made viewable to the department  
20      during visits and inspections pursuant to section  
21      321-1.9.



1        (b) The department shall ensure compliance with the  
2 infectious disease control and prevention training program or  
3 course requirements established by this section prior to the  
4 issuance or renewal of any license pursuant to this chapter.

5        (c) The department may conduct random audits to determine  
6 compliance with infectious disease control and prevention  
7 training program or course requirements established by this  
8 section. The department shall provide written notice of an  
9 audit to a licensee randomly selected for audit. Within sixty  
10 days of notification, the licensee shall provide the department  
11 with documentation verifying compliance with the training  
12 program or course requirement established by this section.

13       (d) The department shall establish a hotline to field  
14 anonymous calls by staff, patients, or relatives of patients, of  
15 complaints or violations of this section to prevent against  
16 retaliation. The operators of adult residential care homes,  
17 assisted living facilities, long-term care facilities, nursing  
18 homes, and community care facilities for the elderly, shall post  
19 a clear and conspicuous sign at the primary public entrance of  
20 the home or facility that specifies the department's hotline  
21 information.



1        (e) The department shall adopt rules pursuant to chapter  
2 91 necessary to carry out the purpose of this section, including  
3 the assessment of fines that may be collected for violations of  
4 this section. The department shall have the authority to adopt  
5 emergency rules pursuant to section 91-3(b) if imminent peril to  
6 the public health and safety requires adoption of a rule.

7        (f) All fines collected under this section shall be  
8 deposited in the general fund of the State."

9        SECTION 3. Section 321-1.9, Hawaii Revised Statutes, is  
10 amended by amending subsection (b) to read as follows:

11        "(b) Unannounced visits may be conducted during or outside  
12 regular business hours. All inspections relating to follow-up  
13 visits, visits to confirm correction of deficiencies, or visits  
14 to investigate complaints or suspicion of abuse or neglect shall  
15 be conducted unannounced during or outside regular business  
16 hours. Annual inspections for relicensing or recertification  
17 may be conducted during regular business hours or at intervals  
18 determined by the department. Annual inspections for  
19 relicensing or recertification shall be conducted without  
20 notice. The department shall additionally conduct an annual



1 announced and scheduled visit and inspection for all state-  
2 licensed or state-certified care facilities."

3 SECTION 4. Section 457B-3.1, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "§457B-3.1 Conditions concerning qualifications for  
6 licensure examination. The director shall adopt rules setting  
7 minimum educational, training, and experience qualifications  
8 that must be satisfied before an applicant is allowed to sit for  
9 the licensing examination[-]; provided that an applicant shall  
10 demonstrate a minimum of five years of experience; provided  
11 further that all training, previous places of employment,  
12 references, abilities to communicate with staff at all levels,  
13 and certifications be documented by the applicant."

14 SECTION 5. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 6. This Act shall take effect upon its approval.

17  
INTRODUCED BY:

  
By Request



# S.B. NO. 59

**Report Title:**

Nursing Homes; Long-Term Care Facilities; Assisted Living Facilities; Department of Health; Disease Control and Prevention; Licenses; Rules; Fines

**Description:**

Requires operators of adult residential care homes, assisted living facilities, long-term care facilities, nursing homes, and community care facilities to establish and implement infectious disease control and prevention training and other related protocols. Requires the Department of Health to ensure compliance with infectious disease control and prevention training programs prior to the issuance or renewal of a license. Authorizes the Department of Health to conduct random audits to determine compliance with infectious disease control and prevention training program or course requirements. Requires the Department of Health to establish a hotline to field calls and complaints regarding violations. Authorizes the Department of Health to adopt rules, including emergency rules, and assess fines. Requires the Department of Health to conduct an annual announced and scheduled visit and inspection for all state-licensed or state-certified care facilities, in addition to its required annual inspections without notice. Requires applicants for nursing home administrator licenses to demonstrate at least five years of experience and the ability to document all training, experience, and certifications.

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

