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## A BILL FOR AN ACT

RELATING TO HOME CARE.

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

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

4           "§321-    Home care agencies; licensing. (a) All home  
5 care agencies shall be licensed to ensure the health, safety,  
6 and welfare of clients.

7           (b) The director shall adopt rules regarding home care  
8 agencies in accordance with chapter 91 that shall be designed  
9 to:

10           (1) Protect the health, safety, and civil rights of  
11           clients of home care agencies, and

12           (2) Provide for the licensing of home care agencies.

13           (c) For purposes of this section:

14           "Home care agency" means any organization that provides  
15 home care services to clients in a place used as the client's  
16 home.



1       "Home care services" includes nursing services,  
2 rehabilitation therapy services, social services, personal care  
3 services, and companion services that promote the health and  
4 safety of a client based on an assessment and the development of  
5 a plan of care prepared by the home care agency."

6       SECTION 2. Section 321-11, Hawaii Revised Statutes, is  
7 amended to read as follows:

8       **"§321-11 Subjects of health rules, generally.** The  
9 department pursuant to chapter 91 may adopt rules that it deems  
10 necessary for the public health and safety respecting:

- 11       (1) Nuisances, foul or noxious odors, gases, vapors,  
12       waters in which mosquitoes breed or may breed, sources  
13       of filth, and causes of sickness or disease, within  
14       the respective districts of the State, and on board  
15       any vessel;
- 16       (2) Adulteration and misbranding of food or drugs;
- 17       (3) Location, air space, ventilation, sanitation,  
18       drainage, sewage disposal, and other health conditions  
19       of buildings, courts, construction projects,  
20       excavations, pools, watercourses, areas, and alleys;
- 21       (4) Privy vaults and cesspools;
- 22       (5) Fish and fishing;



- 1 (6) Interments and dead bodies;
- 2 (7) Disinterments of dead human bodies, including the
- 3 exposing, disturbing, or removing of these bodies from
- 4 their place of burial, or the opening, removing, or
- 5 disturbing after due interment of any receptacle,
- 6 coffin, or container holding human remains or a dead
- 7 human body or a part thereof and the issuance and
- 8 terms of permits for the aforesaid disinterments of
- 9 dead human bodies;
- 10 (8) Cemeteries and burying grounds;
- 11 (9) Laundries, and the laundering, sanitation, and
- 12 sterilization of articles including linen and uniforms
- 13 used by or in the following businesses and
- 14 professions: barber shops, manicure shops, beauty
- 15 parlors, electrology shops, restaurants, soda
- 16 fountains, hotels, rooming and boarding houses,
- 17 bakeries, butcher shops, public bathhouses, midwives,
- 18 masseurs, and others in similar calling, public or
- 19 private hospitals, and canneries and bottling works
- 20 where foods or beverages are canned or bottled for
- 21 public consumption or sale; provided that nothing in
- 22 this chapter shall be construed as authorizing the



1 prohibiting of laundering, sanitation, and  
2 sterilization by those conducting any of these  
3 businesses or professions where the laundering or  
4 sterilization is done in an efficient and sanitary  
5 manner;

6 (10) Hospitals, freestanding surgical outpatient  
7 facilities, skilled nursing facilities, intermediate  
8 care facilities, adult residential care homes, adult  
9 foster homes, assisted living facilities, special  
10 treatment facilities and programs, home health  
11 agencies, home care agencies as defined in section  
12 321-\_\_, hospices, freestanding birthing facilities,  
13 adult day health centers, independent group  
14 residences, and therapeutic living programs, but  
15 excluding youth shelter facilities unless clinical  
16 treatment of mental, emotional, or physical disease or  
17 handicap is a part of the routine program or  
18 constitutes the main purpose of the facility, as  
19 defined in section 346-16 under "child care  
20 institution". For the purpose of this paragraph,  
21 "adult foster home" has the same meaning as provided  
22 in section 321-11.2;



- 1       (11) Hotels, rooming houses, lodging houses, apartment  
2           houses, tenements, and residences for persons with  
3           developmental disabilities including, but not limited  
4           to, those built under federal funding;
- 5       (12) Laboratories;
- 6       (13) Any place or building where noisome or noxious trades  
7           or manufacturers are carried on, or intended to be  
8           carried on;
- 9       (14) Milk;
- 10      (15) Poisons and hazardous substances, the latter term  
11           including but not limited to any substance or mixture  
12           of substances which:
- 13           (A) Is corrosive;
- 14           (B) Is an irritant;
- 15           (C) Is a strong sensitizer;
- 16           (D) Is inflammable; or
- 17           (E) Generates pressure through decomposition, heat,  
18           or other means,
- 19           if the substance or mixture of substances may cause  
20           substantial personal injury or substantial illness  
21           during or as a proximate result of any customary or



- 1 reasonably foreseeable handling or use, including  
2 reasonably foreseeable ingestion by children;
- 3 (16) Pig and duck ranches;
- 4 (17) Places of business, industry, employment, and  
5 commerce, and the processes, materials, tools,  
6 machinery, and methods of work done therein; and  
7 places of public gathering, recreation, or  
8 entertainment;
- 9 (18) Any restaurant, theater, market, stand, shop, store,  
10 factory, building, wagon, vehicle, or place where any  
11 food, drug, or cosmetic is manufactured, compounded,  
12 processed, extracted, prepared, stored, distributed,  
13 sold, offered for sale, or offered for human  
14 consumption or use;
- 15 (19) Foods, drugs, and cosmetics, and the manufacture,  
16 compounding, processing, extracting, preparing,  
17 storing, selling, and offering for sale, consumption,  
18 or use of any food, drug, or cosmetic;
- 19 (20) Devices as defined in section 328-1;
- 20 (21) Sources of ionizing radiation;
- 21 (22) Medical examination, vaccination, revaccination, and  
22 immunization of school children. No child shall be



1           subjected to medical examination, vaccination,  
2           revaccination, or immunization, whose parent or  
3           guardian objects in writing thereto on grounds that  
4           the requirements are not in accordance with the  
5           religious tenets of an established church of which the  
6           parent or guardian is a member or adherent, but no  
7           objection shall be recognized when, in the opinion of  
8           the department, there is danger of an epidemic from  
9           any communicable disease;

10       (23) Disinsectization of aircraft entering or within the  
11       State as may be necessary to prevent the introduction,  
12       transmission, or spread of disease or the introduction  
13       or spread of any insect or other vector of  
14       significance to health;

15       (24) Fumigation, including the process by which substances  
16       emit or liberate gases, fumes, or vapors which may be  
17       used for the destruction or control of insects,  
18       vermin, rodents, or other pests, which, in the opinion  
19       of the department, may be lethal, poisonous, noxious,  
20       or dangerous to human life;

21       (25) Ambulances and ambulance equipment;



1           (26) Development, review, approval, or disapproval of  
2                   management plans submitted pursuant to the Asbestos  
3                   Hazard Emergency Response Act of 1986, Public Law 99-  
4                   519; and

5           (27) Development, review, approval, or disapproval of an  
6                   accreditation program for specially trained persons  
7                   pursuant to the Residential Lead-Based Paint Hazard  
8                   Reduction Act of 1992, Public Law 102-550.

9           The department may require any certificates, permits, or  
10           licenses that it may deem necessary to adequately regulate the  
11           conditions or businesses referred to in this section."

12           SECTION 3. Section 321-11.5, Hawaii Revised Statutes, is  
13           amended by amending subsection (b) to read as follows:

14           "(b) All fees paid and collected pursuant to this section  
15           and rules adopted in accordance with chapter 91 from facilities  
16           seeking licensure or certification by the department, including  
17           hospitals, nursing homes, home health agencies, home care  
18           agencies as defined in section 321- , intermediate care  
19           facilities for the mentally retarded, freestanding outpatient  
20           surgical facilities, laboratories, adult residential care homes,  
21           developmental disability domiciliary homes, and special  
22           treatment facilities, shall be deposited into the hospital and



1 medical facilities special fund created under section 321-1.4.  
 2 Any other entities required by law to be licensed by the  
 3 department shall also be subject to reasonable fees established  
 4 by the department by rules adopted in accordance with chapter  
 5 91."

6 SECTION 4. There is appropriated out of the general  
 7 revenues of the State of Hawaii the sum of \$ , or so  
 8 much thereof as may be necessary for fiscal year 2007-2008, for  
 9 the establishment of two full-time equivalent (2.00 FTE)  
 10 permanent positions in the department of health to license home  
 11 care agencies.

12 The sum appropriated shall be expended by the department of  
 13 health for the purpose of this Act.

14 SECTION 5. New statutory material is underscored.

15 SECTION 6. This Act shall take effect on July 1, 2007. On  
 16 June 30, 2009, section 1 of this Act shall be repealed, and  
 17 sections 321-11 and 321-11.5, Hawaii Revised Statutes, shall be  
 18 reenacted in the forms in which they read on the day before the  
 19 approval of this Act.

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INTRODUCED BY:

*Josh Tree*

JAN 18 2007



**Report Title:**

Home Care; Licensing; Department of Health Funding

**Description:**

Establishes home care agency licensing requirements.  
Appropriates moneys to create permanent positions at the  
department of health to license home care agencies.

