
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 provide for the certification
6 and recertification of nurse aides who work in nursing
7 facilities participating in medicare and medicaid programs and
8 in other state licensed and certified health care settings.
9 Certifying these nurse aides will allow the department of
10 commerce and consumer affairs, the department of human services,
11 and the department of health to monitor and evaluate the quality
12 and competency of the nurse aides practicing in the State.

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

16 "§321- Enforcement; certified nurse aides. The
17 department shall adopt rules pursuant to chapter 91 relating to:

18 (1) The investigation of:



- 1 (A) Abuse or neglect by a certified nurse aide
- 2 working in a health care setting licensed or
- 3 certified by the department; and
- 4 (B) Misappropriation of an individual's property by a
- 5 certified nurse aide working in a health care
- 6 setting licensed or certified by the department;
- 7 and
- 8 (2) Action taken against a certified nurse aide as a
- 9 result of an investigation pursuant to paragraph (1)."

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

- 13 "§346- Training programs. The director shall:
- 14 (1) Approve training programs for nurse aides and ensure
- 15 that the training programs comply with all applicable
- 16 federal and state requirements;
- 17 (2) Approve and arrange for the recertification process
- 18 for nurse aides who work in medicare or medicaid
- 19 certified nursing facilities; and
- 20 (3) Approve and arrange for the recertification process
- 21 for nurse aides who work in state-licensed or
- 22 state-certified health care settings.



1 §346- Enforcement; certified nurse aides. The
2 department shall adopt rules pursuant to chapter 91 relating to:

3 (1) The investigation of:

4 (A) Abuse or neglect by a certified nurse aide
5 working in a health care setting licensed or
6 certified by the department; and

7 (B) Misappropriation of an individual's property by a
8 certified nurse aide working in a health care
9 setting licensed or certified by the department;
10 and

11 (2) Action taken against a certified nurse aide as a
12 result of an investigation pursuant to paragraph (1)."

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

16 "§457A- Definitions. As used in this chapter:

17 "Certified nurse aide" means a nurse aide who has met the
18 requirements of this chapter.

19 "Director" means the director of commerce and consumer
20 affairs.

21 "Medicare or medicaid certified nursing facility" means any
22 intermediate care facility or skilled nursing facility licensed



1 pursuant to section 321-11(10) and certified by the department
2 of health in accordance with 42 United States Code sections
3 1395i-3 and 1396r.

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

7 "Nurse aide" means a person who performs a variety of
8 duties relating to patients and patient care working under the
9 supervision of a nurse, including assisting patients in all
10 activities of daily living such as serving and collecting food
11 trays, and helping patients get out of bed, bathe, and dress. A
12 nurse aide may also assist a nurse by changing bed linens,
13 delivering messages, and sterilizing instruments.

14 "State-licensed or state-certified health care setting"
15 means a setting, other than a medicare or medicaid certified
16 nursing facility, which is regulated by the department of health
17 or the department of human services.

18 "Substantiated finding" means documentation of the State's
19 investigation, including:

20 (1) The nature of the allegation and the evidence that led
21 the State to conclude that the allegation was valid;



1 (2) The date of the hearing, if the individual chose to
2 have one, and its outcome;

3 (3) A statement of the individual disputing the
4 allegation, if the individual chose to make one; or

5 (4) A criminal conviction.

6 §457A- Certification required. Except as otherwise
7 provided in this chapter, no person shall, without having first
8 obtained certification as provided in this chapter:

9 (1) Represent that the person is a certified nurse aide;

10 (2) Imply, in any manner, that the person is a certified
11 nurse aide; or

12 (3) Use the abbreviation "C.N.A." or any other words,
13 letters, signs, or devices to identify the person as a
14 certified nurse aide.

15 §457A- Medicare or medicaid nurse aide certification.

16 (a) To be certified, an applicant shall successfully complete:

17 (1) Training in a state-approved training program; and

18 (2) A 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 that meets both federal and
3 state requirements.

4 (d) Nurse aides employed in medicare or medicaid certified
5 nursing facilities shall meet both federal and state
6 requirements.

7 (e) Maintenance requirements for the recertification
8 process shall be on a biennial basis, including an annual
9 performance review, in-service training, and employment in a
10 medicare or medicaid facility as required by federal and state
11 law.

12 (f) No charge shall be imposed on nurse aides for the
13 maintenance of the nurse aide registry.

14 §457A- Nurse aide certification for state-licensed or
15 state-certified health care settings. (a) This certification
16 applies to nurse aides working in state-licensed and
17 state-certified health care settings other than a medicare or
18 medicaid certified nursing facility.

19 (b) To be certified, an applicant shall successfully
20 complete:

21 (1) Training in a state-approved training program; and

22 (2) A nurse aide examination approved by the director.



1 (c) Fees may be imposed for services rendered to carry out
2 the purposes of this section.

3 (d) Reciprocity shall be granted to qualified nurse aides
4 who have completed a state-approved program the requirements of
5 which are comparable to the requirements of this chapter.

6 (e) Maintenance requirements for the recertification
7 process shall be on a biennial basis, including a competency
8 evaluation as approved by the department of human services and
9 employment in a state licensed or state certified health care
10 setting."

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

13 "**§457A-1 Findings and purpose.** (a) The legislature
14 recognizes that 42 United States Code [~~§1395i-3 and §1396R~~]
15 sections 1395i-3 and 1396r require nurse aides working in nursing
16 facilities participating in medicare and medicaid programs to be
17 certified.

18 (b) The legislature also recognizes that nurse aides who
19 work in state-licensed or state-certified health care settings
20 should be certified for the purpose of consumer safety and held to
21 similar standards of competency and evaluation appropriate for



1 these settings. This chapter implements 42 United States Code
2 [~~§1395i-3 and §1396R~~] sections 1395i-3 and 1396r with respect to:

- 3 (1) Establishing the State's regulatory scheme for
4 certifying nurse aides;
- 5 (2) Defining the scope of regulation;
- 6 (3) Establishing standards for certification and biennial
7 recertification; and
- 8 (4) Establishing an interagency agreement between the
9 state agencies responsible for various aspects of the
10 program.

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

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

21 "§457A-2 Implementation. (a) The director [~~of commerce and
22 consumer affairs~~] shall implement the provisions of this chapter,



1 in accordance with 42 United States Code [~~§1395i-3 and §1396R~~ as
2 they] sections 1395-3 and 1396r, that relate [only] to
3 [establishing]:

- 4 (1) The minimum requirements and standards [necessary] for
- 5 certification as a nurse aide;
- 6 (2) Examination requirements, including the passing score;
- 7 (3) Maintenance requirements for continued certification
- 8 on a biennial basis; and
- 9 (4) Implementation of a certified nurse aide registry.

10 (b) The director of health shall implement this chapter in
11 accordance with 42 United States Code sections 1395i-3 and 1396r,
12 that relate to disciplining certified nurse aides who are employed
13 in health care settings licensed or certified by the department of
14 health.

15 (c) The director of human services shall implement this
16 chapter in accordance with 42 United States code sections 1395i-3
17 and 1396r, that relate to:

- 18 (1) Training programs for nurse aides and the
- 19 recertification process; and
- 20 (2) Disciplining of certified nurse aides employed in
- 21 health care settings licensed or certified by the
- 22 department of human services."



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

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

- 10 (1) The minimum requirements necessary for certification
- 11 as a nurse aide;
- 12 (2) Examination requirements, including the passing score
- 13 and provisions for contesting examination results;
- 14 (3) Maintenance requirements for continued certification;
- 15 and
- 16 (4) Implementation and maintenance of a nurse aide
- 17 registry[-] containing certified nurse aides in
- 18 medicare or medicaid certified nursing facilities and
- 19 certified nurse aides in other state-licensed and
- 20 state-certified health care settings.

21 (b) The director shall issue certificates to qualified nurse
22 aides and shall be responsible for maintenance of an up-to-date



1 nurse aide registry [~~which~~] that shall include the names of
 2 certified nurse aides, their places of employment, and
 3 [~~disciplinary actions. Disciplinary actions~~] all information that
 4 is required to be reported by the department of health and the
 5 department of human services. The director's role, with regard to
 6 the disciplining of certified nurse aides, shall be limited to the
 7 placement [~~of substantiated findings from~~] into the nurse aide
 8 registry of all information and substantiated findings from the
 9 department of health [~~into the nurse aide registry within ten~~
 10 working days of court settlement.] and the department of human
 11 services, as required by 42 United States Code sections 1395i-3
 12 and 1396r, within ten working days of the finding, which
 13 information shall permanently remain in the registry except if:

- 14 (1) The finding was made in error;
- 15 (2) The individual is found not guilty in court; or
- 16 (3) The State receives notification of the individual's
 17 death."

18 SECTION 8. Any nurse aide who is employed in a state
 19 licensed or state certified health care setting and who is
 20 recertified by July 1, 2007, may be recertified on a biennial
 21 basis under chapter 457A, Hawaii Revised Statutes, if the nurse
 22 aide passes, by December 31, 2008, a proficiency evaluation



1 approved by the department of human services. If the nurse aide
2 fails to pass the proficiency evaluation, the nurse aide shall
3 apply for certification as a new applicant and undergo
4 recertification under chapter 457A, Hawaii Revised Statutes.

5 SECTION 9. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 10. This Act shall take effect upon approval.



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. (SD1)

