

ACT 212

H.B. NO. 529

A Bill for an Act Relating to Care Homes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§321- Care homes; liability insurance; coverage. (a) All operators of adult foster homes under section 321-11.2, adult residential care homes, assisted living facilities, community care foster family homes as defined in section 321-481, developmental disabilities domiciliary homes as defined in section 321-15.9, and expanded adult residential care homes as defined in section 321-15.1, shall obtain and maintain the following in coverage amounts deemed sufficient and appropriate by the department of health:

- (1) Liability insurance with respect to their operation of the homes or facilities; and
 - (2) Automobile liability insurance, including adequate bodily injury liability coverage for vehicles used to transport residents of the homes or facilities.
- (b) Proof of liability insurance for both the home or facility and for vehicles used to transport home or facility residents as required by subsection (a) shall be verified by the department of health, or its designee, on an annual basis.
- (c) The department shall adopt rules pursuant to chapter 91 to effectuate the purposes of this section.”

SECTION 2. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§346- Care homes; liability; insurance; coverage. (a) All operators of community care foster family homes as defined in section 346-331 shall obtain and maintain the following in coverage amounts deemed sufficient and appropriate by the department:

- (1) Liability insurance with respect to the operation of the homes; and
 - (2) Automobile liability insurance, including adequate bodily injury liability coverage for vehicles used to transport residents of the homes.
- (b) Proof of liability insurance for both the home and for vehicles used to transport home residents as required by subsection (a) shall be verified by the department, or its designee, on an annual basis.
- (c) The department shall adopt rules pursuant to chapter 91 to effectuate the purposes of this section.”

SECTION 3. Section 321-11.2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The department of health is authorized to certify adult foster homes for ~~[developmentally disabled]~~ individuals with developmental disabilities or intellectual disabilities requiring such care beyond the eighteenth birthday. “Adult foster home” means a private home providing care on a twenty-four hour basis for adults with developmental or intellectual disabilities. To be certified, an adult foster home shall have not more than two adults with developmental or intellectual disabilities at the same time, who are unrelated to the foster family. The director of health may waive the two adult limit for certification of that home as an adult foster home; provided that the number of adults with developmental or intellectual disabilities in the certified home shall not exceed three adults with developmental or intellectual disabilities. To accommodate residents of a foster boarding home for children with developmental or intellectual disabilities who reach the age of eighteen years, where the home is certified as a foster boarding home for children under section 346-17, the director of health may waive the two adult limit for certification of that home as an adult foster home, provided that: (1) the number of foster children and adults in such dually certified home shall not exceed five, and (2) no new adults may be admitted into the home while there are any foster children residing in the home.”

SECTION 4. Section 321-11.7, Hawaii Revised Statutes, is amended to read as follows:

~~“[§321-11.7 Care homes; liability insurance; coverage.]~~ (a) All operators of adult foster homes under section 321-11.2 ~~[and]~~, adult residential care homes, assisted living facilities, developmental disabilities domiciliary homes as defined in section 321-15.9, and expanded adult residential care homes as defined in section 321-15.1 shall obtain and maintain ~~[liability] the following in coverage amounts deemed sufficient and appropriate by the department of health:~~

(1) Liability insurance with respect to their operation of the homes or facilities [in a coverage amount deemed sufficient by the department.
~~This section shall not apply to operators of adult foster homes, adult residential care homes, assisted living facilities, and expanded adult residential care homes that:~~

- ~~(1) Are operating under a contract with the department of human services or the department of health; and~~
- ~~(2) Are in compliance with the liability insurance coverage requirements of that contract.]; and~~
- (2) Automobile liability insurance, including adequate bodily injury liability coverage for vehicles used to transport residents of the homes or facilities.

(b) Proof of liability insurance for the home or facility and for vehicles used to transport home or facility residents as required by subsection (a) shall be verified by department of health, or its designee, on an annual basis.

~~[(b)] (c) The department of health shall adopt rules pursuant to chapter 91 to effectuate the purposes of this section.”~~

SECTION 5. Act 221, Session Laws of Hawaii 2011, is amended by amending section 5 to read as follows:

~~“SECTION 5. This Act shall take effect on July 1, 2011; provided that on [June 30, 2013,] July 1, 2014, this Act shall be repealed [and sections 346-331 and 346-334, Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day prior to the effective date of this Act].”~~

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 7. This Act shall take effect upon its approval; provided that:

- (1) Section 1 shall take effect on July 1, 2014;
- (2) Section 5 shall take effect on June 29, 2013; and
- (3) Sections 2 and 4 shall be repealed on July 1, 2014.

(Approved June 27, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.