PRELIMINARY REPORT TO THE TWENTY-FOURTH LEGISLATURE
STATE OF HAWAII
2007

PURSUANT TO SENATE CONCURRENT RESOLUTION 144 S.D. 1, URGING THE DEVELOPMENT OF A LONG-TERM CARE INFRASTRUCTURE PLAN FOR HAWAII TO ENSURE PUBLIC SAFETY WHILE SUPPORTING AGING IN PLACE.

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STATE OF HAWAII
DEPARTMENT OF HEALTH
DEPARTMENT OF HUMAN SERVICES
DECEMBER 2006

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EXECUTIVE SUMMARY

In accordance with Senate Concurrent Resolution (SCR) 144 Senate Draft (SD) 1, the Department of Health (DOH) and Department of Human Services (DHS) are submitting a report to the 2007 Legislature that outlines the accomplishments of the Task Force to meet the request of this resolution of developing a long term care infrastructure plan for Hawaii which would ensure public safety while supporting aging in place.

The Senate of the Twenty-Third Legislature of the State of Hawaii, Regular Session of 2006, the House of Representatives concurring, enacted SCR 144 to request that the DOH's Office of Health Care Assurance and the DHS' Adult and Community Care Services Branch convene a Task Force of stakeholders to develop a long-term care infrastructure plan for Hawaii to ensure public safety while supporting aging in place and to:

(1) Review current DOH and DHS regulations regarding but not limited to, structural compliance, quality of care, and quality of life with regard to the elderly;

(2) Focus on the balance between allowing aging in place and the State's responsibility to ensure that the safety of residents and their quality of care are not compromised; and

(3) Attempt to identify inconsistencies, disparities, and non-uniformity in laws and regulations at the State and County levels of government, including current County building and fire codes, within the context of how they do or do not contribute materially to the public policy standards of resident safety and quality of care.

The Task Force has been meeting on a monthly basis since July 19, 2006. During this period, the Task Force has been able to review all appropriate regulations for licensure or certification of applicable settings, current and proposed county building and fire codes as they apply to structural components of facilities based on occupancy determination and the impact of this on the concept of aging in place, as well as resident safety. Discussions have centered on the effect of regulations on the ability of individuals to reside in settings that were built as residential "family home or apartment building" settings; however, provide care to individuals that may not be able to self-preserve and evacuate the setting on their own due to physical or cognitive limitations. As the buildings were constructed as residential settings, they may not have the fire safety components that will allow for safe areas of refuge or the ability to defend in place as allowable in institutions built under appropriate building code requirements. (Appendix A)

Additional documents reviewed were reports prepared by the State Council on Developmental Disabilities as relating to House Concurrent Resolution (HCR) 40 House Draft (HD) 1 for the Hawaii Session Law (HSL) 2006 and SCR 79 for the HSL 2005, Olmstead Implementation Plan (status of activities as of June 30, 2006) and Community-Based Living Options and Support Services developed/collected as of July 1, 2006.

The Task Force is making the following recommendations at this time, and has no plans to hold regular meetings of the larger group until July or August, 2007. Ongoing communication will be conducted via email or teleconferences with specific agencies/entities involved and as necessary to ensure follow-up on the below:

(1) Facilities currently in existence that have restrictions placed on their licenses due to occupancy designation have the ability to submit a request to the county building departments for an alternative method of design plan, which is in the basic format of the building code, to demonstrate that certain conditions are met that will allow for change in designation; (See Appendix E for a brief explanation and contacts at each county.)

(2) Life safety standards must be met for settings;

(3) The DHS and DOH are proposing to review the feasibility of allowing a combination of loans and grants to assist facilities to upgrade structural components to allow for aging in place – Residential Alternatives Community Care (RACC), Adult Residential Care Homes (ARCH), Expanded Adult Residential Care Home (E-ARCH), Assisted Living Facilities (ALF). (Appendix C)

(4) Consider an aging in place component for the Developmental Disabilities Domiciliary Homes which would be likened to E-ARCHs;

(5) Need to continue dialogue with County Fire Departments regarding changes they will be recommending in relation to the building code changes and as it relates to allowance of components of the National Fire Protection Association codes. DHS will engage a consultant to explore what other states that have adopted the 2003 -2006 IBC codes have done with waivers, variances, rules, or other methods to allow flexibility for aging in place.

(6) Additional recommendations are included. (See Long Term Care Infrastructure)

In addition to the Task Force recommendations, DHS and DOH are proposing recommendations to address the current infrastructure crisis within the existing

regulations, and in the proposed codes. These recommendations are presented in more detail in Appendix C and include:

(1) Review the feasibility of allowing a combination of loans and grants to assist property owners or prospective and current providers to upgrade structural components to allow for aging in place – CCFFHs, ARCHs, E-ARCHs, and ALFs.

(2) DHS will engage a consultant to explore what other States have done with their applicable building and fire codes to allow flexibility for aging in place.

(3) DHS will develop a pilot program for property owners or prospective and current providers interested in providing Community-Based Long-Term Care to assist them in retro-fitting their buildings to allow for aging in place.

Task Force members are comprised of representatives of the Departments of Health and Human Services; County Building Departments of Honolulu, Maui, Hawaii and Kauai; Alliance of Residential Care Administrators; Hawaii Long Term Care Association; Healthcare Association of Hawaii; Adult Foster Home Association of Hawaii; Hawaii Pacific Health; County Fire Department(s); Assisted Living Options Hawaii; Maui Long Term Care Partnership; State Council on Developmental Disabilities; University of Hawaii Center on Aging Research and Education. (Appendix D)

REPORT OF THE DEPARTMENTS OF HEALTH AND HUMAN SERVICES TO THE HAWAII STATE LEGISLATURE, PURSUANT TO SENATE CONCURRENT RESOLUTION 144 S.D.1

BACKGROUND

The opening paragraphs of Senate Concurrent Resolution 144 Senate Draft 1 (SCR 144 SD 1) emphasize the current crisis that Hawaii faces in long term care for the elderly and people with disabilities. These populations are rapidly increasing and there is not an adequate infrastructure of both buildings and staff to meet basic needs. The SCR 144 SD 1 Task Force is working to address this crisis in a timely and innovative manner, by working across Departments, Counties, and jurisdictions to provide flexible solutions, borrowing from successful practices in Hawaii and other States.

SCR 144 S.D. 1 is titled "*Urging the Development of a Long-Term Care Infrastructure Plan for Hawaii to Ensure Public Safety While Supporting Aging In Place."* It requests that the Department of Health's Office of Health Care Assurance and the Department of Human Services' Adult and Community Care Services Branch convene a Task Force of stakeholders including the representatives of each County's building and fire departments, Executive Office on Aging, Hawaii Long Term Care Association, Healthcare Association of Hawaii, Maui Long Term Care Partnership, Alliance of Residential Care Administrators, Adult Foster Home Association of Hawaii and Assisted Living Options Hawaii to develop a long term care infrastructure plan for Hawaii to ensure public safety while supporting aging in place.

It further resolves that the Task Force address the following:

(1) Review current Department of Health (DOH) and Department of Human Services (DHS) regulations regarding but not limited to, structural compliance, quality of care, and quality of life with regard to the elderly;

(2) Focus on the balance between allowing aging in place and the State's responsibility to ensure that the safety of residents and their quality of care are not compromised; and

(3) Attempt to identify inconsistencies, disparities, and non-uniformity in laws and regulations at the State and County levels of government, including current County building and fire codes, within the context of how they do or do not contribute materially to the public policy standards of resident safety and quality of care.

The DOH's Office of Health Care Assurance (OHCA) is deemed with the responsibility of managing the state licensing and federal certification of medical and health care facilities, agencies and services provided throughout the State and the Pacific Area in order to ensure that acceptable standards of care are provided. In this effort, OHCA endeavors to:

(1) Maintain effective liaison with other Divisions and Branches of the Department, DHS, local medical, nursing, hospital associations and/or societies and representatives of professional and para-professional disciplines, and County Departments as necessary.

(2) Evaluate the health care system plan and implement measures to design or establish whatever types of services are deemed necessary to meet existing needs.

(3) Provide representation in legislative matters, promoting measures which will provide quality assurance in delivery of health care services, and implementing changes as deemed necessary.

(4) Promulgate and update State rules and regulations as authorized by Legislature and interpret State regulations and federal certification standards for health care facilities.

(5) Coordinate OHCA functions and activities within the Department in civil defense and other emergency situations.

(6) Initiate and coordinate the issuance of remedial actions as necessary in cooperation with the Attorney General and under purview of appropriate administrative rules.

(7) Maintain a registry of pertinent data regarding medical and health care facilities and health care licensure activities in the State.

The OHCA has oversight of the following facilities:

(1) State Licensing Section, which is responsible for the community-based health care settings:

a. Adult Residential Care Homes
b. Expanded Adult Residential Care Homes
c. Developmental Disabilities Domiciliary Homes
d. Special Treatment Facilities
e. Therapeutic Living Programs
f. Assisted Living Facilities

(2) Medicare Section, which is responsible for the state licensure and federal certification (Medicare/Medicaid) for the Pacific Area and the following facilities statewide:

   a. Hospitals
   b. Nursing Homes (Skilled and Intermediate Care)
   c. Clinical Laboratories
   d. Ambulatory Surgical Centers
   e. Intermediate Care Facilities of the Mentally Retarded
   f. Home Health Agencies
   g. Adult Day Health Centers
   h. End Stage Renal Disease Centers
   i. Hospice
   j. Outpatient Physical Therapy/Speech Therapy Centers
   k. Free Standing X-Ray Units
   l. Rural Health Clinics

The DHS' Adult and Community Care Services Branch (ACCSB) located in the Social Services Division provides administrative direction in planning, developing, controlling, monitoring, and evaluating Medicaid Waiver services authorized under federal and State statutes. The ACCSB also licenses adult day care centers. The Contracts and Monitoring Unit of the Social Services Division administers contracts, monitors compliance, provides technical assistance to contracted providers, licenses case management agencies, and certifies community care foster family homes for Medicaid Waiver services. In this effort, DHS endeavors to:

(1) Maintain effective liaisons with other Divisions and Branches of the Department, DOH, other State Departments, local providers, professional organizations, and the general public.

(2) Plan and design new Medicaid Home and Community Based Waiver services based on needs established through research on Hawaii's population, staff input, local and national reports, and other data as appropriate.

(3) Initiate the development of needed legislation, direct the review and analysis of proposed legislation, and coordinate the preparation of legislative testimonies and reports related to the Medicaid Home and Community Based Waiver programs.

(4) Establish and maintain standards, rules, and procedures needed to ensure proper implementation of Medicaid Home and Community Based waivers.

(5) Coordinate DHS functions and activities within the Department in civil defense and other emergency situations.

(6) Solicit, negotiate, and monitor contracts and provider agreements for compliance with waiver federal and State waiver requirements, rules, and standards.

(7) Conduct Quality Monitoring and Improvement activities with input from the public, provider community, and consumers.

DHS has oversight of the following:

(1) Licensing of Residential Alternatives Community Care (RACC) Case Management Agencies.

(2) Certifying RACC Community Care Foster Family Homes.

(3) Monitoring the quality, health and safety of care for Medicaid Waiver clients and provider compliance with contracts and provider agreements.

(4) Licensing Adult Day Care Centers.

TASK FORCE ACTIVITIES

The DOH and DHS invited respective stakeholders to participate in the Task Force on June 15, 2006 and convened the Task Force for a total of four (4) meetings held on July 19, 2006, August 25, 2006, September 15, 2006 and October 19, 2006.

The Task Force was comprised of representatives of the two (2) Departments; County Building Departments of Honolulu, Maui, Hawaii and Kauai; Alliance of Residential Care Administrators; Hawaii Long Term Care Association; Healthcare Association of Hawaii; Adult Foster Home Association of Hawaii; Hawaii Pacific Health; County Fire Department(s); Assisted Living Options Hawaii (ALOH); Maui Long Term Care Partnership; State Council on Developmental Disabilities; University of Hawaii Center on Aging Research and Education, and Policy Advisory Board for Elder Affairs (PABEA).

The PABEA and ALOH representatives requested that the Task Force also address the ability of elders to age in settings that do not require licensure, such as apartments, condominiums, family homes, and how safety and care can be addressed for these individuals. It was explained that the primary purpose of this Task Force was to address licensed settings; however, the issue of allowing elders to age in place in a setting of their choice is a major concern, especially

with the baby boomers who will place increased demands on the current system of health care provision.

Additionally, the representative from the UH Center on Aging Research and Education, while not representing the Executive Office on Aging or PABEA, agreed to keep both agencies apprised of the progress of the Task Force.

REVIEW OF ALL APPLICABLE REGULATIONS OF LICENSED SETTINGS

A review was completed of all regulations of both Departments which included: (Appendix A)

(1) Adult Residential Care Homes HRS 321-15.1 (1995), Title 11 Chapter 100, HRS 321-15.6 (2002), Title 11 Chapter 100.1 (Eff. September 18, 2006);

(2) Extended/Expanded Adult Residential Care Homes HRS 321-15.1 (1998, 1999), Title 11 Chapter 101, HRS 321-15.62 (2002), Title 11 Chapter 100.1 (Eff. September 18, 2006)

(3) Assisted Living Facilities HRS 321-15.1 (1999), Title 11 Chapter 90 (1999)

(4) Skilled Nursing/Intermediate Care Facilities HRS 321-11, Title 11 Chapter 94 (1985)

(5) Community Care Foster Family Homes HRS 346-334, Title 17 Chapter 1454

The review addressed the type of services provided, licensure requirements, structural requirements, transfer/discharge requirements and staffing. The following differences were identified:

(1) Skilled Nursing/Intermediate Care Facilities (SNF/ICF) are built under Group I occupancy and are fully accessible to and functionally for physically handicapped patients, personnel and the public. An SNF/ICF allows for individuals at the nursing home level of care to remain in the facility unless they develop an acute episode which would require admission into a broad service/acute hospital. Nursing personnel are available 24 hours a day/7 days a week to provide for resident care needs and ongoing assessment.

(2) Adult Residential Care Homes (ARCHs)/Expanded ARCHs (E-ARCHs) have specific requirements in regulations for structural requirements to allow for accessibility and egress for handicapped

residents. The primary caregiver is required to be, minimally, a nurse aide. For E-ARCHs, a Registered Nurse (RN) case manager who would provide on-site visits at least once a month is required to provide resident assessment, care plan development and training of staff.

(3) Assisted Living Facilities (ALFs) are required to comply with State and County building, housing, fire and other codes, ordinances and laws for the type of occupancy to be licensed. There are no specific structural requirements similar to SNF/ICF or ARCH/E-ARCH type of settings. ALF regulations require a registered nurse to do resident assessments and does not stipulate the level of training for direct care staff.

(4) Community Care Foster Family Homes (CCFFHs) do not have specific structural requirements in regulations; however they do have various accessibility, privacy and space measures in place. CCFFH require the primary caregiver to be, minimally, a certified nurse aide. A team of an RN and Licensed Social Worker functioning as case managers is required to provide resident assessment, care plan development and training of staff.

REVIEW OF COUNTY BUILDING AND FIRE CODES

The County building codes are to ensure life safety and welfare of the public at large. Residents residing in health care settings have specific requirements as to their individual needs. Currently the Counties follow the Uniform Building Code (UBC); however, they are all working to adopt the International Building Code (IBC) which all Counties anticipate to occur in 2007. Maui and Hawaii Counties plan to adopt IBC 2006, while Kauai and Oahu plan to adopt IBC 2003.

Facilities that have been built prior to the change in building codes will be considered “existing non-conforming” buildings. With the changes in the building and fire codes being made, all facilities will not be required to upgrade unless they make renovations. If renovations are made to the building, then they would need to meet the new code requirements for Maui, Kauai and Oahu. For Hawaii, it would be dependent on the percentage of work done on the building.

The electrical, plumbing and building codes are updated every three (3) years, and the code is not intended to penalize existing buildings by requiring them to meet new codes, therefore the determination of existing non-conforming was created to describe those buildings which were in conformance at the time their permits were issued, but have not made renovations to comply with current codes. Existing non-conforming is an acceptable and legal determination. Since codes change every three (3) years, most buildings are existing non-conforming.

The State Fire Council Prevention Committee has been meeting on a monthly basis to address the necessary amendments that will need to be made to the fire codes due to building code changes and anticipates new fire code adoption in 2008 or 2009.

ALLOWANCE FOR AGING IN PLACE

(1) CCFFHs were meant to be flexible and have had no structural requirements for the facilities. Staffing requirements for non-self-preserving clients are clear. If there are two (2) non-self-preserving residents then there is needed one-to-one staffing, similar to ARCHs.

With the increase to three (3) residents as of July 1, 2007, pursuant to Act 270 SLH 2006, there may need to be consideration for structural requirements as an alternative to one-to-one staffing.

(2) E-ARCHs require additional life safety requirements such as self-closing doors, hardwire smoke detectors in resident rooms, corridors and common areas, and one staff for each non-self-preserving resident. Should the home be sprinkled, there would be some flexibility for staffing requirements.

With Act 270, there is the possibility of six (6) residents in a Type I ARCH. There may be additional structural requirements added, depending on the applicable County codes and amendments. Each County will need to address how its County codes will be amended. The Task Force will want to engage the Counties in dialogue about this issue.

(3) With changes in HRS 46-15.3, which would allow for not more than three (3) residents who are incapable of self- preservation because of age or physical or mental limitations, the respective Counties will need to address how County codes will be amended. Again, the Task Force will want to engage the Counties in dialogue about this issue.

(4) Assisted Living Facilities (ALFs). ALFs built as R-1 are designated as “multi-family apartment building(s).” ALFs built as Group I are designated as “health care facilities.” Of the ten (10) ALFs currently licensed, only three (3) have portions of the facility designated as Group I.

DOH and the Counties have met with facilities, which have restrictions on their licenses for ambulatory only residents, and discussed the opportunities to submit a request for an alternative method of design plan that may allow residents to age in place even when they are non-ambulatory. To date, no facility has submitted any such request for alternative method of design plan.

(5) Condominiums – With the codification of the condominium law, a provision was established that would allow for resident managers, without risk of liability, to make referrals for individuals identified at risk of harm to themselves or others. When an assessment is completed, the respective case manager will be able to work with the individual or family for appropriate care needs. Although there is no such ability currently in senior housing or apartment complexes, the Task Force will review this matter and may make recommendations in its next Legislative report.

CONCERNS IDENTIFIED BY THE TASK FORCE

(1) Developers may not be fully aware of all County and State requirements and they may be discouraged from building in Hawaii due to this. There may need to be a more transparent process to assist developers in understanding how they can obtain information regarding appropriate occupancy determination and the implications of their decisions prior to building or purchasing of a facility(ies). Under Current County code, if they intend to allow the full continuum of aging in place and to serve residents not fully capable of self-preservation, then they need to explore occupancies other than R-1.

(2) There have been discrepancies between submittal of building plans with implied intent of use and the actual construction and use of the facility(ies). When these discrepancies exist, effecting change in the occupancy permit can be complicated and expensive.

(3) When a facility desires to change the population that it originally was permitted to serve, current County codes require a change in the occupancy. This requires a submittal to the applicable County building department for an alternative method of design plan to provide for the safety of the new classification of residents.

(4) There may be inconsistencies in the understanding of the definition of aging in place as it relates to the different types of care settings.

PROPOSED RECOMMENDATIONS/SOLUTIONS

(1) Facilities currently in existence that have restrictions placed on their licenses due to occupancy designation have the ability to submit a request to the applicable County building department for an alternative method of design plan, which is in the basic format of the building code, to demonstrate that certain conditions are met that will allow for change in

designation. See Appendix F for a brief explanation and contacts at each County.

(2) Applicable life safety standards must be met for settings.

(3) The DHS and DOH are proposing a series of recommendations to address the current infrastructure crisis within the existing regulations, and in the proposed codes. These recommendations are presented in more detail in Appendix C and include:

a. Review the feasibility of allowing a combination of loans and grants to assist property owners or prospective and current providers to upgrade structural components to allow for aging in place – CCFFHs, ARCHs, E-ARCHs, and ALFs.

b. DHS will engage a consultant to explore what other States have done with their applicable building and fire codes to allow flexibility for aging in place.

c. DHS will develop a pilot program for property owners or prospective and current providers interested in providing Community-Based Long-Term Care to assist them in retro-fitting their buildings to allow for aging in place.

(4) Consider submitting legislation to amend HRS 321- 15.1 to allow for an aging in place component for the Developmental Disabilities Domiciliary Homes which would be likened to E-ARCHs.

(5) The Task Force needs to continue dialogue among its members regarding the implications of the upcoming changes to the building codes, especially as it relates to allowing more flexibility for aging in place for residents in ALFs who require some assistance with evacuation.

(6) Additional recommendations are included (See Long-Term Care Infrastructure- Appendix E).

(7) The DHS will develop a business friendly checklist for the public that points to and briefly summarizes the building, zoning, occupancy, fire and other regulatory codes that apply to developing a CCFFH, using the format currently used by DOH. The Task Force members will be asked to critique both DOH and DHS checklists for accuracy and ease of use by the general public.

Listing of committee members. (Appendix D)

The Departments and all stakeholders appreciate the opportunity to review all applicable regulations regarding structural compliance, impact on quality of care and the ability of individuals to age in place. The Task Force is committed to convene next July or August to develop specific recommendations for the 2008 Legislative session.

APPENDIX A
REGULATORY REQUIREMENTS FOR DOH FACILITIES/SETTINGS

REGULATIONS (HRS/HAR)	REQUIREMENTS	LICENSURE REQUIREMENTS	STRUCTURAL	TRANSFER/DISCHARGE	STAFFING
HRS 321-15.1 – Adult Residential Care Homes (1985)	ARCH –facility provides 24-hour living accommodations for a fee to adults unrelated to the family, who require at least minimal assistance in Activities of Daily Living, personal care services, but do not need the professional health services provided by an ICF, SNF or acute care.	Provide department with evidence that premises comply with state/county building, housing, fire and other codes, ordinances, and laws for the type of occupancy to be licensed shall be supplied – (1) occupancy section of county bldg code; (2) applicable zoning ordinance of county; (3) use permit if required by county; (4) written approval to operate if leased, rented or on leased land from owner; and (5) applicable state laws and admin rules relating to sanitation, health and environmental safety.	Fire: Must comply with and shall be inspected by appropriate fire authorities for compliance with state and county codes, ordinances and laws. Shall have evacuation plans with area of refuge designated, fire drills conducted, communication system, smoke detectors. Each resident must be certified by a physician that resident is ambulatory and capable of self-preservation, except that a maximum of two residents not so certified may reside in ARCH provided that: (1) for each non-certified resident there must be a responsible adult on the premises of the home at all times that the non-certified resident is present in the home and there must never be a stairway which must be negotiated for emergency exit by such non-certified resident; or (2) home shall have a sprinkler system installed throughout in accordance with NFPA Standard 13-D, sprinkler systems, one and two family dwellings.	Two weeks notice except in emergency when: (1) ordered by physician, (2) physical or mental changes of resident, (3) physical or mental changes of operator, (4) resident wishes to move, and (5) operator wishes to transfer resident.	Licensee/operator shall be at least 18 years old; nurse aide; work in a hospital, ICF/SNF, home health agency for at least one year; completed ARCH modules; have no activities outside of the home that demand time and energy to interfere with proper care of residents; no family responsibilities sufficiently demanding of licensee that demand time and energy to interfere with proper care of residents; demonstrate sufficient skill in English; achieved acceptable level skills in first aid, nutrition, CPR, appropriate nursing and behavior medications techniques as required to care for residents; attend and successfully complete two training sessions per year; aware of community resources. If operator not available must designate "responsible adult" who temporarily takes charge of the ARCH, shall be capable of managing any event occurring in the home as well as the licensed operator.

REGULATIONS (HRS/HAR)	REQUIREMENTS	LICENSURE REQUIREMENTS	STRUCTURAL	TRANSFER/DISCHARGE	STAFFING
			Environmental requirements which stipulate conditions for bedroom, exits, hallways, shower/bathrooms, window heights, lighting, assurance of resident privacy/dignity and maintenance of facility. Type II shall meet all requirements set forth by county building and fire for Group I occupancy.		For Type II administrator– in addition: (1) knowledge of administrative techniques, (2) business accounting, (3) large volume food purchasing, (4) supervisory personnel techniques, (5) large volume laundry handling, (6) infectious disease control techniques. Adequate qualified staff, as determined necessary by the dept, awake, dressed, and on duty at all times. At least one staff member per shift shall be a nurse aide or licensed nurse.
HRS 321-15.1 – Expanded ARCH (1998)	1) Expanded ARCH- means any facility providing 24 hour living accommodations, for a fee, to adults unrelated to the family, who require at least minimal assistance in ADLs, personal care services, protection, and health care services, and who may need the professional health serviced provided by an ICF or SNF.	Must meet all requirements of ARCH and in addition: (1) applicants shall have a minimum of six months satisfactory experience operating an ARCH. As per agreement between DOH/DHS, foster family homes wishing to become ARCH, the six month requirement may be waived if there is documentation of satisfactory experience as a RACC, thereby eliminating the need for resident transfer prior to licensure as ARCH/Expanded ARCH.	In addition to all requirements of ARCH: (1) swimming pools shall have a solid cover with a key lock or 6 ft fence which complete encloses the pool; (2) signaling devices to be used by residents at bedside, bathrooms, toilet rooms and other areas that residents may be left alone; (3) every interior door, when locked, shall be able to be opened from outside; (4) door locks or other devices hall not be installed to restrict free movement of residents; (5) interior stairways for multi-story homes. Type II Expanded ARCHs need to meet county building	Shall be coordinated with resident case manager, resident and licensee. If licensee requests transfer there shall be written request stating reason for transfer to resident and CM no less than 30 days prior to transfer. Thirty day written notice not required in emergency, mutual agreement of resident, CM and licensee.	Staff on duty 24-hours of each day sufficient and trained to meet needs of residents and carry out responsibilities based on resident care plan. RN not related to licensee, to do resident assessment and care plan; training of staff. Primary caregiver who shall reside in the Expanded ARCH. All staff including licensee shall have satisfactory history of caring for residents and no history of confirmed abuse, neglect or misappropriation of funds. Substitute caregiver shall be on premises in absence of

REGULATIONS (HRS/HAR)	REQUIREMENTS	LICENSURE REQUIREMENTS	STRUCTURAL	TRANSFER/DISCHARGE	STAFFING
			and fire for Group I		licensee/primary caregiver. Primary caregiver shall have at least 12 hours of continuing education per year pertinent to management of Expanded ARCH and care of residents.
HRS 321-15.6 ARCH (2002) Incorporated into Chapter 100.1	(f) DOH shall adopt social model of care to ensure the health, safety, and welfare of individual placed in an ARCH. Social model of care shall provide for aging in place and be designed to protect health, safety, civil rights and rights of choice of persons to reside in the nursing facility or in home-or community-based care. (c) Shall provide for training and consultation of operators and staff to ensure needed skills to provide proper care and supervision in a home environment.	Same as current requirements; allows for corporations to own more than one ARCH.	Two remote exits shall be provided for each floor or separate building where residents reside. For residents with assistive devices, doorways shall be wide enough to allow passage and access. In Type ARCH – bedrooms, hallways and corridors shall be large enough to allow passage, access and be comfortable for residents with assistive devices. Shall maintain performance evaluation for safe evacuation and exit from the facility meeting the standards and requirements as set forth by UBC and NFPA 101 (with utilization of the Fire Safety Evaluation system rating-FSES).	Primary caregiver shall provide resident 30 day notice unless emergency; resident shall provide 14 day notice unless in emergency situations.	Type I - Primary caregiver shall be 21 years of age; nurse aide, completed ARCH modules which will be reviewed by DOH annually; 1 year work experience or completion of department approved training program and have 6 hours training annually related to personal care of residents. Type II requirements stipulated for administrator and staff; 6 hours of training annually. Requires RN available to provide direct management and oversight of residents and direct care staff. Administrator to provide overall management and oversight of staff and residents.
HRS 321-15.62 EXPANDED ARCH (2002) Incorporated into Chapter 100.1	(b) Director shall adopt rules regarding expanded ARCH which shall implement social model of care designed to: (1) protect health, safety, civil rights and rights of choice of persons to reside in nursing	Same as current; allows for corporation to own more than one Expanded ARCH.	Same as above with additional fire requirements.	Same as above.	Same as above, additionally need to have operated ARCH for 6 months or more; waiver component allowable for RACC interested in applying.

REGULATIONS (HRS/HAR)	REQUIREMENTS	LICENSURE REQUIREMENTS	STRUCTURAL	TRANSFER/DISCHARGE	STAFFING
	facility or in home- or community-based care (c) DOH shall provide training and consultation with staff and operator to ensure have needed skills to provide proper care and supervision in a home environment.				
HRS 321-15.1 ASSISTED LIVING FACILITIES (1999)	Means a combination of housing, health care services, and personalized supportive services designed to respond to individual needs to promote choice, responsibility, independence, privacy, dignity and individuality	Shall meet all requirements for licensure under State law. Requires necessary documents of corporation, owners; lease, management, contracts relative to direct operation; sufficient funds to operate; evidence that premises comply with state and county building, housing, fire and other codes, ordinances, and laws for the type of occupancy to be licensed. Compliance with following: (1) occupancy requirement of county building code; (2) applicable zoning ordinance of county; (3) obtainment of use permit if required by county; (4) applicable state laws and admin rules relating to sanitation, health and environmental safety.	Specific requirements for each resident unit including space, cooking, bathroom, accommodate physically challenged persons and persons in wheelchair as needed; 24-hour call system; common areas.	Written 14 day notice when: (1) resident behavior imposes imminent danger to self or others; (2) facility cannot meet resident's needs with available support services or services are not available; (3) resident or responsible person has a documented established pattern in facility of not abiding with agreements necessary for assisted living. Or when license is revoked or voluntarily surrendered; or non-payment of charges by resident. Residents will be provided a conference within 10 days of receipt of written notice to see if satisfactory resolution can be met.	Administrator – 2 years management; completion of ALF course; accountable for training of all staff in provision of services and principles of assisted living. All staff trained in CPR and first aid; minimum of 6 hours annually ongoing in-service training.

REGULATIONS (HRS/HAR)	REQUIREMENTS	LICENSURE REQUIREMENTS	STRUCTURAL	TRANSFER/DISCHARGE	STAFFING
HAR §11-90-1 Purpose	Establish a new category of community based residential care setting to be name ALF and to establish minimum standards and requirements for licensure to protect the health, welfare and safety or residents in such facilities. ALF shall serve purpose of providing a combination of housing, meal services, health care services, and personalized supportive services designed to respond to individual needs. The following principles are applied: (1) Aging in place, (2) negotiated plan of care, and (3) managed risk.				
HAR §11-90-2 Definition	"Aging in place" means the process of remaining in his or her living environment ("home") despite the physical or mental decline that may occur due to the aging process. For aging in place to occur, needed services are provided, increased or adjusted to compensate for the physical or mental decline of the individual within the ability of the facility. "Independence" means supporting resident capabilities and facilities use of their abilities. Independence is supported by creating barrier free				

REGULATIONS (HRS/HAR)	REQUIREMENTS	LICENSURE REQUIREMENTS	STRUCTURAL	TRANSFER/DISCHARGE	STAFFING
	structures and careful design of assistive devices.				
HAR §11-94-2 SKILLED NURSING/INTERMEDIATE CARE FACILITIES (1985)	ICF – facility which provides appropriate care to persons referred by physician. Such persons are those who: (1) need 24-hour assistance with normal ADL; (2) need care provided by licensed nursing personnel and paramedical personnel on a regular, long term basis; and (3) do not need skilled nursing or paramedical care 24-hours a day. SNF – means health facility which provided skilled nursing and related services to patients who primary need is for 24-hours of skilled nursing care on an extended basis and regular rehabilitation services.	Facility shall meet all requirements for licensure under State law. Shall file an application on forms furnished by the department, and facility shall be licensed pursuant to this chapter. Facility must meet requirements as follows: activities program, arrangement for services, dental services, dietetic services, emergency care of patients, engineering and maintenance, housekeeping, infection control, in-service education, laundry, life safety, medical director, medical record system, nursing services, patient accounts, patient's rights, pharmaceutical services, physician services, rehabilitation services, sanitation, transfer agreement and social work services.	Facility shall be fully accessible to and functional for physically handicapped patients, personnel and the public. Shall meet all applicable county and fire requirements for Group I occupancy. Specific physical requirements are stipulated for resident rooms, common areas, bathroom, toilet rooms, ramps, doors, corridors, and air conditioning/ventilation.	Appropriate discharge planning in social work care plan.	Shall have an organized governing body, or designated persons who have overall responsibility for conduct of all activities. Shall be on duty 24-hours each day, staff sufficient in number and qualifications to carry out policies, responsibilities and program of facility. Number and categories of personnel shall be determined by patients and particular needs. Nursing services: sufficient number and qualifications to meet nursing needs of residents. SNF – at least one RN, full time, 24-hours/7. ICF – at least one registered nurse, full time on the day shift and at least one licensed nurse whenever medications are administered.

Revised: 10/06

APPENDIX B
REGULATORY REQUIREMENTS FOR COMMUNITY CARE FAMILY FOSTER HOMES

REGULATIONS (HRS/HAR)	REQUIREMENTS	CERTIFICATION REQUIREMENTS	STRUCTURAL	TRANSFER/DISCHARGE
HRS 346-334 Community Care Foster Family Home (CCFFH)	CCFFH – provides 24-hour living accommodations, including personal care and homemaker services for any adult who is at the nursing level of care (SNF or ICF) for a fee to adults unrelated to anyone in the household.	Comply with the rules adopted under Hawaii Administrative Rules (HAR) Title 17, Department of Human Services, Subtitle 9, Adult and Community care Programs, Chapter 1454 and satisfy the background checks requirements under HRS 346-335.	HAR 17-1454-48 Physical Environment - No Structural requirements; however, various accessibility, privacy and space measures must be in place as follows: • Bathrooms with non slip surfaces for tubs/showers. • Grab bars for bath and toilet as appropriate; • Common living area adequate for socialization and recreational needs of client. • Wheelchair accessibility to sleeping rooms, bathrooms, common areas and exits as appropriate. • Operating, approved smoke detector and fire extinguisher in appropriate locations. • Means of unobstructed travel from client's bedroom to outside of dwelling at street level.	HAR 17-1454-44 Client Transfer and Discharge Transfer and discharge may occur when: • Home is unable to meet the needs of the client or a home voluntarily closes. • Client wishes to be placed elsewhere. • Emergency transfers and discharges may be made when a homes certificate is revoked, there is imminent danger to the life, health, safety or welfare of the client.

REGULATIONS (HRS/HAR)	REQUIREMENTS	CERTIFICATION REQUIREMENTS	STRUCTURAL	TRANSFER/DISCHARGE
			Client bedrooms shall: • Be limited to two clients – both consenting to the arrangement. • When room is shared, have a bedside curtain or screen to ensure privacy. • Be in close proximity to caregiver for timely intervention of nighttime needs, or have a call button or intercom or monitoring device approved by the case manager. The home shall be maintained in a clean, well ventilated, adequately lighted and safe manner.	

APPENDIX C
RECOMMENDATIONS OF THE DEPARTMENTS OF HEALTH AND HUMAN SERVICES TO SCR 144 TASK FORCE

1. Study the feasibility of legislation that would allow a combination of loans and grants to assist property owners or prospective and current providers interested in Community-Based Long-Term Care in upgrading their property to allow for more aging in place. Under the current rules:

   a. For CCFFHs, low interest loans could be available to remodel the areas of a home where non-self- preserving RACC clients will reside to meet fire safety requirements that would include fire rated walls, appropriate smoke detectors, possible residential sprinkler system, or other appropriate fire/life safety measures. This would mean that all three clients would then be able to be evacuated safely with sufficient time to a safe area of refuge.

   b. ARCHs/E-ARCHs could be offered the same loan program that would allow them to make structural changes to the home to meet appropriate fire/life safety standards.

   c. Low interest loans could be offered to interested ALFs that desired to upgrade sections of their building so they could apply for Type II ARCH/E-ARCH within the ALF or upgrade sections to Group I occupancy. This is one solution to the aging in place problem. (See below for additional solutions for ALFs.)

   d. All loans could be forgiven over time if the providers served a certain percentage of Medicaid clients. For example, if a CCFFH served two (2) Medicaid clients in their three (3)-bed facility (67%) for five (5) years, a high portion of the loan could be forgiven.

   e. Since many providers are being encouraged to apply for State sponsored grants and loans to upgrade their facilities to encourage greater civil defense preparedness for “sheltering in place,” there may be opportunities for combining renovations and funding to cover both the civil defense upgrade and making changes to allow for aging in place.

   f. DHS would take the lead (since RACC waiver is under its jurisdiction and work closely with DOH OHCA which licenses E-ARCHs, ARCHs, and ALFs) in exploring the feasibility of this type of loan/grant forgiveness program and in crafting legislation for the 2008 Legislature if a loan/grant forgiveness program is feasible.

g. DHS will develop a pilot program to assist property owners or prospective and current providers interested in developing Community-Based Long-Term Care residences in retro-fitting their buildings to meet current or proposed codes by:

   i. Hiring a long term care retrofitting service contractor to be available upon request to:

      a) Evaluate current home and community based facilities for their amenability to retrofitting to meet either current or proposed standards
      b) Assess the needed services and provide an estimate of the work that would need to be done
      c) Assist the property owner or prospective and current providers of the facility in understanding the applicable County permitting process, including the process to obtain variances or submit an alternate method of design.

   ii. Prepare the information in a format that will assist DHS and DOH in preparing their legislation on loans /grants for the 2008 Legislative session.

2. DHS will hire a consultant to explore the amendments used in other states in the portions of their building and fire codes related to ALFs that allow further flexibility for aging in place. These amendments create a true in-between occupancy level which allows for different evacuation standards for residents who may require assistance with self-preservation.. The consultant's report will be available to assist the SCR 144 Task Force members in formulating additional recommendations to decrease barriers to aging in place while maintaining health and safety standards.

   a. Currently 7 of the 10 ALFs have occupancy permits for Residential apartment buildings with non-skilled supportive services provided for more than 15 residents. It would be costly and in most instances impractical for these facilities to upgrade to Group I building occupancy.

   b. Several States have developed amendments of their respective building codes that incorporate life safety codes similar to "Group I" building occupancy for ALFs that satisfy both safety needs and consumer preference for residential care settings.

   c. The process of obtaining information from other states and analyzing how this fits with their building and other regulatory codes is a complicated process that exceeds the time availability or the

expertise of the current Task Force membership. Hiring a consultant with the required expertise increases the timeliness of obtaining information.

d. While the counties are in the process of adopting the 2003 to 2006 International Building Codes (IBC), the consultant contracted by DHS will gather the information on how other states are using their codes, especially those that are allowing variances which address alternate methods of assisted evacuation. Each County can then review this information to determine its applicability to their respective County.

e. The Task Force will serve as the forum for a discussion of the consultant's findings, to determine the feasibility of considering a uniform amendment across the State. These recommendations, if adopted, will impact licensed facilities and may provide guidance on how to address similar issues of evacuation in Senior Housing complexes and condominiums or apartments with large numbers of elderly which are not being directly addressed by this Task Force.

3. The DHS will develop a business friendly checklist for the public that points to and briefly summarizes the building, zoning, occupancy, fire and other regulatory codes that apply to developing a CCFFH, using the formatting currently used by DOH. The Task Force members will be asked to critique both DOH and DHS checklists for accuracy and ease of use by the general public.

4. The Departments will explore the possibility of the use of State owned property in specific geographic areas for the development of facilities and Community-Based Long-Term Care that specialize in needed services that are not currently readily available i.e., for residents with behavioral or dementia/Alzheimer needs or residents with other complex medical care needs.

APPENDIX D
COMMITTEE MEMBERS

- Dianne Okumura, Chief Office of Health Care Assurance, Department of Health
- Patricia Johnson, Adult and Community Care Services Branch, Department of Human Services
- Terri Byers, Alternate, Office of Health Care Assurance, Department of Health
- Sandra Joy Eastlack, Alternate, Adult and Community Care Services Branch, Department of Human Services
- Robert Ogawa, Hawaii Long Term Care Association
- Coral Andrews, Healthcare Association of Hawaii
- Miriam Tabaniag, Alliance of Residential Care Administrators
- Aga Antonio, Adult Foster Home Association of Hawaii
- Ruth Dias Willenbourg, Assisted Living Options of Hawaii
- Rita Barreras, Maui Long Term Care Partnership
- Wes Lum, UH Center on Aging Research and Education
- Waynette Cabral, Developmental Disabilities Council
- Virginia Pressler, Hawaii Pacific Health
- Timothy Hiu, City and County of Honolulu
- Don Lutao, Kauai County
- Clement Enomoto, Maui County
- Brian Kajikawa, Hawaii County
- Valeriano Martin, representing all County Fire Departments
- Ann Trygstad, Community member

APPENDIX E
LONG TERM CARE INFRASTRUCTURE PLAN

Building Code Requirements*	IBC ** 2003/2006	Staffing	Aging in Place	Assurance of quality care	Recommendations
Institutional (I) occupancy – has requirements for structure and fire that allows for "defend in place". Includes nursing homes and Type II ARCH. If Type II ARCH does not meet fire requirements, cannot have Expanded ARCH licensure.	Will need to meet current code if construction changes made; for Hawaii depending on % of changes made (up to 25% code at that time; up to 50% renovated area needs to meet current code; 50% or more entire facility needs to conform to current code).	Regulations have specific requirements for medical director, licensed nursing personnel, etc. CMS recommendations available to allow for quality care; ANA guidelines for staffing; acuity based determination. Type II regulations have requirements for staffing.	CMS culture change initiative encourages consumers to receive care in the community when appropriate; nursing home is determine to be resident's home, includes activities/restorative care, home like environment, able to provide care and services commensurate to needs of resident, other than acute episodes. Type II if meet fire/building code can have nursing home level residents.	Ongoing assessment, monitoring and evaluation. Measures in place for prevention of malnutrition, dehydration, pressure sores, restraint use, falls, deterioration in all areas. Ongoing training of staff and competency determination of staff to assure ability to provide appropriate care/services.	Maintain ongoing training and initiatives from CMS for quality improvement. Type II ARCHs – enhance training of staff and look at instituting similar measures as required by CMS.

Building Code Requirements*	IBC ** 2003/2006	Staffing	Aging in Place	Assurance of quality care	Recommendations
Single family dwelling – family is up to five non-related individuals. With change to HRS 46-15.3 counties need to review. RACC – no structural requirements, staffing requirement for non-self preserving residents; evacuate building.	RACC – if provider chooses to increase to three residents not capable of self-preservation then may need to look at structural requirements, staffing.	RACC – CNA operator; if two or three non-self preserving, then one staff per non self-preserving resident.	Residents admitted at nursing home level – allows for aging in place with case management except for acute episodes.	Ongoing assessment, monitoring and evaluation. Review 100% of adverse events and conduct trend analysis, track APS confirmations Explore allowing structural requirements to substitute for staffing for non self preserving clients.	Providers continue to improve their initial assessment and matching of client with provider to increase the likelihood of successful placements able to meet the aging in place needs of clients accepted into a CCFFH.
ARCH – has requirements per Title 11 Chapter 100/100.1 re: structure and definition of resident, non-self preserving residents; evacuate building. Expanded ARCH – has requirements per Title 11 Chapter 101/100.1 re: structure, definition of resident, non-self-preserving residents; evacuate building.	ARCH – if increase to six may need to meet requirements of R-4 which would require sprinkler system and also determine staffing for individuals not capable of self-preservation.	ARCH – nurse aide operator; if two non-self preserving, then one staff per resident. Expanded ARCH - nurse aide operator; if two non-self preserving, then one staff per resident.	ARCH – if not expanded, then resident at nursing home level needs to be transferred; choice of operator to be licensed. Waivers may be given on case-by-case basis. Expanded – able to age in place, ARCH level resident can remain in home as expanded resident with appropriate staffing, assessment, care planning and case management, except for acute episodes.	OHCA developing training options for operators which would include assessment/critical thinking; prevention of pressure sores/abuse/neglect of residents; similar initiative as required by CMS. OHCA working with providers on training of CMS initiatives for quality indicators to improve quality care. Staffing ratios based on ability of facility to provide quality care.	Work with providers to enhance knowledge and skill level to provide appropriate and quality care based on resident needs. Work with providers to enhance training and consider instituting similar CMS quality initiatives in requirements.

Building Code Requirements*	IBC ** 2003/2006	Staffing	Aging in Place	Assurance of quality care	Recommendations
R-1 (residential) – not intended to be care facility, but single family, apartment building for multi-families. If providing care, then may need to reassess occupancy code; all individuals evacuate the building.	ALF – when submit plans for review can be designated R-4 which would have specific requirements and may allow for "defend in place."	ALF – regulations have requirements for Administrator, RN for assessment, training, care planning. Able to use unlicensed personnel for medication based on nurse delegation.	If ALF is R-1 – resident not capable of self-preservation may need to be transferred, or moved to ground level. If ALF is R-4 – may remain in facility with appropriate assessment and provision of services except for acute episodes. Submit request to County Building alternative method of design plan for consideration.	Same as above	Same as above
R-4 (Residential)	Will be a residential option when adopted.				

* Codes are updated regularly. When changes in building or fire codes are made, facilities are not required to upgrade to current code unless they renovate. If a facility was approved under the old code, they are considered "existing non-conforming facilities."

** International Building Code

APPENDIX F
CONTACTS AND INFORMATION TO APPLY FOR AN ALTERNATE METHOD OF DESIGN

Island	Name	Title	Address	Phone
Oahu	Henry Eng	Director	Department of Planning and Permitting 650 South King Street Honolulu, Hawaii 96813	(808) 523-4432
Big Island	Christopher Yuen	Director	East Hawaii: Department of Planning Aupuni Center 101 Pauahi Street, Suite 3 Hilo, Hawaii 96720 West Hawaii: Department of Planning Hanama Place 75-5706 Kuakini Highway, Suite 109 Kailua-Kona, Hawaii 96740	East Hawaii: (808) 961-8288 West Hawaii: (808) 327-3510
Maui	Michael Foley	Director	Department of Planning 250 South High Street Wailuku, Hawaii 96793	(808) 270-7735
Kauai	Donald M. Fujimoto	County Engineer	Department of Public Works Building Division 4444 Rice Street Lihue, Hawaii 96766	(808) 241-6655