

EXECUTIVE SUMMARY

REPORT TO THE TWENTY-THIRD LEGISLATURE
STATE OF HAWAI'I
2006

PURSUANT TO HOUSE
CONCURRENT RESOLUTION 40 HOUSE DRAFT 1
REQUESTING THE HAWAI'I STATE COUNCIL ON
DEVELOPMENTAL DISABILITIES TO CONTINUE TO
CONVENE THE RESIDENTIAL SETTINGS TASK FORCE TO
IDENTIFY ISSUES AND SOLUTIONS REGARDING
INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES
AND THEIR CHOICE OF RESIDENTIAL SETTING

PREPARED BY:
STATE OF HAWAI'I
DEPARTMENT OF HEALTH
STATE COUNCIL ON DEVELOPMENTAL DISABILITIES
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INTRODUCTION

The Twenty-Second Legislature in 2004 adopted Senate Concurrent Resolution 79 Senate Draft 1 House Draft 1 requesting the Hawai'i State Council on Developmental Disabilities (Council) to convene a task force to identify issues and solutions regarding individuals with developmental disabilities and their choice of residential setting. The Council convened the Residential Settings Task Force (Task Force) and conducted meetings to address Senate Concurrent Resolution 79 Senate Draft 1 House Draft 1.

The Task Force completed an initial report that described the residential options currently available for individuals with developmental disabilities and the statutes, administrative rules, policies, and directives that impact residential settings for those individuals. While the Task Force identified significant issues that surround and impact individual choice and self-determination, and recognized the complexity of issues, the Task Force was not able to complete all the analysis. It was agreed that further analysis was necessary to fully address the scope of increasing residential options for persons with developmental disabilities including residency in settings that do not require licensure.

The Task Force agreed to continue its work, including the further analysis of statutes, administrative rules, policies, and directives, and to continue to discuss and outline the details of recommendations that were not included in the report.

The 2005 Legislature adopted House Concurrent Resolution 40 House Draft 1, Requesting the Hawai'i State Council on Developmental Disabilities to Continue to Convene a Task Force to Identify Issues and Solutions Regarding Individuals with Developmental Disabilities and Their Choice of Residential Setting.

During the last few years, there has been a shift in residential options including a decrease in developmental disabilities domiciliary homes. Funding for residential services across the board for all residential services providers has not kept pace with the growing need to provide increased options for persons with developmental disabilities. Consequently, seven developmental disabilities domiciliary homes on Oahu, Kauai, and the Big Island discontinued their provision of services in recent years. With the closure of those homes came the loss of U. S. Department of Housing and Urban Development contracts that provided subsidy payments to the provider or individual living in that home, resulting in substantially less federal money for the State of Hawaii to leverage for these services. The task before us is clear: working in partnership with our state and federal governments and our private sector providers, we must create opportunities that encourage the opening of more developmental disabilities domiciliary homes and support an appropriate level of funding for the operators of these community-based settings.

To help address this urgent situation, the 2005 Legislature passed and the Governor signed into law legislation to ensure that developmental disabilities residential service providers are adequately reimbursed for their services. Act 168, SLH 2005, gave the Department of Health authority to enter into contracts for additional payments for residential services to the providers of developmental disabilities domiciliary homes and

payments to operators of developmental disabilities apartment complexes for residential services on terms determined by the Department of Health. Act 236, SLH 2005, provided the funding to implement Act 168.

The State has recognized that there is a housing shortage for people of Hawai'i with and without disabilities. The high cost of living, limited housing options for the general population, and aging family caregivers have contributed to the challenge to provide affordable and available housing.

Based on the census from the Department of Health, Developmental Disabilities Division, approximately sixty (60) percent of individuals with developmental disabilities live with their families. As family caregivers become older and are not able to care for their family member with developmental disabilities, other residential options will be pursued and considered. The Administration has acknowledged the urgency to address the need to increase residential options for this population to prevent unintended consequences such as continued loss of financial resources, decrease in provider capacity, closures of developmental disabilities domiciliary homes, displacement of individuals, and litigation on behalf of individuals with developmental disabilities.

PURPOSE

The purpose of House Concurrent Resolution 40 House Draft 1 is to request that the Hawai'i State Council on Developmental Disabilities (Council) continue to convene a task force to identify issues and solutions regarding individuals with developmental disabilities and their choice of residential setting.

OUTLINE OF ACTIVITIES

The Task Force was to continue its review and analysis of increasing residential options, including residency in homes that do not require a license; statutes, administrative rules, policies, and directives; and recommendations that were not included in the initial report.

The Task Force outlined its activities to address the following:

- (1) Identify residential options available;
- (2) Address individual choice and self-determination in increasing residential options, including exploring settings that don't require licensure;
- (3) Identify statutes, administrative rules, policies, and directives that if revised would allow settings that do not require licensure, however would be able to provide safe and healthy environments, as a residential option;
- (4) Identify statutes, administrative rules, policies, and directives that need to be revised to reflect individual choice and assure civil rights, health, and safety; and

- (5) Coordinate its activities with the Olmstead Task Force to prevent duplication of work.

The Task Force continued to include representatives from the following agencies, organizations, or affiliations that the initial Senate Concurrent Resolution 79 Senate Draft 1 House Draft 1 called for:

- (1) Individuals with developmental disabilities
- (2) Family members of individuals with developmental disabilities
- (3) Department of Health, Developmental Disabilities Division
- (4) Department of Health, Office of Health Care Assurance
- (5) Department of Health, Adult Mental Health Division
- (6) Department of Health, Hawai'i State Council on Developmental Disabilities
- (7) Department of Human Services, Social Services Division
- (8) Hawaii Disability Rights Center
- (9) Office of the Public Guardian
- (10) Residential services providers such as operators of adult residential care homes, developmental disabilities domiciliary care homes, and adult foster homes
- (11) Support services providers

The Task Force was requested to submit a follow-up report, including any proposed legislation, to the Legislature no later than twenty (20) days prior to the convening of the Regular Session of 2006.

Certified copies of House Concurrent Resolution 40 House Draft 1 were transmitted to the Chair and Executive Administrator of the Hawai'i State Council on Developmental Disabilities, Director of Health, Director of Human Services, President of the Hawai'i Disability Rights Center, and Director of the Office of the Public Guardian.

I. RESIDENTIAL OPTIONS AVAILABLE

A review of residential settings available was completed in the Senate Concurrent Resolution 79 Senate Draft 1 House Draft 1 initial report (December 2004). This review provided citations of the applicable Hawai'i Revised Statutes and Hawai'i Administrative Rules for the various residential settings for persons with developmental disabilities.

A. Summary of Residential Settings for Persons with Developmental Disabilities

1. Adult Foster Home
2. Adult Residential Care Home
3. Expanded Adult Residential Care Home
4. Assisted Living Facility
5. Developmental Disabilities Domiciliary Home

6. Intermediate Care Facility for Persons with Mental Retardation
7. Residential Community Care Alternatives Program
8. Semi-independent Living
9. Therapeutic Living Program
10. Special Treatment Facility
11. Family
12. Independent

B. Summary of Adult Mental Health Division's Residential Treatment Settings and Community Housing Program for Persons with Severe and Persistent Mental Illness

Licensed Residential Treatment Programs

1. Specialized Residential Treatment Services
2. Specialized Residential Treatment Services for Dual Diagnosis
3. Interim Housing

Adult Mental Health Division Community Housing Program (Certified):

4. Twenty-four (24) Hour Group Homes
5. Eight to Sixteen (8-16) Hour Group Homes
6. Semi-Independent Living
7. Supported Housing Program
8. Shelter-Plus Care

II. INVENTORY OF RESIDENTIAL OPTIONS

An inventory of residential options was included in the Senate Concurrent Resolution 79 Senate Draft 1 House Draft 1 Initial Report (December 2004). The following information was updated:

1. The number of developmental disabilities domiciliary homes and adult foster homes.
2. The settings in which people with developmental disabilities live by county.
3. Developmental disabilities domiciliary homes in Hawai'i.
4. The trend for developmental disabilities domiciliary homes and adult foster homes.
5. The types and number of residential settings licensed by the Department of Health, Office of Health Care Assurance.

Of the residential settings available for persons with developmental disabilities, sixty-five (65) percent of individuals with developmental disabilities receiving services from the Developmental Disabilities Division live with their families followed by fifteen (15)

percent living in adult foster homes, five (5) percent living in adult residential care homes, four (4) percent living in developmental disabilities domiciliary homes, and three (3) percent live alone.

There are five (5) private providers (The Arc in Hawai‘i, ORI-Opportunities for the Retarded, and RCH –Responsive Caregivers of Hawai‘i, Kona Krafts and The Arc of Maui) that operate developmental disabilities domiciliary homes. Agency operated homes comprise fifty-three (53) percent of the developmental disabilities domiciliary homes (17 total) and family operated homes comprise forty-seven (47) percent of those homes (15 total). During the past year, one (1) family operated home closed on Maui, however, there was a slight increase from twenty-six (26) to thirty (30) family operated homes statewide. No increases represented for agency operated homes.

During the last five years, there has been a shift in the number of adult foster homes and developmental disabilities domiciliary homes. In 2001, there were two hundred and sixty (260) adult foster homes and in 2005, there are two hundred and eighty-eight (288) homes. For developmental disabilities domiciliary homes, there has been a decrease of homes from forty-three (43) to thirty-two (32) homes. The decrease reflects the closure of eleven (11) homes over the five (5) year period.

III. ADDRESS INDIVIDUAL CHOICE AND SELF-DETERMINATION IN INCREASING RESIDENTIAL OPTIONS, INCLUDING EXPLORING SETTINGS THAT DON'T REQUIRE LICENSURE

There were numerous issues addressed by the Task Force that relate to increasing residential options while maintaining health and safety standards, and providing more consumer-control and consumer-directed services and supports. It was recognized that not all issues could be adequately addressed given the time constraints. Therefore, the Task Force identified the following five (5) priority areas to be addressed:

- A. Aging Population
- B. Crisis Network Services
- C. Financial
- D. General
- E. Licensure and Regulations

Issues were identified for the above priority areas and recommendations were determined for further action and follow-up.

A. Aging Population

1. Transfer Trauma

Recommendations:

- a. Establish a peer counseling service that will provide a peer counselor to the individual who is moving to a different home to minimize trauma and to provide peer education and training related to transfer trauma to direct care staff.
- b. Identify other groups to assist with providing peer-to-peer education and training relating to transfer trauma.
- c. Developmental Disabilities Division to establish an education and training component on transfer trauma for individuals with developmental disabilities, families and caregivers as part of quality assurance.

2. Financial Reimbursement

Recommendations:

- a. Increase funding for training of caregivers.
- b. Pursue other state and federal grant resources that may be available.
- c. Identify how the state can assist providers to address liability costs.
- d. Look at the City and County low cost loan program as a model to follow to offer something similar statewide for residential/community health care settings.

3. Health and Safety Monitoring

Recommendations:

- a. Department of Health to review its rules and polices, and consider alternatives for an individual needing nursing care to support people aging in place and preventing transfer trauma.
- b. Department of Health to consider alternatives for an individual needing nursing care to remain in their current setting taking into consideration the individual's higher level of care needs, the skill and competency level of the provider and any structural requirements that may need to be made to accommodate the individual (i.e., bathroom, grab bars, handrails, etc.).

4. Training for Caregivers

Recommendations:

- a. Department of Health to develop a training program available for direct support workers that will include an optional web-based training program, such as the College of Direct Support.

- b. Department of Health to develop a training plan in collaboration with providers that identifies needs for initial and ongoing education and training, and stakeholders to be included.

B. Crisis Network Services

The need for a safety net of services and supports has been a priority in the community. Crisis prevention and intervention services are key components in the service delivery system to support individuals with developmental disabilities to live in the community and caregivers to maintain them in the home.

The Department of Health, Developmental Disabilities Division, issued a Request For Proposals for Crisis Network Services in November 2005.

C. Financial

1. Rate of Payment
2. Level of Care
3. Federal Reimbursements
4. Liability/Risk Management

Recommendations:

- a. Initiate and support legislative measures to provide continued funding for the implementation of Act 168/2005.
- b. Residential/custodial care needs to be defined clearly. Several options should be considered:
 - i. Add the definition of twenty-four (24) hour, seven (7) day per week supervision or care to the rules for developmental disabilities domiciliary homes (Hawaii Administrative Rules Chapter 89-11-2), which falls under the purview of the Department of Health, Developmental Disabilities Division and Office of Health Care Assurance.
 - ii. Amend the part of the definition in the rules that refers to the number of people who can live in the residence from “up to five (5)” to “three (3) to five (5)” individuals.
 - iii. Define what “care” and “supervision” mean. It was noted that a definition of personal care is included in the rules to mean basic activities of daily living.
 - iv. Amend the rules to delete individualized care, and add that services be provided in the group arena. Care needs to be provided on an individualized basis as individuals have differing needs.
- c. Determine the feasibility to provide payments for insurance for caregiver or provide reimbursement for insurance for caregivers.

- d. Establish partnerships between the State and insurance companies to offer lower rate premiums to caregivers for persons with developmental disabilities.

D. General

Information mentioned in this section included housing and residential options for other populations, co-occurring diagnoses, preferences and choices, rights of persons with developmental disabilities, dignity of risk, *Olmstead v. L.C.* Supreme Court decision, Hawai'i's Olmstead Plan, etc.

E. Licensure/Regulations

1. Settings that Require Licensure vs. Settings that Do Not Require Licensure

Issues were identified in this section relating to the above.

2. Settings That Do Not Require A License

The Task Force agreed that the following settings do not require a licensure:

- a. Person lives with family (parent, sibling, cousins, aunt/uncle, etc.).
- b. Person lives in a family owned home with a live-in caregiver who is paid.
- c. Person lives in a home that he/she rents from landlord with no paid supports. In this situation the landlord has no interest other than renting to the individual.
- d. Person lives in a home that he/she rents from the landlord and receives paid support from someone coming into the home.

In situations where individuals live in a community setting that is not licensed or certified, Medicaid supports would be contingent upon something else being there to ensure health and safety. The Department of Human Services, as the State Medicaid agency, needs to have some assurance that there is a mechanism, if not licensing or certification, to assure health and safety of the individual via a face-to-face visit in the setting possibly by a case manager.

In situations where the only waiver services person is getting are outside of the home (e.g., adult day health services and no personal assistant comes into the home), the individual is fully able to make decisions, and happens to be living in a home that he/she rents from someone else. There needs to be assurance that there is a mechanism to assure the health and safety of the individual via a face-to-face visit in the setting.

- e. Person lives in the home of another and does not receive paid Medicaid waiver

supports in the home.

- f. When one (1) or two (2) individuals rent a single apartment unit from a landlord where rent is not paid by the Medicaid waiver. The maximum number of individuals to live in a single apartment unit is two (2) and rent is not paid through the Medicaid waiver.

3. Health and Safety

Issues were identified in this section relating to health and safety that included factors that guarantee health and safety, purpose of licensing a home, at what point does a license become necessary, etc.

IV. IDENTIFY STATUTES, ADMINISTRATIVE RULES, POLICIES, AND DIRECTIVES THAT IF REVISED WOULD ALLOW SETTINGS THAT DO NOT REQUIRE LICENSURE, HOWEVER WOULD BE ABLE TO PROVIDE SAFE AND HEALTHY ENVIRONMENTS AS A RESIDENTIAL OPTION

The Initial Report (Senate Concurrent Resolution 79 Senate Draft1 House Draft 1, 2004) included statutes, administrative rules, policies and directives applicable to residential settings for persons with developmental disabilities. The Task Force has included the information again in this report.

The following statutes, administrative rules, policies and directives that govern adult residential care homes, adult foster homes and developmental disabilities domiciliary care homes for individuals with developmental disabilities were reviewed. The description includes only pertinent sections that apply to residential settings for persons with developmental disabilities.

1. **Code of Federal Regulations, Subpart G, Home and Community-Based Services: Waiver Requirements, State Assurances (42 C.F.R. § 441.302)**
2. **Americans with Disabilities Act Title II, Public Services, Subtitle A: Prohibition Against Discrimination and Other Generally Applicable Provisions**
3. **United States Supreme Court decision in *Olmstead v. L.C.*, 527 U.S. 581 (1999)**
4. **Chapter 333F, Hawai‘i Revised Statutes, 2003 Cumulative Supplement, Services for Persons with Developmental Disabilities or Mental Retardation**

Section 333F-2: Developmental disabilities system

Section 333F-7: Provision of services

Section 333F-8: Rights of persons with developmental disabilities or mental retardation

**5. Chapter 321, Department of Health, Hawai'i Revised Statutes, 2003
Cumulative Supplement**

Section 321-11.2: Adult Foster Homes

Section 321-15.6: Adult residential care homes; licensing.

Section 321-15.62: Expanded adult residential care homes; licensing.

Section 321-15.9: Developmental disabilities domiciliary homes.

**6. Hawai'i Administrative Rules, Title 11, Department of Health, Chapter 89,
Developmental Disabilities Domiciliary Homes**

**7. Hawai'i Administrative Rules, Title 11, Department of Health, Chapter 148,
Certification of Adult Foster Homes**

**8. Hawai'i Administrative Rules, Title 11, Department of Health, Chapter 100,
Adult Residential Care Homes**

**V. IDENTIFY STATUTES, ADMINISTRATIVE RULES,
POLICIES, AND DIRECTIVES THAT NEED TO BE REVISED
TO REFLECT INDIVIDUAL CHOICE AND ASSURE CIVIL
RIGHTS, HEALTH AND SAFETY**

The following statutes and administrative rules were identified to be reviewed to determine what revisions are needed to support and reflect individual choice and assure civil rights, health and safety.

1. Adult Foster Homes

Chapter 321, Section 321-11.2, Hawai'i Revised Statutes,
Title 11, Department of Health, Chapter 148, Hawai'i Administrative Rules,

2. Adult Residential Care Homes

Chapter 321-15.1, Hawai'i Revised Statutes
Title 11, Department of Health, Chapter 100, Hawai'i Administrative Rules

Licensing

Chapter 321, Section 321-15.6, Hawai'i Revised Statutes

Expanded Admissions

Chapter 321, Section 321-15.61, Hawai'i Revised Statutes

Expanded Licensing

Chapter 321, Section 321-15.62, Hawai‘i Revised Statutes

3. **Developmental Disabilities Domiciliary Homes**
Chapter 321, Section 321-15.9, Hawai‘i Revised Statutes,
Title 11, Department of Health, Chapter 89, Hawai‘i Administrative Rules
4. **Services for Persons with Developmental Disabilities or Mental Retardation**
Chapter 333F, Hawai‘i Revised Statutes

VI. COORDINATE ACTIVITIES WITH THE OLMSTEAD TASK FORCE TO PREVENT DUPLICATION OF WORK

The Olmstead Task Force submitted its recommended Olmstead Implementation Plan (Plan) to Governor Lingle in January 2005. Department Directors were given copies of the Plan and were asked to review and provide feedback to her Policy Office. Review and comments were completed and forwarded from the Policy Office to the Department of Human Services.

Included in the Plan was an Objective that was coordinated with the Residential Settings Task Force. Objective 3b in the Plan stated, "Change policies for existing resources to increase flexibility in how funds are used and give authorization to people with disabilities to control how they use their own funds." The following two strategies were identified for this objective that involved work with the Residential Settings Task Force:

1. Strategy 3b2: Review state regulations so that people with disabilities, their families and caregivers can decide how their individual benefits will be used for the home and services of their choice.
2. Strategy 3b3: Identify policies that create disincentives to independent community living and consumer choice by establishing a mechanism for people with disabilities, their families and caregivers to provide feedback.

Once the Governor approves the Plan, the Olmstead Task Force will reconvene to address next steps. The Task Force will coordinate its activities to address the above strategies with the Residential Settings Task Force.

VII. UPDATE OF RECOMMENDATIONS FROM THE INITIAL REPORT (SENATE CONCURRENT RESOLUTION 79 SENATE DRAFT 1 HOUSE DRAFT 1)

The following recommendations were included in the initial report and were not considered inclusive of all recommendations considered and discussed by the Task Force. An update is provided for each of the recommendations.

1. Amend Chapter 321, Hawai'i Revised Statutes, Developmental Disabilities Domiciliary Homes

- a. To amend Section 321-15.9 (f) to authorize the Department of Health to determine the rate of payment for residents in developmental disabilities domiciliary homes. The amendment would allow the Department of Health to determine appropriate rate of payment that addresses individual needs and choice. Additional funds will be required from the Legislature.

The rate of payment would be in addition to the current State Supplemental Payment of \$521.90 for individuals residing in domiciliary care.

The language to amend Section 321-15.9 (f) would be as follows:

“The rate of payment for residents in the developmental disabilities domiciliary homes shall be determined [on the same basis as domiciliary care homes as provided under section 346-53.] by the department of health.” Statutory material to be repealed is bracketed. New material underscored.

- b. To amend Section 321-15.9 (c)(3): “Provide for plans of care which include community integration and [training] support of persons residing in the licensed homes.” Statutory material to be repealed is bracketed. New material underscored.

The language for training individuals is outdated and was included in past contracts for providers of group homes. Focus on individualized service plans, plans of care, and etc., is to support the individual to live in the community.

STATUS: A bill was introduced based on this recommendation. Initial legislation was incorporated in Senate Bill 3, passed by the Legislature and signed into law by the Governor as Act 168/05. The rate of payment issue, raised as part of this recommendation, was addressed in Senate Bill 1620, Section 14 that included an appropriation of \$485,000 for fiscal year 2005-2006 to carry out the activities included in Senate Bill 3.

2. Amend Section 333F-2, Hawai'i Revised Statutes

Amend Section 333F-2, “(c)(9) Provision of community residential alternatives for persons with developmental disabilities or mental retardation, including group homes and homes meeting intermediate care facility for individuals with mental retardation standards” by amending the above language to state, “Provision of community residential alternatives for persons with developmental disabilities or mental retardation, including [group homes and] homes meeting intermediate care facility for individuals with mental retardation standards, and in a setting of his/her choice if the individual/circle of support determines that the individual can be sustained with supports, and the supports are

attached to the person;” Statutory material to be repealed is bracketed. New material underscored.

STATUS: Senate and House bills were introduced and passed by the respective subject matter committees; however, neither was successful in being heard by the Senate Ways and Means and House Finance committees. This is a priority for the Task Force.

- 3. Department of Health, Developmental Disabilities Division, in collaboration with the Residential Settings Task Force, to revise applicable Hawai‘i Revised Statutes and Hawai‘i Administrative Rules regarding residential settings to reflect the principles of self-determination and individual choice.**

This initiative will require at least one year completing and could be accomplished during the interim period between the 2005 and 2006 legislative session.

STATUS: The Task Force recognizes this as a priority activity and is being currently addressed.

- 4. Department of Health, Developmental Disabilities Division to pursue Supported Housing/Bridge Subsidy Program as a residential option through a pilot project.**

The Department of Health, Adult Mental Health Division’s Supported Housing/Bridge Subsidy Program has demonstrated success in allowing individuals with mental illness to live independently in housing of their choice. This model is a practical and realistic approach to increasing residential options for individuals with developmental disabilities. The pilot project would include a small number of individuals currently served by the Developmental Disabilities Division. The project would require funds in addition to Developmental Disabilities Division’s existing budget from the Legislature.

STATUS: Funds for the above were included in the appropriation for Senate Bill 3, however, it was not funded.

- 5. Department of Health, Developmental Disabilities Division to establish a Housing Specialist within Developmental Disabilities Division.**

A Housing Specialist shall have the responsibility to develop a comprehensive housing plan and implement the Supported Housing/Bridge Subsidy Program including coordinating with the Housing and Community Development Corporation, Housing and Urban Development, and other housing agencies to pursue other housing alternatives. This position would be located in the Developmental Disabilities Division. The authorization and appropriation for this position will be required by the Legislature.

STATUS: A Housing Specialist position is in the process of being created within the Developmental Disabilities Division.

6. Department of Health, Developmental Disabilities Division to initiate discussion with Ann O’Hara from Technical Assistance Collaborative, Inc., for information and technical assistance regarding housing options and projects.

Ms. O’Hara served as a consultant to the Department of Health, Adult Mental Health Division, in its implementation of the Supported Housing/Bridge Subsidy Program. She would be a great resource for Developmental Disabilities Division in providing technical assistance for the implementation of the Supportive Housing/Bridge Subsidy project and other housing options for individuals with developmental disabilities.

STATUS: There has been no discussion with Ann O’Hara. Developmental Disabilities Division is willing to discuss the development of a comprehensive housing plan with Ms. O’Hara. The responsibility for the development of the comprehensive housing plan can be placed in the position that is being created. Developmental Disabilities Division could use technical assistance as needed. A technical assistance meeting with Ann O’Hara is pending and dependent on availability of funding for this consultant’s services.

7. Department of Health, Developmental Disabilities Division to develop a comprehensive housing plan for individuals with developmental disabilities.

The plan should clearly identify specific action steps to address residential alternatives. Refer to Recommendation 5.

STATUS: The housing specialist and technical assistance with Ms. O’Hara will help the DD Division to develop a comprehensive housing plan.

8. Department of Health, Developmental Disabilities Division to consider the following strategies in determining the rate of payment:

- a. Contracts for funding for agency-operated developmental disabilities domiciliary homes.
- b. A cost reimbursement and differential for shift staff.
- c. A higher rate to providers with a “no reject policy” for shift staff.
- d. Agency contracts that are based per program not based on the individual.
- e. Calculate for “vacant” days for individuals. This would be for unanticipated absences of the individual.

Note: Medicaid Home and Community-Based Services Waiver funds cannot be used to reimburse for vacant days.

STATUS: Developmental Disabilities Division plans to use Senate Bill 1620 rainy day fund monies to implement Senate Bill 3. Assistance is needed from task force to pursue continued funding for this area.

9. Amend Chapter 89, Hawai‘i Administrative Rules for Developmental Disabilities Domiciliary Homes.

Any amendments to Chapter 89, Hawai‘i Administrative Rules will reflect amendments made to Chapter 321. Refer to Recommendation 1.

STATUS: The above is pending any recommendations from the Task Force.

VIII. RECOMMENDATIONS

The following recommendations were based on the Task Force’s review and discussions of statutes, administrative rules, policies, current practices, issues relating to residential settings and options for people with developmental disabilities, and the status of recommendations made in the initial report for Senate Concurrent Resolution 79 Senate Draft House Draft 1. The recommendations were based on the majority of the Task Force and may not be considered as having full support of all individual members.

The recommendations below are considered overarching recommendations that cut across the five (5) priority areas identified and discussed in Section III.

1. Support funding for Department of Health, Developmental Disabilities Division to implement Act 168/2005.
2. Support Department of Health, Developmental Disabilities Division’s emergency appropriation request for developmental disabilities services.
3. Continue to support the recommendation (# 2) included in the Senate Concurrent Resolution 79 Senate Draft 1 House Draft 1 Initial Report to amend Chapter 333F-2, Hawai‘i Revised Statutes, to include language relating to an individual’s choice of residential setting. Refer to Page 13.
4. Continue to support the recommendation (#3) included in the Senate Concurrent Resolution 79 Senate Draft 1 House Draft 1 initial report to revise applicable Hawai‘i Revised Statutes and Hawai‘i Administrative Rules regarding residential settings to reflect the principles of self-determination and individual choice. Refer to Page 14.

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5. Continue to support the recommendation (#4) included in the Senate Concurrent Resolution 79 Senate Draft 1 House Draft 1 initial report to pursue a Supported Housing/Bridge Subsidy program as a community housing option through a pilot project. Refer to Page 14.
6. Initiate and support a legislative measure for the Department of Health to obtain a national consultant organization to assist in the implementation of the Task Force's recommendations.
7. Initiate and support a legislative measure to include the settings that do not require licensure (page 9, a. thru f.) in State statute.
8. Continue to convene the Residential Settings Task Force for one (1) year to address the five (5) priority areas identified and to assist the Department of Health to implement the recommendations in the House Concurrent Resolution 40 House Draft 1 report submitted to the 2006 Legislature.