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# A BILL FOR AN ACT

RELATING TO ADULT RESIDENTIAL CARE HOMES.

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

1           SECTION 1. The legislature finds that there is a  
2 nationwide health care trend towards providing care outside of  
3 the large institutional setting. More often, we are seeing  
4 health care move into the community, whether it be in the form  
5 of group homes, nursing homes without walls, or in-home  
6 provision of care.

7           The legislature also finds that this movement of health  
8 care into the community has unintended consequences, especially  
9 in the areas of land use and zoning. While many can point to  
10 the advantages to a more community-based system of care, our  
11 zoning laws and planning represent a delicate balance between  
12 residential and development, urban and agricultural. Great  
13 shifts, such as that represented by the move towards a  
14 community-based care system, need to be balanced accordingly.

15           Accordingly, the purpose of this Act is to clarify that  
16 county building codes, specifically, the 1,000 foot zone between  
17 group living facilities, apply to type I and type II facilities



1 licensed under part I of chapter 321. The legislature further  
2 finds that such clarification does not represent a prohibition  
3 against group living, but represents a balance between the  
4 various uses within residential, commercial, agricultural, and  
5 urban zoned property in the State.

6 SECTION 2. Section 321-15.6, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 **"§321-15.6 Adult residential care homes; licensing. (a)**

9 All adult residential care homes shall be licensed to ensure the  
10 health, safety, and welfare of the individuals placed therein.

11 The department shall conduct unannounced visits, other than the  
12 inspection for relicensing, to every licensed adult residential  
13 care home and expanded adult residential care home on an annual  
14 basis and at such intervals as determined by the department to  
15 ensure the health, safety, and welfare of each resident.

16 Unannounced visits may be conducted during or outside regular  
17 business hours. All inspections relating to follow-up visits,  
18 visits to confirm correction of deficiencies, or visits to  
19 investigate complaints or suspicion of abuse or neglect shall be  
20 conducted unannounced during or outside regular business hours.

21 Annual inspections for relicensing may be conducted during  
22 regular business hours or at intervals determined by the



1 department. Annual inspections for relicensing shall be  
2 conducted with notice, unless otherwise determined by the  
3 department.

4 (b) The director shall adopt rules regarding adult  
5 residential care homes in accordance with chapter 91 that shall  
6 be designed to:

7 (1) Protect the health, safety, and civil rights of  
8 persons residing in facilities regulated;

9 (2) Provide for the licensing of adult residential care  
10 homes; provided that the rules shall allow group  
11 living in two categories of adult residential care  
12 homes as licensed by the department of health:

13 (A) Type I allowing five or fewer residents; provided  
14 that up to six residents may be allowed at the  
15 discretion of the department to live in a type I  
16 home; provided further that the primary caregiver  
17 or home operator is a certified nurse aide who  
18 has completed a state-approved training program  
19 and other training as required by the department;  
20 and

21 (B) Type II allowing six or more residents, including  
22 but not limited to the mentally ill, elders,



1 persons with disabilities, the developmentally  
2 disabled, or totally disabled persons who are not  
3 related to the home operator or facility staff;

4 (3) Provide that licenses shall not be granted to type I  
5 and type II adult residential care homes that are  
6 located within 1000 feet of a type I or type II adult  
7 residential care home or a group living facility, as  
8 defined by county ordinance;

9 ~~[(3)]~~ (4) Comply with applicable federal laws and  
10 regulations of Title XVI of the Social Security Act,  
11 as amended; and

12 ~~[(4)]~~ (5) Provide penalties for the failure to comply with  
13 any rule.

14 For the purposes of this subsection:

15 "Developmentally disabled" means a person with  
16 developmental disabilities as defined under section 333F-1.

17 "Elder" has the same meaning as defined under section 356D-  
18 1.

19 "Mentally ill" means a mentally ill person as defined under  
20 section 334-1.

21 "Persons with disabilities" means persons having a  
22 disability under section 515-2.



1 "Totally disabled person" has the same meaning as a person  
2 totally disabled as defined under section 235-1.

3 (c) The department may provide for the training of and  
4 consultations with operators and staff of any facility licensed  
5 under this section, in conjunction with any licensing thereof,  
6 and shall adopt rules to ensure that adult residential care home  
7 operators shall have the needed skills to provide proper care  
8 and supervision in a home environment as required under  
9 department rules.

10 (d) The department shall establish a standard admission  
11 policy and procedure which shall require the provision of  
12 information that includes the appropriate medical and personal  
13 history of the patient as well as the level of care needed by  
14 the patient prior to the patient's referral and admission to any  
15 adult residential care home facility. The department shall  
16 develop appropriate forms and patient summaries for this  
17 purpose.

18 (e) The department shall maintain an inventory of all  
19 facilities licensed under this section and shall maintain a  
20 current inventory of vacancies therein to facilitate the  
21 placement of individuals in such facilities.



1 (f) The department shall develop and adopt a social model  
2 of health care to ensure the health, safety, and welfare of  
3 individuals placed in adult residential care homes. The social  
4 model of care shall provide for aging in place and be designed  
5 to protect the health, safety, civil rights, and rights of  
6 choice of the persons to reside in a nursing facility or in  
7 home- or community-based care.

8 (g) Any fines collected by the department of health for  
9 violations of this section shall be deposited into the office of  
10 health care assurance special fund."

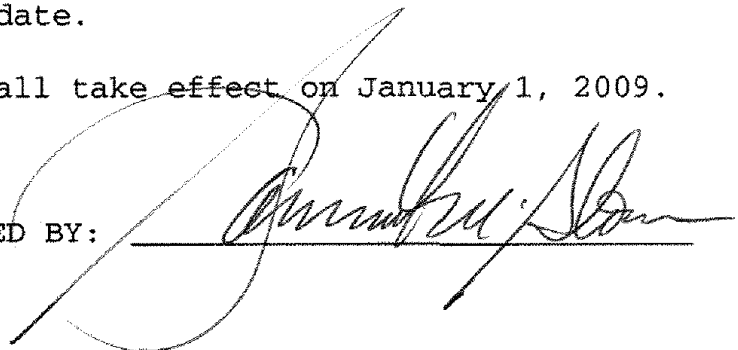
11 SECTION 3. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 4. This Act does not affect rights and duties that  
14 matured, penalties that were incurred, and proceedings that were  
15 begun, before its effective date.

16 SECTION 5. This Act shall take effect on January 1, 2009.

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INTRODUCED BY: \_\_\_\_\_



**Report Title:**

Health

**Description:**

Clarifies licensure requirements for adult residential care homes.

