

ENGROSSED HOUSE  
BILL NO. 2008

BY: PILGRIM of the HOUSE

and

HOBSON of the SENATE

( PUBLIC HEALTH AND SAFETY - CREATING THE HOME

CARE ACT -

EFFECTIVE DATE )

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1960 of Title 63, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Home Care Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1961 of Title 63, unless there is created a duplication in numbering, reads as follows:

As used in the Home Care Act:

1. "Board" means the State Board of Health;
2. "Certification" means verification of appropriate training and competence for the provision of personal care;
3. "Department" means the State Department of Health;
4. "Home care agency" means any sole proprietorship, partnership, association, corporation or other organization which administers, offers or provides home care services, for a fee or pursuant to a contract for such services, to clients in their place of residence;

5. "Home care services" means skilled or personal care services provided to clients in their place of residence;

6. "Home health aide" means an individual who provides personal care to clients in their temporary or permanent place of residence;

7. "Personal care" means assistance with dressing, bathing, ambulation, exercise or other personal needs; and

8. "Skilled care" means home care services performed on a regular basis by a trained Respiratory Therapist/Technician or by a person currently licensed by this state, including but not limited to a Licensed Practical Nurse, Registered Nurse, Physical Therapist, Occupational Therapist, Speech Therapist, or Social Worker.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1962 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. On and after July 1, 1993, no home care agency as such term is defined by this act shall operate without first obtaining a license as required by the Home Care Act.

B. On and after July 1, 1993:

1. No employer or contractor, except as otherwise provided by this subsection, shall employ or contract with any individual as a home health aide for more than four (4) months, on a full-time, temporary, per diem or other basis, unless such individual is a licensed health professional or unless such individual has satisfied the requirements for certification and placement on the home health aide registry maintained by the Department; and

2. a. Any person in the employment of a home care agency or as a home health aide on June 30, 1992, with continuous employment through June 30, 1993, shall be granted home health aide certification by the Department on July 1, 1993. The home care agency shall maintain responsibility for assurance of specific competencies of the home health aide and

shall only assign the home health aide to tasks for which the aide has been determined to be competent.

b. Any home health aide employed between the dates of July 1, 1992, and June 30, 1993, shall be eligible for certification by passing a competency evaluation and testing as required by the Department.

c. Any home health aide employed on and after July 1, 1993, shall complete any specified training, competency evaluation and testing required by the Department.

C. The provisions of the Home Care Act shall not apply to:

1. A person acting alone who provides services in the home of a relative, neighbor or friend;

2. A person who provides maid services only;

3. A nurse service or home aide service conducted by and for the adherents to any religious denomination, the tenets of which include reliance on spiritual means through prayer alone for healing; or

4. A person providing hospice services pursuant to the Oklahoma Hospice Licensing Act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1963 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The State Department of Health shall have the power and duty to:

1. Issue, renew, deny, modify, suspend and revoke licenses and deny renewal of licenses for agencies, and issue, renew, deny, modify, suspend and revoke certificates and deny renewal of certificates for home health aides pursuant to the provisions of the Home Care Act;

2. Establish and enforce qualifications, standards and requirements for licensure of home care agencies and certification of home health aides;

3. Issue or renew a license to establish or operate a home care agency if the Department determines that the agency meets the requirements of one of the following accrediting or certifying organizations or programs:

- a. Title XVIII or XIX of the federal Social Security Act,
- b. the Joint Commission on Accreditation of Healthcare Organizations/Home Care Accreditation Services (JCAHO), or
- c. the Community Health Accreditation Program of the National League for Nursing (CHAP);

4. Establish and maintain a registry of certified home health aides;

5. Enter any home care agency when reasonably necessary for the sole purpose of inspecting and investigating conditions of the agency for compliance with the provisions of the Home Care Act, or compliance with the standards and requirements for licensure or certification developed by the Department pursuant to the provisions of the Home Care Act;

6. Establish administrative penalties for violations of the provisions of the Home Care Act; and

7. Exercise all incidental powers as necessary and proper for the administration of the Home Care Act.

B. 1. The State Board of Health shall promulgate rules necessary for the investigation and hearing of complaints regarding a home care agency or home health aide.

2. The Department shall establish procedures for receipt and investigation of complaints regarding a home care agency or home health aide.

3. A complaint regarding a home care agency or home health aide shall not be made public unless a completed investigation substantiates the violations alleged in the complaint.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1964 of Title 63, unless there is created a duplication in numbering, reads as follows:

The State Board of Health shall promulgate rules necessary for the accomplishment of the purposes of the Home Care Act, including but not limited to:

1. Minimum standards for home care services. In establishing such standards, the Board shall consider those standards adopted by the Oklahoma Association for Home Care and national home care associations;

2. Requirements for the certification and continued certification of home health aides;

3. Provisions for transfer of ownership of a licensed agency; and

4. A statement of clients' rights and responsibilities.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1965 of Title 63, unless there is created a duplication in numbering, reads as follows:

An application for a license, or renewal thereof, to establish or operate a home care agency shall be accompanied by a nonrefundable licensing fee in an amount not exceeding Fifty Dollars (\$50.00). Upon payment of the required licensing fee, an initial license may be issued for not less than six (6) months nor more than eighteen (18) months from the date of issuance and may be renewed annually thereafter for a fee not to exceed Fifty Dollars (\$50.00).

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1966 of Title 63, unless there is created a duplication in numbering, reads as follows:

Any home care agency or home health aide covered by the Home Care Act that has been determined by the State Department of Health to have violated any provision of the Home Care Act or any rule promulgated thereto may be liable for an administrative penalty of not more than One Hundred Dollars (\$100.00) per violation for each day on which a violation occurs or continues. The maximum administrative penalty shall not exceed Ten Thousand Dollars (\$10,000.00) for any related series of violations.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1967 of Title 63, unless there is created a duplication in numbering, reads as follows:

The State Department of Health may bring an action in a court of competent jurisdiction for equitable relief to redress or restrain a violation by any person of a provision of the Home Care Act or any rule promulgated pursuant to the provisions of the Home Care Act. Said court shall have jurisdiction to determine said action, and to grant the necessary or appropriate relief, including but not limited to mandatory or prohibitive injunctive relief or interim equitable relief.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1968 of Title 63, unless there is created a duplication in numbering, reads as follows:

No agency, employee of any agency, or home health aide shall serve as the guardian of a client unless such home care provider is related to the client by blood or marriage and is otherwise eligible to serve as a guardian.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1969 of Title 63, unless there is created a duplication in numbering, reads as follows:

The provisions of the Administrative Procedures Act shall apply to all administrative rules and procedures of the State Board of Health promulgated pursuant to the Home Care Act.

SECTION 11. This act shall become effective September 1, 1992.

Passed the House of Representatives the 4th day of March, 1992.

Speaker of the House of  
Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 1992.

President of the Senate