

JAN 19 2007

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# A BILL FOR AN ACT

RELATING TO NURSE AIDES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The purpose of this Act is to provide for the  
2 certification and recertification of nurse aides who work in  
3 nursing facilities participating in medicare and medicaid  
4 programs and in other state licensed and certified health care  
5 settings. Certifying these nurse aides will allow the  
6 department of commerce and consumer affairs, the department of  
7 human services, and the department of health to monitor and  
8 evaluate the quality and competency of these nurse aides  
9 practicing in the State.

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

13           "§346-    Training programs. (a) The director of human  
14 services shall be responsible for:

15           (1) Approving training programs for the certification of  
16           nurse aides and ensuring that they comply with all  
17           applicable federal and state requirements;



- 1        (2) Approving and arranging for the recertification
- 2            examinations for nurse aides who work in
- 3            medicare/medicaid nursing facilities; and
- 4        (3) Approving the recertification process for nurse aides
- 5            who work in other state health care settings.

6        (b) As used in this section, the terms "nurse aide",  
 7        "medicare/medicaid nursing facilities", and "state health care  
 8        settings" mean the same as defined in chapter 457A."

9            SECTION 3. Chapter 457A, Hawaii Revised Statutes, is  
 10        amended by adding two new sections to be appropriately  
 11        designated and to read as follows:

12            "§457A- Definitions. As used in this chapter, unless  
 13        the context clearly indicates otherwise:

14            "Certified nurse aide" means a nurse aide who is certified  
 15        under the requirements of this chapter.

16            "Director" means the director of commerce and consumer  
 17        affairs.

18            "medicare/medicaid nursing facilities" mean intermediate  
 19        care facilities and skilled nursing facilities licensed pursuant  
 20        to the provisions of section 321-11(10) and certified by the  
 21        department of human services in accordance with 42 United States  
 22        Code section 1395i-3 and section 1396r.



1       "Nurse aide" means a person who performs a variety of  
2 duties relating to patients and patient care working under the  
3 supervision of a nurse, including but not limited to assisting  
4 patients in all activities of daily living such as serving and  
5 collecting food trays, and helping patients get out of bed,  
6 bathe, and dress. A nurse aide may also assist a nurse by  
7 changing bed linens, delivering messages, and sterilizing  
8 instruments.

9       "State health care settings" mean:

- 10       (1) The hospitals, freestanding surgical outpatient  
11 facilities, skilled nursing facilities, intermediate  
12 care facilities, adult residential care homes, adult  
13 foster homes, assisted living facilities, special  
14 treatment facilities and programs, home health  
15 agencies, hospices, freestanding birthing facilities,  
16 adult day health centers, independent group  
17 residences, and therapeutic living programs that are  
18 licensed or certified pursuant to sections 321-11(10),  
19 321-11.2, 321-14.5, 321-15.6, 321-15.62, 321-15.63 and  
20 321-15.9; and
- 21       (2) The community care foster family homes certified  
22 pursuant to section 346-334.



1        §457A- Nurse aide certification. (a) A nurse aide who  
2        successfully completes a nurse aide examination shall be  
3        certified by the director. The director shall approve all nurse  
4        aide examinations, and in the director's discretion may issue  
5        separate certifications for nurse aides who work in  
6        medicare/medicaid nursing facilities and state health care  
7        settings.

8        (b) To be eligible to take the examination for  
9        certification, an applicant must successfully complete either:

10        (1) The training requirements established by the director  
11        of human services in accordance with 42 United States  
12        Code section 1395i-3 and section 1396r; or

13        (2) The training program approved by the director of human  
14        services in accordance with section 346- .

15        (c) Reciprocity of certification shall be granted to a  
16        nurse aide who works in a medicare/medicaid nursing facility and  
17        has successfully completed a training program that meets the  
18        requirements of the federal or state requirements established by  
19        this chapter.

20        (d) Reciprocity shall be granted to a nurse aide who works  
21        in a state health care setting and has completed a training



1 program whose requirements are comparable to the requirements of  
2 this chapter.

3 (e) The director shall renew the certification of nurse  
4 aides on a biennial basis. The director shall establish minimum  
5 requirements and standards for recertification pursuant to this  
6 chapter, including the requirement that the nurse aide either:

- 7 (1) Be employed by a medicare/medicaid facility or state  
8 health care setting at the time of recertification; or  
9 (2) Successfully complete a recertification examination  
10 approved by the department of human services.

11 (f) Fees may be imposed for services rendered to carry out  
12 the purposes of this section, provided that no fee or charge  
13 shall be imposed on nurse aides for the maintenance of the nurse  
14 aide registry.

15 (g) Any person who holds a valid certificate to practice  
16 as a certified nurse aide in this State shall have the right to  
17 use the title "certified nurse aide" and the abbreviation  
18 "C.N.A.". No other person shall assume the title "certified  
19 nurse aide" or in any manner imply that the individual is a  
20 certified nurse aide, or use the abbreviation "C.N.A." or any  
21 other words, letters, signs, or devices to indicate that the



1 person using the same is a certified nurse aide except as  
2 provided in this chapter."

3 SECTION 4. Section 457A-1, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§457A-1 Findings and purpose.** (a) The legislature  
6 recognizes that 42 United States Code §1395i-3 and [~~§1396R~~]  
7 §1396r require nurse aides working in nursing facilities  
8 participating in [Medicare] medicare and [Medicaid] medicaid  
9 programs to be certified. The legislature also recognizes that  
10 nurse aides who work in other state licensed or certified health  
11 care settings should be certified for the purpose of consumer  
12 safety and should held to similar standards of competency and  
13 evaluation appropriate for these facilities.

14 (b) This chapter implements 42 United States Code §1395i-3  
15 and [~~§1396R with respect to:~~] §1396r and provides for the  
16 certification of nurse aides by:

- 17 (1) Establishing the State's regulatory scheme for  
18 certifying nurse aides;  
19 (2) Defining the scope of regulation;  
20 (3) Establishing standards for certification and biennial  
21 recertification; and



1 (4) Establishing an interagency agreement between the  
 2 state agencies responsible for various aspects of the  
 3 program.

4 [~~(b) As used in this chapter, "nurse aide" means a person~~  
 5 ~~who performs a variety of duties relating to patients and~~  
 6 ~~patient care under the supervision of a nurse, including but not~~  
 7 ~~limited to assisting patients in all activities of daily living~~  
 8 ~~such as serving and collecting food trays, and helping patients~~  
 9 ~~get out of bed, bathe, and dress. A nurse aide may also assist~~  
 10 ~~a nurse by changing bed linens, delivering messages, and~~  
 11 ~~sterilizing instruments.]"~~

12 SECTION 5. Section 457A-2, Hawaii Revised Statutes, is  
 13 amended to read as follows:

14 "**§457A-2 Implementation.** (a) The director of [~~commerce~~  
 15 ~~and consumer affairs]~~ shall implement the provisions of 42  
 16 United States Code §1395i-3 and [~~§1396R~~] §1396r and this  
 17 chapter, as they relate [~~only~~] to establishing:

- 18 (1) The minimum requirements and standards necessary for
- 19 certification as a nurse aide;
- 20 (2) Examination requirements, including the passing score;
- 21 (3) Maintenance requirements for continued certification
- 22 on a biennial basis; and



1 (4) Implementation of a nurse aide registry.

2 (b) The director of health shall implement the provisions  
3 42 United States Code section 1395i-3 and section 1396r and this  
4 chapter, as they relate to the discipline of certified nurse  
5 aides employed in state health care settings licensed or  
6 certified by the department of health.

7 (c) The director of human services shall implement the  
8 provisions of 42 United States code section 1395i-3 and section  
9 1396r and this chapter, as they relate to training programs for  
10 nurse aides, recertification and discipline of certified nurse  
11 aides employed in Medicare/Medicaid nursing facilities and state  
12 health care settings certified by the department of human  
13 services."

14 SECTION 6. Section 457A-3, Hawaii Revised Statutes, is  
15 amended by amending subsection (a) to read as follows:

16 "(a) The director, in accordance with chapters 91 and 92,  
17 shall adopt rules that may be necessary to implement the  
18 provisions of this chapter and 42 United States Code §1395i-3  
19 and [~~§1396r,~~] §1396r, as well as the federal regulations adopted  
20 pursuant thereto, as they relate only to establishing:

21 (1) The minimum requirements necessary for certification  
22 as a nurse aide;



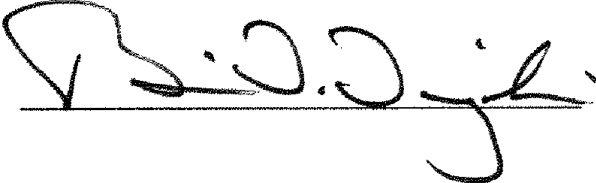


- 1 (2) Examination requirements, including the passing score
- 2 and provisions for contesting examination results;
- 3 (3) Maintenance requirements for continued certification;
- 4 and
- 5 (4) Implementation and maintenance of a certified nurse
- 6 aide registry."

7 SECTION 7. Any nurse aide employed in a state health care  
 8 setting and who has been recertified by June 30, 2007 may be  
 9 recertified on a biennial basis under this chapter if, on or  
 10 before December 31, 2008, the nurse aide passes a proficiency  
 11 evaluation approved by the department of human services. If the  
 12 nurse aide fails to pass the proficiency evaluation by January  
 13 1, 2009, the nurse aide shall instead apply for certification as  
 14 a new applicant and satisfy the certification requirements of  
 15 chapter 457A.

16 SECTION 8. Statutory material to be repealed is bracketed  
 17 and stricken. New statutory material is underscored.

18 SECTION 9. This Act shall take effect on July 1, 2007.

19  
 INTRODUCED BY: 



**Report Title:**

Nurse aides

**Description:**

Certifies nurse aides who work in nursing facilities participating in medicare and medicaid programs and in other state licensed and certified health care settings.

