

ENROLLED SENATE  
BILL NO. 663

By: Snyder of the Senate  
and  
Seikel of the House

An Act relating to public health and safety; amending Section 4, Chapter 139, O.S.L. 1992, as amended by Section 1, Chapter 157, O.S.L. 1996, and Section 8, Chapter 139, O.S.L. 1992, as last amended by Section 31, Chapter 382, O.S.L. 1994 (63 O.S. Supp. 1996, Sections 1-1962 and 1-1966), which relate to the Home Care Act; deleting requirements for competency certification for certain individuals; expanding list of entities that are exempt from the provisions of the act; providing for additional entity to which certain violations and penalties shall apply; exempting certain individual from provisions of Home Care Act; requiring development of certain criteria; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 4, Chapter 139, O.S.L. 1992, as amended by Section 1, Chapter 157, O.S.L. 1996 (63 O.S. Supp. 1996, Section 1-1962), is amended to read as follows:

Section 1-1962. 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 State Department of Health; and

2. a. Any person in the employment of a home care agency 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, 1996, 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;
4. A person providing hospice services pursuant to the Oklahoma Hospice Licensing Act;
5. A nurse-midwife;
6. An individual who only provides Medicaid home- and community-based personal care services pursuant to a contract with the Oklahoma Health Care Authority; or
7. An individual who:
  - a. is employed by a licensed home care agency exclusively to provide personal care services on a live-in basis,
  - b. has no convictions pursuant to a criminal history investigation as provided in Section 1-1950.1 of this title,
  - c. is being continuously trained by a registered nurse to provide care that is specific to the needs of the particular client receiving the care, and
  - d. is supervised by a registered nurse via an on-site visit at least once each month.

SECTION 2. AMENDATORY Section 8, Chapter 139, O.S.L. 1992, as last amended by Section 31, Chapter 382, O.S.L. 1994 (63 O.S. Supp. 1996, Section 1-1966), is amended to read as follows:

Section 1-1966. Any home care agency, home care agency administrator, 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. Funds collected pursuant to this section shall be deposited in the Home Health Care Revolving Fund created in Section 1-1971 of this title.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5013.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. An individual who only provides Medicaid home- and community-based personal care services, pursuant to a contract with the Oklahoma Health Care Authority, shall be exempt from the

provisions of the Home Care Act, Section 1-1960 et seq. of Title 63 of the Oklahoma Statutes.

B. The Authority, with the assistance of the Aging Services Division of the Department of Human Services, shall develop qualifying criteria that comply with federal standards for personal care services under the Medicaid program for persons providing Medicaid home- and community-based personal care services pursuant to a contract with the Oklahoma Health Care Authority. Such criteria shall also include requirements for a criminal history investigation to be conducted on such persons pursuant to Section 1-1950.1 of Title 63 of the Oklahoma Statutes.

SECTION 4. 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.