

**ACT 120**

H.B. NO. 2157

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

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

SECTION 1. Section 321-15.62, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The director of health shall adopt rules regarding expanded adult residential care homes in accordance with chapter 91 that shall implement a social model of health care designed to:

- (1) Protect the health, safety, civil rights, and rights of choice of residents 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 the following two categories of expanded adult residential care homes as licensed by the department of health:

- (A) A type I home shall consist of five or fewer residents with no more than ~~two~~ three nursing facility level residents; provided that more nursing facility level residents may be allowed at the discretion of the department; and provided further that up to six residents may be allowed at the discretion of the department to live in a type I home; provided that the primary caregiver or home operator is a certified nurse aide who has completed a state-approved training program and other training as required by the department; and
- (B) A 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;

provided further that the department shall exercise its discretion for a resident presently residing in a type I or type II home, to allow the resident to remain as an additional nursing facility level resident based upon the best interests of the resident. The best interests of the resident shall be determined by the department after consultation with the resident, the resident's family, primary physician, case manager, primary caregiver, and home operator;

- (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.”

SECTION 2. The department of health shall submit reports to the legislature, including findings and recommendations, regarding the effect of the increased capacity of type I expanded adult residential care homes, as follows:

- (1) An interim report to be submitted no later than twenty days prior to the convening of the regular session of 2011; and
- (2) A final report, including any recommendations for extension, to be submitted no later than twenty days prior to the convening of the regular session of 2013.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval and shall be repealed on June 30, 2013.

(Approved May 18, 2010.)