

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 245

By: Monson

COMMITTEE SUBSTITUTE

An Act relating to the Home Care Act; amending Section 3, Chapter 139, O.S.L. 1992, as last amended by Section 1, Chapter 349, O.S.L. 1996, and Section 5, Chapter 139, O.S.L. 1992 (63 O.S. Supp. 1996, Sections 1-1961 and 1-1963), which relate to definitions and powers and duties of the State Department of Health; modifying certain term; requiring joint development and implementation of certain requirements; clarifying statutory references; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 3, Chapter 139, O.S.L. 1992, as last amended by Section 1, Chapter 349, O.S.L. 1996 (63 O.S. Supp. 1996, Section 1-1961), is amended to read as follows:

Section 1-1961. As used in the Home Care Act, Section 1-1960 et seq. of this title:

1. "Board" means the State Board of Health;

2. "Certification" means verification of appropriate training and competence established by the State Board of Health by rules promulgated pursuant to the Home Care Act for home health aides and home care agency administrators;

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. The term "home care agency" shall not include individuals who contract with the ~~Department of Human Services~~ Oklahoma Health Care Authority to provide personal care services; ~~provided, however,~~ such individuals shall not be exempt from certification as ~~home health aides~~ personal care assistants;

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

6. "Home health aide" means an individual who, under a physician's orders and incidental to skilled care, provides personal care to clients in their temporary or permanent place of residence for a fee;

7. "Home care agency administrator" means a person who operates, manages, or supervises, or is in charge of a home care agency;

8. "Personal care" means assistance ~~with dressing,~~ provided to an individual in carrying out activities of daily living, such as bathing, ambulation, exercise grooming, and eating; and

9. "Personal care assistant" means an individual who, under the supervision of a registered nurse licensed in this state, provides personal care to clients in their temporary or permanent place of residence for a fee; and

10. "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~~ licensed practical nurse, registered nurse, physical therapist, occupational therapist, speech therapist or social worker.

SECTION 2. AMENDATORY Section 5, Chapter 139, O.S.L. 1992 (63 O.S. Supp. 1996, Section 1-1963), is amended to read as follows:

Section 1-1963. 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, Section 1-1960 et seq. of this title;

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 or is accredited or certified by one of the following accrediting or certifying organizations or programs. In addition, the accredited home care agency through this paragraph will not be subject to an inspection or examination by the Department unless necessary to investigate complaints under subsection ~~B~~ C of this section:

- a. Title XVIII or XIX of the federal Social Security Act, 42 U.S.C.A., Sections 1395 et seq. and 1396 et seq.,
- 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. The State Department of Health, in conjunction with the Oklahoma Health Care Authority, and the Aging Services Division of the Department of Human Services, shall jointly develop and implement requirements for access to training and certification for personal care assistants.

C. 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 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

46-1-1161

CJ