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# 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 community care  
2 foster family homes provide a vital residential option for  
3 individuals who need twenty-four hour support in a home-like  
4 setting. Although existing law and administrative rules permit  
5 these homes to serve up to three residents, uncertainty remains  
6 about whether individuals who qualify for the medicaid  
7 intellectual and developmental disabilities home and  
8 community-based services waiver, also known as the HCBS I/DD  
9 waiver, may live in such homes without losing access to their  
10 waiver services.

11           The legislature further finds that individuals with  
12 intellectual and developmental disabilities who wish to reside  
13 in a community care foster family home must disenroll from the  
14 HCBS I/DD waiver and transition to the medicaid section 1115  
15 waiver. This requirement disrupts continuity of care and may  
16 result in the loss of essential, individualized services.

17 Clarifying that waiver status shall not disqualify individuals



1 from living in a community care foster family home will remove  
2 systemic barriers and uphold the right to choose where to live.

3 The purpose of this Act is to ensure that individuals with  
4 intellectual and developmental disabilities who meet an  
5 intermediate care facility or nursing facility level of care  
6 shall not be denied residency in a certified community care  
7 foster family home solely because of their disability or  
8 enrollment in a specific medicaid waiver program. This Act  
9 affirms the right of individuals to live in the least  
10 restrictive setting, promotes housing equity, and preserves  
11 continuity of essential services.

12 SECTION 2. Section 321-483, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 **"§321-483 Community care foster family home, authority**  
15 **over and evaluation of.** (a) Any person in any household who  
16 wants to take in, for a fee, any adult who is at the nursing  
17 facility level of care and who is unrelated to anyone in the  
18 household, for twenty-four hour living accommodations, including  
19 personal care and homemaker services, may do so only after the  
20 household meets the required standards established for



1 certification and obtains a certificate of approval from the  
2 department or its designee.

3 (b) The department shall adopt rules pursuant to  
4 chapter 91 relating to:

- 5 (1) Standards of conditions and competence for the  
6 operation of community care foster family homes;
- 7 (2) Procedures for obtaining and renewing a certificate of  
8 approval from the department;
- 9 (3) Minimum grievance procedures for clients of community  
10 care foster family home services; and
- 11 (4) Requirements for primary and substitute caregivers  
12 caring for three clients in community care foster  
13 family homes including:
  - 14 (A) Mandating that primary and substitute caregivers  
15 be twenty-one years of age or older;
  - 16 (B) Mandating that primary and substitute caregivers  
17 complete a minimum of twelve hours of continuing  
18 education every twelve months or at least  
19 twenty-four hours of continuing education every  
20 twenty-four months;



1 (C) Allowing the primary caregiver to be absent from  
2 the community care foster family home for no more  
3 than twenty-eight hours in a calendar week, not  
4 to exceed five hours per day; provided that the  
5 substitute caregiver is present in the community  
6 care foster family home during the primary  
7 caregiver's absence;

8 (D) Where the primary caregiver is absent from the  
9 community care foster family home in excess of  
10 the hours as prescribed in subparagraph (C),  
11 mandating that the substitute caregiver be a  
12 certified nurse aide; and

13 (E) Mandating that the substitute caregiver have, at  
14 a minimum, one year prior work experience as a  
15 caregiver in a community residential setting or  
16 in a medical facility.

17 (c) As a condition for obtaining a certificate of  
18 approval, community care foster family homes shall comply with  
19 rules adopted under subsection (b) and satisfy the background  
20 check requirements under section 321-15.2. The department or  
21 its designee may deny a certificate of approval if:



- 1           (1) An operator or other adult residing in the community  
2           care foster family home, except for adults receiving  
3           care, has been convicted of a crime other than a minor  
4           traffic violation involving a fine of \$50 or less;
- 5           (2) The department or its designee finds that the  
6           background check record of an operator or other adult  
7           residing in the home, except for adults receiving  
8           care, poses a risk to the health, safety, or  
9           well-being of adults in care; or
- 10          (3) An operator or other adult residing in the community  
11          care foster family home, except for adults receiving  
12          care, is a perpetrator of abuse as defined in section  
13          346-222.
- 14          (d) Upon approval of a community care foster family home,  
15          the department or its designee shall issue a certificate of  
16          approval that shall continue in force for one year, or for two  
17          years if a community care foster family home has been certified  
18          for at least one year and is in good standing pursuant to  
19          standards adopted by the department, unless sooner suspended or  
20          revoked for cause. The department or its designee shall renew  
21          the certificate of approval only if, after an annual or biennial



1 evaluation, the home continues to meet the standards required  
2 for certification.

3 (e) Any community care foster family home shall be subject  
4 to investigation by the department or its designee at any time  
5 and in the manner, place, and form as provided in procedures to  
6 be established by the department.

7 (f) The department or its designee may suspend or revoke a  
8 certificate of approval if the department or its designee deems  
9 that a community care foster family home is unwilling or unable  
10 to comply with the rules adopted under subsection (b); provided  
11 that:

12 (1) The suspension or revocation shall be immediate when  
13 conditions exist that constitute an imminent danger to  
14 the life, health, or safety of adults receiving care;

15 (2) A community care foster family home whose certificate  
16 of approval has been suspended or revoked shall  
17 immediately notify its clients and their case  
18 managers;

19 (3) A community care foster family home whose certificate  
20 of approval has been suspended or revoked may appeal  
21 to the department through its established process, but



1 the appeal shall not stay the suspension or  
2 revocation;

3 (4) A suspended or revoked certificate of approval may be  
4 reinstated if the department or its designee deems  
5 that the home is willing and able to comply with the  
6 rules adopted under subsection (b); and

7 (5) A revoked certificate of approval shall be restored  
8 only after a new application for a certificate of  
9 approval is submitted to the department or its  
10 designee and approved.

11 (g) Any community care foster family home shall be subject  
12 to monitoring and evaluation by the department or its designee  
13 for certification compliance and quality assurance on an annual  
14 or biennial basis.

15 (h) No person who meets an intermediate care facility or  
16 nursing facility level of care and is eligible for services  
17 under either the 1915(c) medicaid waiver or medicaid  
18 section 1115 demonstration waiver shall be denied residency in a  
19 certified community care foster family home solely based on the  
20 person's disability status or waiver enrollment. A certified



1 caregiver may serve as a provider under the 1915(c) and 1115  
2 medicaid waivers.

3 (i) The department shall provide technical assistance and  
4 training to support the appropriate placement of individuals  
5 with intellectual and developmental disabilities in community  
6 care foster family homes, in collaboration with case management  
7 agencies, licensing entities, and medicaid programs; provided  
8 that the department shall consult with the med-QUEST division of  
9 the department of human services to align waiver language,  
10 provider qualifications, and payment models to facilitate this  
11 inclusive housing option; provided further that the department  
12 shall issue guidance to case management agencies and community  
13 care foster family home operators to ensure compliance."

14 SECTION 3. New statutory material is underscored.

15 SECTION 4. This Act shall take effect upon its approval;  
16 provided that section 2 shall take effect upon the revision of  
17 community care foster family home standards by the department of  
18 health and the approval of 1915(c) medicaid waiver updates by  
19 the Centers for Medicare and Medicaid Services.



**Report Title:**

DOH; Community Care Foster Family Homes; Individuals with Intellectual and Developmental Disabilities; Medicaid Waivers; Housing Access

**Description:**

Clarifies that individuals with intellectual and developmental disabilities who meet an intermediate care facility or nursing facility level of care shall not be denied residency in a certified community care foster family home solely because of their disability or enrollment in a specific Medicaid waiver program. Requires the Department of Health to provide technical assistance and training to community care foster family homes. (CD1)

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