

A Bill for an Act Relating to Nursing Homes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Purpose. Under the federal Older Americans Act, as amended in 1978, the advocacy function on behalf of the institutionalized elderly is now mandated. Accordingly, the purpose of this Act is to provide for this advocacy function in the executive office on aging.

SECTION 2. Chapter 349, Hawaii Revised Statutes, is amended as follows:

1. By adding a new section to read:

“Sec. 349- Long-term care facilities. (a) For purposes of this chapter, the term “long-term care facilities” means any skilled nursing facility as defined in section 1861(j) of the Social Security Act, as amended, any intermediate care facility as defined in section 1905(c) of the Social Security Act, as amended, any nursing home as defined in section 1908(e) of the Social Security Act, as amended, and any other similar adult care facility licensed by the State serving the elderly.

(b) The executive office on aging shall have the responsibility to represent the interests of residents of long-term care facilities, individually and as a class, and to promote improvement in the quality of care received and the quality of life experienced by residents of long-term care facilities within the State. In meeting this responsibility, the executive office on aging shall:

- (1) Perform its duties and functions either directly or by other arrangement executed by the director with any public or private nonprofit organization, except with any organization responsible for licensing or certifying long-term care facilities in the State or which is engaged in offering long-term care services or which is an association (or an affiliate of such an association) of long-term care facilities;
- (2) Investigate and resolve complaints made by or on behalf of residents of long-term care facilities relating to acts which may adversely affect the health, safety, welfare, and rights of residents;
- (3) Monitor the development and implementation of federal, state, and local laws, regulations, and policies affecting long-term care facilities in the State;
- (4) Provide information as appropriate to public agencies regarding the problems of older persons residing in long-term care facilities;
- (5) Train volunteers or employees to serve the institutionalized elderly and to

promote the development of citizen organizations to participate in the advocacy program;

- (6) Establish procedures for appropriate access by the executive office on aging to long-term care facilities;
 - (7) Establish procedures for appropriate access by the executive office on aging to all patient records or portions thereof necessary for the executive office on aging to evaluate the merits of a specific complaint or complaints; provided that patient records shall be divulged only with the written consent of the patient or his legal representative;
 - (8) Establish procedures for appropriate access to files maintained by the executive office on aging, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed unless:
 - (A) Such complainant or resident, or his legal representative, consents in writing to such disclosure; or
 - (B) Such disclosure is required by court order.”
2. By adding a new section to read:

“Sec. 349- Access to long-term care facilities. Any long-term care facility which receives public funds shall permit access to the facility to the executive office on aging in the performance of its duties and functions under this chapter.”

3. By adding a new section to read:

“Sec. 349- Retaliatory acts by facilities or facility employees prohibited. No resident seeking advocacy assistance as provided for in this Act or making a complaint concerning a facility or a facility’s employees shall be subject to any retaliatory act by the facility or any of its employees for seeking advocacy assistance or making a complaint. A violation of this section shall be determined by the executive office on aging subject to the provisions of chapter 91, Hawaii Revised Statutes. Any facility or facility employee who violates the provisions of this section shall be guilty of a misdemeanor.”

SECTION 3. New statutory material is underscored.*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 8, 1979.)

*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.