

# S.B. NO. 1438

JAN 23 2025

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## A BILL FOR AN ACT

RELATING TO HOME CARE AGENCIES.

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

1 SECTION 1. Section 321-14.8, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§321-14.8 Home care agencies; licensing. (a) Beginning  
4 July 1, 2010, each home care agency shall be licensed by the  
5 department of health to ensure the health, safety, and welfare  
6 of clients.

7 (b) The department of health shall adopt interim rules,  
8 which shall be exempt from chapters 91 and 201M, to effectuate  
9 the licensure of home care agencies; provided that the interim  
10 rules shall remain in effect until the sooner of October 1,  
11 2018, or the adoption of rules pursuant to chapters 91 and 201M  
12 to:

13 (1) Protect the health, safety, and civil rights of  
14 clients of home care agencies; and

15 (2) Provide for the licensure of home care agencies.

16 (c) A service provider agency shall be exempt from the  
17 licensing requirement of this section when services are  
18 provided:

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1 (1) Under contract for services with the city and county  
2 of Honolulu, elderly affairs division; or

3 (2) Exclusively to participants in the medicaid home and  
4 community based services waiver, pursuant to section  
5 1915(c) of the Social Security Act, by an agency  
6 approved by the department of human services med-QUEST  
7 division.

8 (d) A home care agency shall only provide home care  
9 services or related tasks, functions, and activities in  
10 accordance with its license, and shall not provide services  
11 authorized by chapter 457 unless those services are provided by  
12 a registered nurse, licensed practical nurse, or advanced  
13 practice registered nurse.

14 (e) Violations of this section shall be subject to the  
15 penalties and remedies provided in this chapter and in rules  
16 adopted by the department of health.

17 [~~(d)~~] (f) For purposes of this section:

18 "Home care agency" means a public or proprietary agency, a  
19 private, nonprofit organization, or a subdivision of an agency  
20 or organization, engaged in providing home care services to  
21 clients in the client's residence. The term "home care agency"  
22 does not apply to an individual, including an individual who is

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1 incorporated as a business, or is an unpaid or stipended  
2 volunteer.

3 "Home care services" may include [~~but are not limited to~~]:

- 4 (1) Personal care, including assistance with dressing,  
5 feeding, and personal hygiene to facilitate self-care;  
6 (2) Homemaker assistance, including housekeeping,  
7 shopping, and meal planning and preparation; and  
8 (3) Respite care and assistance and support provided to  
9 the family."

10 SECTION 2. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY:



15

BY REQUEST

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**Report Title:**

Home Care Agencies; Prohibitions; Limitations

**Description:**

Prohibits home care agencies from providing services outside the scope of their facility license.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO HOME CARE AGENCIES.

PURPOSE: To clarify that the scope of services authorized to be provided under a home care agency (HCA) license does not include services that otherwise require a license pursuant to chapter 457, Hawaii Revised Statutes (HRS).

MEANS: Amend section 321-14.8, HRS.

JUSTIFICATION: This bill is needed to clarify that the Department may take enforcement action against HCAs that provide services outside of the scope of their license. Some operators of HCAs provide skilled nursing services to clients that are not rendered by a nurse licensed pursuant to chapter 457, HRS. Because the State Board of Nursing may not have the authority to regulate unlicensed providers of nursing care employed by HCAs, providing the Department with the authority to ensure appropriate services are provided will more effectively protect patient safety.

Impact on the public: The bill will increase public safety by ensuring home care agencies do not exceed the scope of services allowed by their license.

Impact on the department and other agencies: Potential for more enforcement actions.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: HTH 720.

OTHER AFFECTED  
AGENCIES:

None.

EFFECTIVE DATE:

Upon approval.