
A BILL FOR AN ACT

RELATING TO NURSE AIDES.

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

1 SECTION 1. The legislature recognizes that 42 United
2 States Code sections 1395i-3 and 1396r require nurse aides
3 working in nursing facilities participating in medicare and
4 medicaid programs to be certified.

5 The purpose of this Act is to require all practicing nurse
6 aides working in state licensed or state certified health care
7 settings to be certified. Certifying these nurse aides will
8 allow the department of commerce and consumer affairs, the
9 department of human services, and the department of health to
10 monitor and evaluate the quality and competency of these nurse
11 aides practicing in the State.

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

15 "§321-A Enforcement. (a) The department shall adopt
16 rules pursuant to chapter 91 as related to investigation and
17 actions taken against certified nurse aides.



1 (b) The director pursuant to chapter 91, shall investigate
2 and make determinations on findings on allegations of abuse,
3 neglect, and misappropriation of an individual's property by
4 certified nurse aides in a state licensed or state certified
5 health care setting and shall:

6 (1) Provide its findings to the department of commerce and
7 consumer affairs for the purposes of placement in the
8 nurse aide registry; and

9 (2) Impose a penalty of up to \$1,000 for each allegation
10 substantiated against a certified nurse aide."

11 SECTION 3. Chapter 346, Hawaii Revised Statutes, is
12 amended by adding two new sections to be appropriately
13 designated and to read as follows:

14 "**§346-A Training programs and testing requirements.** (a)
15 The director shall be responsible for the following with respect
16 to nurse aids who work in medicare or medicaid certified nursing
17 facilities:

18 (1) Approving training programs for certified nurse aides
19 and ensuring that they comply with all applicable
20 federal and state requirements; and

21 (2) Approving and arranging for the recertification
22 examinations.



1 (b) The director shall also approve and arrange for the
2 recertification of nurse aides who work in state licensed or
3 state certified health care settings.

4 §346-B Enforcement. (a) The director pursuant to chapter
5 91, shall investigate and make determinations on findings on
6 allegations of abuse, neglect, and misappropriation of an
7 individual's property committed by a certified nurse aide who is
8 employed in a state licensed or state certified health care
9 setting.

10 (b) The director shall provide the findings from the
11 investigation under subsection (a) to the department of commerce
12 and consumer affairs for the purposes of placement in the nurse
13 aide registry."

14 SECTION 4. Chapter 457A, Hawaii Revised Statutes, is
15 amended by adding three new sections to be appropriately
16 designated and to read as follows:

17 "§457A-A Definitions. As used in this chapter, unless the
18 context clearly indicates otherwise:

19 "Certified nurse aide" means a nurse aide who has met the
20 certification requirements of this chapter and who holds a valid
21 certificate to practice as a certified nurse aide in this State



1 in a medicare or medicaid facility or in a state licensed or
2 state certified health care setting.

3 "Director" means the director of commerce and consumer
4 affairs.

5 "Medicare or medicaid nurse aide" means a certified nurse
6 aide who works in a medicare or medicaid certified nursing
7 facility.

8 "Nurse aide" means a person who performs a variety of
9 duties relating to patients and patient care working under the
10 supervision of a nurse, including but not limited to assisting
11 patients in all activities of daily living such as serving and
12 collecting food trays, and helping patients get out of bed,
13 bathe, and dress. A nurse aide may also assist a nurse by
14 changing bed linens, delivering messages, and sterilizing
15 instruments.

16 **§457A-B Medicare or medicaid nurse aide certification.**

17 (a) To be certified, an applicant shall successfully complete a
18 nurse aide examination approved by the director.

19 (b) No person shall be permitted to take the examination
20 who has not complied with the training requirements established
21 by the director of human services in accordance with 42 United
22 States Code sections 1395i-3 and 1396r.



1 (c) Reciprocity shall be granted to nurse aides who have
2 completed a state-approved program where the requirements of
3 that program meet both federal and state requirements; provided
4 that the nurse aide's certification in the other state is
5 current and has not been revoked or suspended.

6 (d) Nurse aides employed in medicare or medicaid certified
7 nursing facilities shall comply with all federal and state
8 requirements.

9 (e) Maintenance requirements for recertification shall be
10 on a biennial basis, including employment in a medicare or
11 medicaid facility as required by federal and state law.

12 (f) The director may impose a fee for services rendered to
13 carry out the purposes of this section.

14 (g) Any person who works in a medicare or medicaid nursing
15 facility and who holds a valid certificate to practice as a
16 certified nurse aide in this State may use the title "certified
17 nurse aide" and the abbreviation "C.N.A."

18 **§457A-C Nurse aide certification for state licensed or**
19 **state certified facilities.** (a) The certification provided
20 under this section applies to nurse aides working in state
21 licensed and state certified health settings other than a
22 medicare or medicaid certified nursing facility.



1 (b) To be certified, an applicant shall successfully
2 complete training in a state-approved training program and a
3 nurse aide examination approved by the director.

4 (c) No person shall be permitted to take the examination
5 who has not complied with the training requirements established
6 by the director of human services in accordance with 42 United
7 States Code sections 1395i-3 and 1396r.

8 (d) The director may impose a fee for services rendered to
9 carry out the purposes of this section.

10 (e) Reciprocity shall be granted to qualified nurse aides
11 who have completed a state-approved program having requirements
12 found by the director to be comparable to the requirements of
13 this chapter; provided that the nurse aide's certification has
14 not been revoked or suspended.

15 (f) Maintenance requirements for recertification shall be
16 on a biennial basis, including a recertification examination as
17 approved by the director of human services.

18 (g) Any person who works in a state licensed or state
19 certified health care setting and who holds a valid certificate
20 to practice as a certified nurse aide in this State shall have
21 the right to use the title "certified nurse aide" and the
22 abbreviation "C.N.A.".



1 SECTION 5. Section 457A-1, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§457A-1 Findings and purpose.** (a) The legislature
4 recognizes that 42 United States Code [~~§1395i-3 and §1396R~~]
5 sections 1395i-3 and 1396r require nurse aides working in
6 certified nursing facilities participating in medicare and
7 medicaid programs to be certified.

8 (b) The legislature also recognizes that nurse aides who
9 work in state licensed or state certified health care settings
10 should be certified for the purpose of consumer safety and held to
11 similar standards of competency and evaluation appropriate for
12 these facilities. This chapter implements 42 United States Code
13 [~~§1395i-3 and §1396R~~] sections 1395i-3 and 1396r and this chapter
14 with respect to:

- 15 (1) Establishing the State's regulatory scheme for
16 certifying nurse aides;
- 17 (2) Defining the scope of regulation;
- 18 (3) Establishing standards for certification and biennial
19 recertification; and
- 20 (4) Establishing an interagency agreement between the
21 state agencies responsible for various aspects of the
22 program.



1 ~~[(b) As used in this chapter, "nurse aide" means a person~~
2 ~~who performs a variety of duties relating to patients and patient~~
3 ~~care working under the supervision of a nurse, including but not~~
4 ~~limited to assisting patients in all activities of daily living~~
5 ~~such as serving and collecting food trays, and helping patients~~
6 ~~get out of bed, bathe, and dress. A nurse aide may also assist a~~
7 ~~nurse by changing bed linens, delivering messages, and sterilizing~~
8 ~~instruments.]"~~

9 SECTION 6. Section 457A-2, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§457A-2 Implementation.** (a) The director ~~[of commerce and~~
12 ~~consumer affairs]~~ shall implement the provisions of 42 United
13 States Code ~~[\$1395i-3 and \$1396R]~~ sections 1395i-3 and 1396r and
14 this chapter, as they relate only to establishing:

- 15 (1) The minimum requirements and standards necessary for
16 certification as a nurse aide;
- 17 (2) Examination requirements, including the passing score;
- 18 (3) Maintenance requirements for continued certification
19 on a biennial basis; and
- 20 (4) Implementation of a nurse aide registry.

21 (b) The director of health shall implement the provisions of
22 42 United States Code sections 1395i-3 and 1396r and this chapter,



1 as they relate to disciplining of nurse aides certified under this
2 chapter, who are employed in health care settings licensed or
3 certified by the department of health.

4 (c) The director of human services shall implement the
5 provisions of 42 United States code sections 1395i-3 and 1396r and
6 this chapter, as they relate to training programs for nurse aides
7 and recertification, and to the disciplining of nurse aides who
8 are certified under this chapter and employed in medicare or
9 medicaid certified nursing facilities that are licensed or
10 certified by the department of human services.

11 (d) Nothing in this chapter shall be construed to require
12 certification for nurse aides that do not work in a medicare or
13 medicaid certified nursing facility or a state licensed or state
14 certified healthcare setting."

15 SECTION 7. Section 457A-3, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§457A-3 Power of director.** (a) The director, in
18 accordance with chapters 91 and 92, shall adopt rules that may be
19 necessary to implement the provisions of this chapter and 42
20 United States Code [~~§1395i-3 and §1396R~~] sections 1395i-3 and
21 1396r, as well as the federal regulations adopted pursuant
22 thereto, as they relate only to establishing:



- 1 (1) The minimum requirements necessary for certification
2 as a nurse aide;
- 3 (2) Examination requirements, including the passing score
4 and provisions for contesting examination results;
- 5 (3) Maintenance requirements for continued certification;
6 and
- 7 (4) Implementation and maintenance of a nurse aide
8 registry containing nurse aides in medicare or
9 medicaid certified nursing facilities and nurse aides
10 in other state licensed and state certified health
11 care settings.
- 12 (b) The director shall issue certificates to qualified nurse
13 aides and shall be responsible for maintenance of an up-to-date
14 nurse aide registry which shall include the names of certified
15 nurse aides, their places of employment, and [~~disciplinary~~
16 ~~actions.~~] the information that is required to be reported by the
17 department of health and the department of human services to the
18 director pursuant to sections 321-A and 346-B. The director's
19 role, with regard to certified nurse aides, [~~Disciplinary actions~~]
20 shall be limited to the placement of substantiated findings from
21 the department of health and the department of human services into



Report Title:

Nurse Aides; Certification

Description:

Establishes certification procedures for nurse aides employed in state licensed or state certified health care settings and medicare or medicaid facilities.

