

A Bill for an Act Relating to Adult Residential Care Homes.

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

PART I.

SECTION 1. The legislature finds that:

- (1) Adult residential care homes (ARCH) provide needed care and services to hundreds of elderly and disabled residents of Hawaii who might otherwise be institutionalized;
- (2) The protection of the health, safety, and well-being of ARCH residents is an important function of the department of health (DOH); and
- (3) Consistent interpretation, application, and enforcement of regulatory standards is necessary and desirable for the protection of ARCH residents.

The legislature further finds that Hawaii's rapidly aging population, coupled with the increasingly high costs of long-term nursing home care, make it imperative that alternative forms of long-term care for our elderly residents, such as ARCH and community care, need to be more fully utilized to provide more affordable care for individuals who otherwise would require much more expensive institutional long-term care in nursing homes. In 1993, the population of persons in Hawaii aged sixty-five and over was about one hundred fifty thousand or 12.5 per cent of the general population. By the year 2020, persons aged sixty-five and over will constitute over one-fourth of Hawaii's general population. This year's medicaid budget is estimated at \$657,000,000. It is projected that the elderly in institutional-type nursing homes will take up approximately forty per cent of the medicaid budget, with the taxpayers shouldering approximately \$262,800,000 to care for Hawaii's elderly.

The legislature further finds that one of the primary reasons for the high cost of elderly care is DOH's requirement that individuals who are incontinent, have a colostomy, are diabetic and require insulin injections, need oxygen occasionally, are tube-fed, or are catheterized are required to be institutionalized in a long-term care facility and are not allowed to live in an ARCH even if they are mentally intact and express a desire to stay in a care home.

One of the most successful community-based long-term care models in the United States is found in Oregon. The Oregon legislature instituted, and has refined, a thirteen-year-old system that has reduced Oregon's Medicaid costs by two-thirds. Oregon currently has sixteen thousand elderly and disabled in community-based care, and seven thousand in institutional type settings.

SECTION 2. Section 321-15.6, Hawaii Revised Statutes, is amended by amending its title and subsections (a) and (b) to read as follows:

“§321-15.6 Adult residential care homes[.]; licensing. (a) All adult residential care homes shall be licensed to ensure the health, safety, and welfare of the individuals placed therein; provided that the department may issue a temporary permit to operate an adult residential care home if an operator or applying operator is temporarily unable to conform to all minimum licensing standards. A temporary permit shall be valid for not more than six months].

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

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

- (2) Provide for the licensing of adult residential care homes; provided that the rules shall allow group living in two categories of adult residential care homes as licensed by the department of health: [type]
- (A) Type I allowing group living by five or fewer unrelated persons[.]; and [type]
- (B) Type II allowing six or more persons including[.], but not limited to[.], the mentally ill, elders, the handicapped, the developmentally disabled, or totally disabled persons who are not related to the home operator or facility staff.
- For purposes of this section:
- “Mentally ill person” means a mentally ill person as defined under section 334-1.
- “Elder” means an elder as defined under section 201E-2.
- “Handicapped person” means an individual with a physical handicap as defined under section 515-2.
- “Developmentally disabled person” means a person with developmental disabilities as defined under section [333F-2.] 333F-1.
- “Totally disabled person” means a person totally disabled as defined under section 235-1;
- (3) Comply with applicable federal laws and regulations of Title XVI of the Social Security Act, as amended; and
- (4) Provide penalties for the failure to comply with any rule.”

PART II.

SECTION 3. The purpose of this part is to extend the Maluhia wait-list demonstration project, expand its admissions criteria, and specify the following rules for its implementation as the State’s demonstration.

SECTION 4. Act 165, Session Laws of Hawaii 1994, is amended by amending section 4 to read as follows:

“SECTION 4. The department of health shall adopt rules in accordance with chapter 91 to establish a new category of adult residential care home or community-based residence [which] that is qualified to serve nursing facility level clients in the State. In order to qualify for this new category of adult residential care home or community-based residence, an individual shall[:.] reside in the individual’s own home, a hospital, or other care setting, and either:

- (1) [Be determined] Be an individual who is:
- (A) Determined by the department of human services to require care that meets the LOC III care, supervision, and assistance that are needed by dependent individuals at the LOC III level who require extensive services and [supervisions] supervision to manage their physical, mental, and social functions;
- [2] (B) [Be certified] Certified for nursing facility (NF) level of care; and
- [3] (C) [Be admitted] Admitted to a medicaid waiver program[.];
- or
- (2) Be a private paying individual certified by a physician as needing NF level of care; provided that a type I home shall have no more than two individuals at the nursing home level or intermediate level of care.

The department of health shall adopt rules in accordance with chapter 91 to establish licensing regulations for this new category of adult residential care [homes] home or community-based [residences which] residence that is qualified to serve nursing facility level clients.

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The department of health shall adopt rules in accordance with chapter 91 to define the standards of care that shall be required to be provided to residents qualifying for this new category of adult residential care home or community-based [residents] residence.”

SECTION 5. Act 165, Session Laws of Hawaii 1994, as amended by Act 65, Session Laws of Hawaii 1995, is amended by amending section 7 to read as follows:

“SECTION 7. This Act shall take effect on July 1, 1994, and shall be repealed on [June 30, 1998;] June 30, 1999; provided that this Act shall be repealed upon the termination of federal matching assistance or the provision of long-term care services under the State’s [Medicaid] medicaid waiver for the health QUEST demonstration project granted through Section 1115 of the Social Security Act, whichever is sooner.”

PART III.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved July 2, 1997.)