

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 2282

By: Stanley

AS INTRODUCED

An Act relating to public health and safety; amending Section 4, Chapter 139, O.S.L. 1992, as last amended by Section 20, Chapter 407, O.S.L. 1997, and Section 12, Chapter 139, O.S.L. 1992 (63 O.S. Supp. 1997, Sections 1-1962 and 1-1970), which relate to the Home Care Act; deleting certain requirements for licensure for individuals under contract with the Medicaid agency; making the Home Care Act not apply; adding to exemptions from act; removing certain process for appointment of members to Home Health Advisory Board; and providing an effective date.

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

SECTION 1. AMENDATORY Section 4, Chapter 139, O.S.L. 1992, as last amended by Section 20, Chapter 407, O.S.L. 1997 (63 O.S. Supp. 1997, Section 1-1962), is amended to read as follows:

Section 1-1962. A. 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. 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. ~~The Department in conjunction with the Department of Human Services shall, until July 1, 1997, provide for competency certification for individuals under contract with the state Medicaid agency for the provision of personal care services prior to July 1, 1997, and who have not already been certified pursuant to this subsection.~~

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; ~~or~~

6. An individual, agency, or organization that contracts with the Oklahoma Health Care Authority to provide services under the Home and Community-Based Waiver for persons with mental retardation or that contracts with the Department of Human Services to provide community services to persons with mental retardation; provided, that staff members and individuals providing such services shall receive a level of training, approved by the Department of Human Services, which meets or exceeds the level required pursuant to the Home Care Act. An individual, agency or organization otherwise covered under the Home Care Act shall be exempt from the act only for those paraprofessional direct care services provided under contracts referenced in this paragraph;

7. An individual who only provides Medicaid home- and community-based personal care services pursuant to a contract with the Oklahoma Health Care Authority; or

8. 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 12, Chapter 139, O.S.L. 1992 (63 O.S. Supp. 1997, Section 1-1970), is amended to read as follows:

Section 1-1970. A. There is hereby created a Home Health Advisory Board which shall be composed of seven (7) members as follows:

1. One member who shall be a family practice physician or general practitioner of the medical professions licensed pursuant to the laws of this state and with a practice which includes home health service;

2. One member who shall be a registered nurse licensed pursuant to the laws of this state and whose practice includes home health services;

3. Two members who shall be administrators of home health agencies which shall, subsequent to the effective date of this act and its regulation, be licensed pursuant to this act; and

4. Three members who shall represent the general public and who shall, within twenty-four (24) months of their appointment, be consumers of home health services for themselves or for family members within the third degree of consanguinity.

B. The members of the Home Health Advisory Board shall be appointed by the Commissioner of Health ~~from a list of names submitted to the Commissioner by any statewide organization comprised exclusively of home care agencies. The lists submitted to the Commissioner shall contain a number of names equal to twice the number of positions to be appointed for each required membership category on the Home Health Advisory Board.~~ Each member shall be

appointed for a term of three (3) years except that the initial appointment of the physician and one administrator shall be for one (1) year and the initial appointment of one administrator and one consumer shall be for two (2) years. Vacancies shall be filled in like manner.

C. The State Department of Health shall provide professional and clerical staff to perform the designated duties of the Home Health Advisory Board. The Department shall also provide meeting space for the Advisory Board.

D. The Advisory Board shall annually elect from among its membership a chairman. The Home Health Advisory Board shall meet at least quarterly and at such other times as necessary. The members shall serve without compensation but may be reimbursed for expenses by the Department pursuant to the provisions of the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

E. The Home Health Advisory Board shall have the power and duty to:

1. Serve as an advisory body to the Department for the development and improvement of services to patients of home health agencies;

2. Review and make recommendations to the State Board of Health regarding rules promulgated by the Board and standards promulgated by the Department;

3. Approve, in its advisory capacity, rules and standards promulgated by the Board and the Department; and

4. Evaluate and review the standards, practices and procedures of the Department regarding the administration and enforcement of the provisions of this act.

SECTION 3. This act shall become effective November 1, 1998.

