
A BILL FOR AN ACT

RELATING TO COMMUNITY CARE FOSTER FAMILY HOMES.

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

1 SECTION 1. The legislature finds that there is an ever-
2 increasing need for community care foster family homes to
3 support the health and long-term care needs of an aging
4 population and families. Community care foster family homes
5 provide an essential function in the State by providing twenty-
6 four-hour living accommodations, which include housing,
7 supervision, personal care, and assistance with daily living
8 activities for their residents. These homes provide individuals
9 who are at a nursing facility level of care with living
10 accommodations in a family-like setting, an alternative to
11 living in an institutional setting.

12 Community care foster family homes are generally licensed
13 to provide accommodations and services to not more than two
14 adults at any one time, at least one of whom shall be a medicaid
15 recipient, who are at the nursing facility level of care. The
16 department of health may certify a community care foster family



1 home for a third adult who is at the nursing level of care and a
2 medicaid recipient, provided certain requirements are met.

3 The legislature further finds that not only do medicaid
4 clients have limited options for long-term care, so do
5 individuals who do not rely on medicaid for long-term care.
6 Besides providing accommodations to medicaid recipients,
7 community care foster family homes also provide accommodations
8 to private-pay individuals. There is also a recognized need to
9 accommodate private-pay individuals who share a long-term
10 relationship. As the cost of medical care continues to rise, it
11 is becoming apparent that even those who do not rely on medicaid
12 for their long-term care cannot afford the cost of private care,
13 leaving this population also with limited options.

14 The purpose of this Act is to recognize the varied needs of
15 the State's aging population by allowing the department of
16 health flexibility to permit two private-pay individuals to be
17 cared for in the same community care foster family home,
18 provided they meet certain qualifying conditions.

19 SECTION 2. Section 321-481, Hawaii Revised Statutes, is
20 amended by amending the definition of "community care foster
21 family home" or "home" to read as follows:



1 "Community care foster family home" or "home" means a home
2 that:

3 (1) Is regulated by the department in accordance with
4 rules that are equitable in relation to rules that
5 govern expanded adult residential care homes;

6 (2) Is issued a certificate of approval by the department
7 or its designee to provide, for a fee, twenty-four-
8 hour living accommodations, including personal care
9 and homemaker services, for not more than two adults
10 at any one time, at least one of whom shall be a
11 medicaid recipient, who are at the nursing facility
12 level of care, who are unrelated to the foster family,
13 and who are receiving the services of a licensed home
14 and community-based case management agency; provided
15 that [~~the~~]:

16 (A) The department, in its discretion, may certify a
17 home for a third adult who is at the nursing
18 facility level of care and is a medicaid
19 recipient; provided further that [~~the~~]:

20 [~~(A)~~ ~~Home~~] (i) The home has been certified and in
21 operation for not less than one year;



1 ~~[(B) Primary]~~ (ii) The primary caregiver is a
2 certified nurse aide, as defined in section
3 457A-1.5, who has completed a state-approved
4 training program and other training as
5 required by the department; and

6 ~~[(C) Substitute]~~ (iii) The substitute caregiver is a
7 nurse aide, as defined in section 457A-1.5,
8 who has completed a state-approved training
9 program and other training as required by
10 the department; ~~[and]~~

11 (B) The department, in consultation with the
12 department of human services, and in its
13 discretion, and considering the past admission
14 history and current client mix of the community
15 care foster family home, may allow two private-
16 pay individuals to be cared for in the same
17 community care foster family home after
18 considering the following relevant factors:

19 (i) The community care foster family home is
20 certified for three beds;



- 1 (ii) The operator of the three-bed community care
2 foster family home has had a vacant medicaid
3 bed for at least six months; provided that
4 the operator shall not transfer out a
5 medicaid or private-pay client from the
6 community care foster family home in order
7 to accept a private-pay individual;
- 8 (iii) The two private-pay individuals are in a
9 relationship with each other as a married
10 couple or in a civil union and one of the
11 private-pay individuals is currently
12 residing in the community care foster family
13 home for at least six months;
- 14 (iv) The department, in its discretion,
15 determines that no other adult residential
16 care home, expanded adult residential care
17 home, or healthcare facility within the area
18 has an available opening and is capable of
19 providing care to both private-pay
20 individuals; and



1 (v) There are no medicaid recipients seeking
2 placement in the community care foster
3 family home that the married or civil union
4 private-pay individuals are seeking to
5 occupy;

6 (C) If the legal relationship of the marriage or
7 civil union of the individuals ceases to exist,
8 including but not limited to as a result of death
9 or divorce, one of the two private-pay beds shall
10 immediately, upon the death or the effective date
11 of divorce, become a medicaid bed; and

12 (D) The department and its officers, employees, and
13 agents, in exercising discretion and in
14 considering any other factors that the department
15 deems relevant to its decision, shall be immune
16 from suit and liability in the exercise of its
17 discretion under this section; and

18 (3) Does not include expanded adult residential care homes
19 or assisted living facilities."

20 SECTION 3. The department of health shall submit a report
21 of its findings and recommendations to the legislature no later



1 than twenty days prior to the convening of the regular session
2 of 2018 on the authorization to allow two private-pay
3 individuals to be cared for in the same community care foster
4 family home as provided under this Act, including its impact on
5 the availability of space for medicaid clients.

6 SECTION 4. It is the intent of this Act not to jeopardize
7 the receipt of any federal aid. If this Act is found to be in
8 conflict with federal requirements that are a prescribed
9 condition for the allocation of federal funds to the State, this
10 Act shall be deemed void.

11 SECTION 5. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 6. This Act shall take effect upon its approval.



Report Title:

Community Care Foster Family Homes; Private-pay Clients;
Medicaid Clients

Description:

Authorizes the Department of Health, working in consultation with the Department of Human Services, to allow two private-pay individuals to be cared for in the same community care foster family home after consideration of specified relevant factors.
(HB1396 CD1)

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