

ACT 221

H.B. NO. 739

A Bill for an Act Relating to Community Care Foster Family Homes.

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

SECTION 1. Section 346-331, Hawaii Revised Statutes, is amended by amending the definition of "community care foster family home" to read as follows:

"Community care foster family home" or "home" means a home that, for the purposes of this part:

- (1) Is regulated by the department in accordance with rules that are equitable in relation to rules that govern expanded adult residential care homes;
- (2) Is issued a certificate of approval by the department or its designee to provide, for a fee, twenty-four-hour living accommodations, including personal care and homemaker services, for not more than two adults at any one time, at least one of whom shall be a medic-aid recipient, who are at the nursing facility level of care, who are unrelated to the foster family, and who are receiving the services of a licensed home and community-based case management agency; provided that the department, in its discretion, may certify a home for a third adult who is at the nursing level of care and a medicaid recipient; provided that the:
 - (A) Home has been certified and in operation for not less than one year;
 - (B) [primary and substitute caregivers are certified nurse aides who have] Primary caregiver is a certified nurse aide, as defined in section 457A-1.5, who has completed a state-approved training program and other training as required by the department; and
 - (C) Substitute caregiver is a nurse aide, as defined in section 457A-1.5, who has completed a state-approved training program and other training as required by the department; and
- (3) Does not include expanded adult residential care homes or assisted living facilities, which shall continue to be licensed by the department of health."

SECTION 2. Section 346-334, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

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

- (1) Standards of conditions and competence for the operation of community care foster family homes;
- (2) Procedures for obtaining and renewing a certificate of approval from the department; ~~and~~

- (3) Minimum grievance procedures for clients of community care foster family home services[-]; and
- (4) Requirements for primary and substitute caregivers caring for three clients in community care foster family homes including:
 - (A) Mandating that primary and substitute caregivers be twenty-one years of age or older;
 - (B) Mandating that primary and substitute caregivers complete a minimum of twelve hours of continuing education every twelve months or at least twenty-four hours of continuing education every twenty-four months;
 - (C) Allowing the primary caregiver to be absent from the community care foster family home for no more than twenty-eight hours in a calendar week, not to exceed five hours per day; provided that the substitute caregiver is present in the community care foster family home during the primary caregiver's absence;
 - (D) Where the primary caregiver is absent from the community care foster family home in excess of the hours as prescribed in subparagraph (C), mandating that the substitute caregiver be a certified nurse aide; and
 - (E) Mandating that the substitute caregiver have, at a minimum, one year prior work experience as a caregiver in a community residential setting or in a medical facility."

SECTION 3. The department of human services shall evaluate the implementation of the provisions of this Act and provide a report to the legislature no later than twenty days prior to the convening of the regular session of 2012.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2011; provided that on June 30, 2013, this Act shall be repealed and sections 346-331 and 346-334, Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day prior to the effective date of this Act.

(Approved July 11, 2011.)