

**REPORT TO THE TWENTY-SIXTH HAWAII STATE  
LEGISLATURE 2012**

**IN ACCORDANCE WITH THE PROVISIONS OF ACT 221  
SESSION LAWS OF HAWAII 2011**

**DEPARTMENT OF HUMAN SERVICES  
SOCIAL SERVICES DIVISION  
DECEMBER 2011**

**REPORT TO THE HAWAII STATE LEGISLATURE PURSUANT TO ACT 221,  
SESSION LAWS OF HAWAII (SLH) 2011**

Act 221, SLH 2011, allowed the Department of Human Services (DHS) to establish and implement a two-year project for the use of nurse aides as substitute caregivers rather than certified nurse aides for up to a maximum of 5 hours a day and 28 hours per week when the Community Care Foster Family Home (CCFFH) is certified for three individuals needing nursing level of care. The other provisions are as follows:

- The CCFFH must have been in operation for at least one year before being eligible to be certified for 3 clients.
- All substitute caregivers (SCG) must be at least 21 years of age.
- All SCGs must have a minimum of 1 year work experience as a caregiver in a community residential setting or a medical setting.
- All SCGs must have 12 hours of continuing education every 12 months or at least 24 hours of continuing education every 24 months.

DHS is required to evaluate the implementation of the provisions of Act 221, SLH 2011, and submit a report to the Legislature of its findings no later than twenty days prior to the convening of the regular session of 2012.

Implementation of Act 221, SLH 2011, began immediately after the Governor signed the bill into law on July 11, 2011. At that time there were 379 CCFFHs that were certified for 3 clients. Many of the homes had substitutes who were certified nurse aides under the age of 21. In order to implement the requirement that all substitute caregivers must be age 21, DHS provided a grace period until December 31, 2011 for the CCFFH operators to find substitute caregivers who met the age requirement.

Community Ties of America (CTA), DHS' designee to certify the CCFFHs, immediately put into effect a sign in/out sheet so that hours could be tracked by the primary caregiver in order to ensure compliance with Act 221, SLH 2011. CTA also began distributing written information to caregivers and educating all interested primary caregivers about the requirements of Act 221, SLH 2011. In addition, a newsletter that contained the requirements of Act 221, SLH 2011, was mailed (or emailed) to all the primary caregivers on July 13, 2011. The newsletter information is attached.

From July 11, 2011 to October 31, 2011, 54 CCFFHs received new certifications to care for 3 clients (13% increase in CCFFHs certified for 3 clients). Each certification for a 3 client home takes on average, an additional 45 minutes per home to be certified and to ensure that all requirements are met. CTA Compliance Managers also spent an additional 30 to 45 minutes during home visits explaining Act 221, SLH 2011, to 20 CCFFH operators who decided not to apply for a 3 client certified home.

From July 15, 2011 through October 31, 2011, CTA conducted a survey of 44 CCFFHs that were newly certified for 3 clients and found:

- 30 (69%) of the CCFFH operators worked full time in the CCFFH.
- 9 (20%) of the CCFFH operators held a full time job outside the CCFFH.
- 5 (11%) of the CCFFH operators held a part time job outside the CCFFH.

As of October 31, 2011, no complaints or concerns were received by CTA regarding the implementation of Act 221, SLH 2011, or regarding the care of any residents.

This report covers the period from July 11, 2011 to October 31, 2011, a period of 3.5 months. The short time frame precludes the Department from forming any conclusions regarding client care outcomes due to the change in primary and substitute caregiver requirements.

# The Law for 3 Bed Certification has Changed



**3 Bed Certified Homes**.....The Law changed effective July 11, 2011 and **ONLY applies to 3 bed certified CCFFHs**. This new law does not apply to 1 or 2 bed certified homes.

- First, before you may apply for a 3 bed certified CCFFH you must have been in operation as a CCFFH for at least one year.
- Secondly, this law will allow primary caregivers (PCG) whose home is a 3 bed certified CCFFH to use substitute caregivers (SCG) who are nurse aides for up to 5 hours a day and a maximum of 28 hours per week under the following conditions:
  - PCGs of 3 bed certified CCFFHs **can use nurse aides (NAs) as substitutes only until July 1, 2013** up to the amount of time listed above. The intent of the law is to allow 2 years for all NAs to obtain their CNA certification.
  - All SCGs working in 3 bed certified homes must have 12 in-service hours per year.
  - All SCGs working in 3 bed certified homes must be 21 years old, same as the PCGs.
  - The SCGs working in 3 bed certified CCFFHs must have a minimum of 1 year prior work experience as a caregiver in a community residential setting or in a medical facility.
  - the PCG may be absent from the CCFFH a maximum of 5 hours per day for a total of not more than 28 hours in a calendar week and use an NA as a substitute caregiver during these hours.
  - If the PCG is gone more than 5 hours in one day or more than 28 hours in a calendar week they will need to have a CNA as the substitute for the remaining hours in the day or over 28 hours in the calendar week.
- All PCGs are required to track all time spent out of the CCFFH. To do this, all PCGs must keep a timelog or timesheet. The PCG is required to:
  - Record the hours each day s/he was out of the CCFFH
  - PRINT the name of EACH substitute that was with the client(s) while the PCG was out.
    - if there is more than 1 substitute for a day you must show how many hours each substitute worked
  - Sign the timesheet to verify the hours that s/he was out of the CCFFH
  - Require each substitute to verify their time worked by reviewing and signing the timesheet
- The substitute caregiver is required to:
  - Sign the timesheet to verify the hours s/he was the caregiver in the CCFFH while the PCG was out of the home for up to 5 hours/day, maximum 28 hours/week (Sunday through Saturday). (This is required to ensure compliance with the law.)