

SB 1042

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THE STATE SENATE  
Monday, February 23, 2009

Senate Bill No. 1042  
As Amended

SENATE BILL NO. 1042 - By: Jolley of the Senate and Blackwell of the House.

[ public health and safety - Home Care Act - requirements - effective date ]

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

SECTION 1. AMENDATORY 63 O.S. 2001, Section 1-1962, as amended by Section 2, Chapter 249, O.S.L. 2004 (63 O.S. Supp. 2008, 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

1 employment through June 30, 1993, shall be granted  
2 home health aide certification by the Department on  
3 July 1, 1993. The home care agency shall maintain  
4 responsibility for assurance of specific competencies  
5 of the home health aide and shall only assign the home  
6 health aide to tasks for which the aide has been  
7 determined to be competent.

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

12 c. Any home health aide employed on and after July 1,  
13 1996, shall complete any specified training,  
14 competency evaluation and testing required by the  
15 Department.

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

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

19 2. A person who provides maid services only;

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

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

3           5. A nurse-midwife;

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

17           7. An individual, agency or organization that provides or  
18 supports the provision of personal care services to an individual  
19 who performs individual employer responsibilities of hiring,  
20 training, directing and managing a personal care attendant as part  
21 of the Oklahoma Health Care Authority Consumer-Directed Personal  
22 Assistance Supports and Services (CD-PASS) waiver program. An  
23 individual, agency or organization otherwise covered under the

1 provisions of the Home Care Act shall be exempt from the act only  
2 for those paraprofessional direct care services provided under  
3 Oklahoma Health Care Authority contracts referenced in this  
4 paragraph, but shall not be exempt from the criminal history  
5 background check required under the Home Care Act and Section 1-  
6 1950.1 of this title for other paraprofessional direct care service  
7 providers. A personal care attendant hired by a consumer under the  
8 CD-PASS program shall be exempt from certification as a home health  
9 aide, provided such personal care attendant receives the training  
10 required and approved by the Department of Human Services;

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

14 9. An individual who:

- 15 a. is employed by a licensed home care agency exclusively  
16 to provide personal care services on a live-in basis,  
17 b. has no convictions pursuant to a criminal history  
18 investigation as provided in Section 1-1950.1 of this  
19 title,  
20 c. is being continuously trained by a registered nurse to  
21 provide care that is specific to the needs of the  
22 particular client receiving the care, and

1           d.    is supervised by a registered nurse via an on-site  
2                    visit at least once each month.

3           SECTION 2.  This act shall become effective November 1, 2009.

4   COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-18-09 - DO  
5   PASS, As Amended and Coauthored.