

OVERVIEW

THE AUDITOR
STATE OF HAWAII

Sunset Evaluation Report: Nurse Aides

Summary

We evaluated the regulation of nurse aides under Chapter 457A, Hawaii Revised Statutes, and conclude that the public interest is best served by reenactment of the statute.

Federal regulations require certification of nurse aides who work in nursing facilities that participate in Medicare and Medicaid programs. Nurse aides work under the supervision of nurses and medical staff. Duties vary depending on the work setting. They typically include serving and collecting food trays, helping patients to get out of bed, giving back rubs, bathing and dressing patients, and answering patients' bell calls. Nurse aides may also sterilize instruments, clean rooms, change bed linens, deliver messages, and assist in all activities of daily living. Nurse aides are often the principal caregivers, providing up to 90 percent of the care for residents at nursing homes.

Because nurse aides could cause harm to residents and the State must regulate them to participate in Medicare and Medicaid programs, we found that certification of nurse aides should continue. Certification ensures a minimum level of competency to deal with the needs of nursing home residents and helps reduce the potential for harm.

We found that the certification program operates with little guidance. Chapter 457A is a skeletal statute that does not define the scope of regulation nor establish standards for certification or responsibilities of state agencies for various aspects of the program. We also found that the Department of Commerce and Consumer Affairs has not adopted administrative rules for the certification process.

We found that program responsibilities are fragmented. Certification responsibilities have been delegated by contract to an independent contractor who administers the tests, issues certificates, and maintains the required nurse aide registry. The Department of Health and the Department Human Services are also involved in the nurse aide certification program but departmental roles and responsibilities have not been formally established.

Recommendations and Response

We recommend that the Legislature reenact Chapter 457A, HRS, to continue the regulation of nurse aides. In reenacting the statute, the Legislature should

consider amending it to define the occupation of nurse aides, minimum certification requirements, the certification process, and the nurse aide registry, and also to require the director of commerce and consumer affairs to set minimum standards, issue certificates, and maintain the nurse aide registry. We recommend that the director of commerce and consumer affairs should issue rules governing the nurse aide certification program. We also recommend that DCCA should develop a working agreement with the Department of Health and the Department of Human Services that delineates their respective roles and responsibilities.

The department agrees that the regulation of nurse aides should continue and that administrative rules are needed and states that it "intends to promulgate rules to codify current practices and federal regulations." It says no change to the statute is necessary. We believe that the statute should be amended to give substantive authority and guidance to the department in adopting administrative rules.

The department does not believe that it should take control of the issuance of certificates and maintenance of the nurse aide registry because of the additional workload. We believe that the department, as the State's regulatory body responsible for certifying nurse aides, should, at a minimum, approve the issuance of certificates and maintain a current nurse aide registry.

With respect to our recommendation for a working agreement with the Department of Health and the Department of Human Services, the department says it will soon have in place a means of recording substantiated cases in the nurse aide registry and that the department is not opposed to developing a working agreement among the agencies.

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