

ACT 132

H.B. NO. 1966

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

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

SECTION 1. Chapter 321, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

“§321- Adult residential care homes expanded admissions. (a) Adult residential care homes may admit an individual who has been living immediately prior to admission in the individual’s own home, a hospital, or other care setting, and who has been either:

- (1) Admitted to a medicaid waiver program and determined by the department of human services to require nursing facility level care to manage the individual’s physical, mental, and social functions; or
- (2) A private-paying individual certified by a physician or advanced practice registered nurse as needing a nursing facility level of care.

(b) The department of health shall adopt rules in accordance with chapter 91 to expand admissions to adult residential care homes by level of care and to define and standardize these levels of care. The rules and standards shall provide for appropriate and adequate requirements for knowledge and training of adult residential care home operators and their employees.

§321- Expanded adult residential care homes; licensing. (a) All expanded adult residential care homes shall be licensed to ensure the health, safety, and welfare of the individuals placed therein.

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

- (1) Protect the health, safety, civil rights, and rights of choice of the persons to reside in a nursing facility or in home- or community-based care;
- (2) Provide for the licensing of expanded adult residential care homes for persons who are certified by the department of human services, a physician, advanced practice registered nurse, or registered nurse case manager as requiring skilled nursing facility level or intermediate care facility level of care who have no financial relationship with the home care operator or facility staff; provided that the rules shall allow group living in two categories of expanded adult residential care homes as licensed by the department of health:

- (A) Type I home shall consist of five or less residents with no more than two nursing facility level residents; and

- (B) Type II home shall consist of six or more residents, with no more than twenty per cent of the home's licensed capacity as nursing facility level residents; provided that more nursing facility level residents may be allowed at the discretion of the department.
- (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.
- (c) The department may provide for the training of and consultations with operators and staff of any facility licensed under this section, in conjunction with any licensing thereof, and shall adopt rules to ensure that expanded adult residential care home operators shall have the needed skills to provide proper care and supervision in a home environment as required under department rules.
- (d) The department shall establish a standard admission policy and procedure which shall require the provision of information that includes the appropriate medical and personal history of the patient as well as the level of care needed by the patient prior to the patient's referral and admission to any expanded adult residential care home facility. The department shall develop appropriate forms and patient summaries for this purpose.
- (e) The department shall maintain an inventory of all facilities licensed under this section and shall maintain a current inventory of vacancies therein to facilitate the placement of individuals in such facilities."

SECTION 2. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§346- Reimbursement to expanded adult residential care home operators. Qualified expanded adult residential care home operators under section 321- who accept residents certified by the department as requiring skilled nursing facility level care shall be reimbursed based on the severity of the resident's disability."

SECTION 3. Section 321-15.1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"“Expanded adult residential care home” means any facility providing twenty-four-hour living accommodations, for a fee, to adults unrelated to the family, who require at least minimal assistance in the activities of daily living, personal care services, protection, and health care services, and who may need the professional health services provided in an intermediate or skilled nursing facility.”

SECTION 4. Section 321-15.6, Hawaii Revised Statutes, is amended 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.

(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:

- (A) Type I allowing group living by five or fewer unrelated persons; and
- (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” [Definition effective until June 30, 1998. For definition effective July 1, 1998, see below.] means an elder as defined under section 201E-2.

“Elder” [Definition effective July 1, 1998.] means an elder as defined under sections 201G-1 and 201G-151.

“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-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.

(c) The department may provide for the training of and consultations with operators and staff of any facility licensed under this section, in conjunction with any licensing thereof, and shall adopt rules to ensure that adult residential care home operators shall have the needed skills to provide proper care and supervision in a home environment as required under department rules.

(d) The department shall establish a standard admission policy and procedure which shall require the provision of information that includes the appropriate medical and personal history of the patient as well as the level of care needed by the patient prior to the patient’s referral and admission to any adult residential care home facility. The department shall develop appropriate forms and patient summaries for this purpose.

(e) The department shall maintain an inventory of all facilities licensed under this section and shall maintain a current inventory of vacancies therein to facilitate the placement of individuals in such facilities.

(f) The department shall develop and adopt a social model of health care to ensure the health, safety, and welfare of individuals placed in adult residential care homes. The model of care shall be designed to protect the health, safety, civil rights, and rights of choice of the persons to reside in a nursing facility or in home- or community-based care.”

SECTION 5. Nothing in this Act shall be construed to require expanded adult residential care homes to comply with the licensing requirements set forth in title 11, chapter 301, Hawaii Administrative Rules.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 7. This Act shall take effect July 1, 1999; provided that section 4 of this Act shall take effect upon its approval.

(Approved June 24, 1998.)

Note

1. Edited pursuant to HRS §23G-16.5.