

NOTICE OF PUBLIC HEARING ON
CHANGES TO HAWAII ADMINISTRATIVE RULES (HAR)
TITLE 11, CHAPTER 94.1
"NURSING FACILITIES,"
TITLE 11, CHAPTER 97
"HOME HEALTH AGENCIES," AND
TITLE 11, CHAPTER 103
" LICENSURE AND CERTIFICATION FEES FOR HEALTH CARE FACILITIES AND
AGENCIES"
STATE DEPARTMENT OF HEALTH
STATE OF HAWAII

Pursuant to Chapter 91, Hawaii Revised Statutes, notice is hereby given that the Department of Health (DOH) will hold a public hearing for the proposed adoption of three (3) Hawaii Administrative Rules (HAR): Title 11 Chapter 94.2, "Nursing Facilities;" Chapter 97.1, "Home Health Agencies;" and Chapter 103.1, "Licensure and Certification Fees for Health Care Facilities and Agencies."

The proposed Title 11 Chapter 94.2 Nursing Facilities rules (proposed rules) establish minimum licensure standards for nursing facilities, which include skilled nursing facilities and intermediate care facilities, replacing the current regulations promulgated on April 13, 2011. The proposed rules address requirements for licensing, facility administration, resident care, and programs; standards for environmental health and infection control; and improving health care quality. The proposed rules:

1. Allow the DOH to accept accreditation or certification of Hawaii's nursing facilities by other nationally recognized accreditation or certification organizations for purposes of renewing Hawaii's nursing facilities' licenses;
2. Improve consistency with the current federal requirements as set forth in 42 CFR Part 483 Requirements for Long Term Care Facilities which contains the requirements that an institution must meet in order to qualify to participate as a Skilled Nursing Facility in the Medicare program and as a nursing facility in the Medicaid program. The federal requirements serve as the basis for survey activities for the purpose of determining whether a facility meets the requirements of participation in Medicare and Medicaid;
3. Update requirements for emergency preparedness for all hazards, including but not limited to natural disasters, pandemic events, or terrorist threats due to recent experiences nationally and locally, in order to be consistent with current federal requirements and guidance;
4. Require facilities to: (1) develop, implement, and maintain an effective, comprehensive, data-driven quality assurance and performance improvement program that focuses on indicators of the outcomes of care and quality of life for the full range of care and services provided by the facility; and (2) notify the resident, resident's representative, and the state long term care ombudsman of transfer or discharge initiated by the facility.

The proposed Title 11 Chapter 97.1, "Home Health Agencies" rules (proposed rules) establish minimum licensure standards for home health agencies, replacing the current regulations promulgated on February 1, 1982. The proposed rules address requirements for licensing, governance and administration, patients' rights, and standards of care. The proposed rules:

1. Clarify the definition of home health services to be consistent with the federal Medicare definition;

2. Redefines "advance practice registered nurse" and "physician" based on authority derived from 38 C.F.R. Part 17, Authority of VA Professionals to Practice Health Care;
3. Authorize licensed home health agencies to provide home health services to Veterans Administration beneficiaries; and
4. Require facilities to (1) develop, implement, and maintain an effective, comprehensive, data-driven quality assurance and performance improvement program that focuses on indicators of the outcomes of care and quality of life for the full range of care and services provided by the facility; and (2) follow accepted standard precautions on infection control.

The proposed Title 11 Chapter 103.1, "Licensure and Certification Fees for Health Care Facilities and Agencies" rules (proposed rules) will amend licensure fees for all health care facilities, agencies, or organizations that require licensure by the Hawaii Department of Health. Health care facilities include but are not limited to hospitals, skilled nursing facilities, intermediate care facilities, intermediate care facilities for individuals with intellectual disabilities, adult day care centers, adult day health centers, adult residential care homes including expanded adult residential care homes, assisted living facilities, case management agencies, clinical laboratories, community care foster family homes, developmental disability domiciliary homes, free standing birthing centers, free standing outpatient surgical centers, home health agencies, special treatment facilities, and therapeutic living programs. The proposed rules would replace the current regulations promulgated on March 17, 2018.

HEARING DATE

The public hearing will be held as follows:

Date: Wednesday, July 6, 2022

Time: 10:00 a.m. – 12:00 p.m. (noon) or may be concluded earlier if all testimony has been received or heard.

Join Zoom Meeting below:

<https://hawaii-gov.zoom.us/j/91992721714?pwd=SXBwWU9ScmVIREE1UXhLUEVPOG9DZz09>

or Join via telephone:

Phone number: 919 9272 1714 and Passcode: 977936

PUBLIC TESTIMONY

All interested persons shall be afforded the opportunity to submit testimony, orally or in writing, on the proposed administrative rules at the time of the public hearing. Persons who are not able to attend the public hearing may submit written testimony to the DOH by mail at the Office of Health Care Assurance (OHCA), 601 Kamokila Boulevard, Room 337, Kapolei, Hawaii 96707 or by email at OHCAMail@doh.hawaii.gov. All testimony shall be received no later than Tuesday, July 12, 2022 at 12:00 p.m. (noon) Hawaii Standard Time.

Any person requiring a special accommodation (e.g. assistance of a sign language interpreter) at the public hearing shall file a request with the DOH by email at OHCAMail@doh.hawaii.gov or by calling (808) 692-7227, at least ten business days before the public hearing (July 6, 2022).

Oral testimony shall be limited to three (3) minutes per testifier.

VIEWING OF THE PROPOSED RULES

The proposed rules may be viewed:

- On the internet, free of charge, at the DOH's website
<http://health.hawaii.gov/opppd/proposed-changes-to-department-of-health-administrative-rules-title-11> or on the Lieutenant Governor's website
<http://ltgov.hawaii.gov/the-office/administrative-rules/proposed-changes>;
- Via email, free of charge, by making a request to the DOH at OHCAMail@doh.hawaii.gov
- In person, free of charge, at the DOH, 1250 Punchbowl Street – see guard in lobby between 8 a.m. to 4 p.m., Monday through Friday, excluding State holidays;
- Via mailed hard copy if a request is made to the DOH at OHCAMail@doh.hawaii.gov and prepayment of \$3.00 is received for copying and postage fees.

Elizabeth A. Char, M.D.
Director of Health
State of Hawaii