

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 926

By: Sparks

4
5
6 AS INTRODUCED

7 An Act relating to public health and safety; amending
8 63 O.S. 2001, Section 1-1962, as amended by Section
9 2, Chapter 249, O.S.L. 2004 (63 O.S. Supp. 2008,
10 Section 1-1962), which relates to the Home Care Act;
expanding list of entities who are exempt from
certain requirements; and providing an effective
date.

11
12
13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 63 O.S. 2001, Section 1-1962, as
15 amended by Section 2, Chapter 249, O.S.L. 2004 (63 O.S. Supp. 2008,
16 Section 1-1962), is amended to read as follows:

17 Section 1-1962. A. No home care agency as such term is defined
18 by this act shall operate without first obtaining a license as
19 required by the Home Care Act.

20 B. 1. No employer or contractor, except as otherwise provided
21 by this subsection, shall employ or contract with any individual as
22 a home health aide for more than four (4) months, on a full-time,
23 temporary, per diem or other basis, unless such individual is a
24 licensed health professional or unless such individual has satisfied

1 the requirements for certification and placement on the home health
2 aide registry maintained by the State Department of Health; ~~and~~.

3 2. a. Any person in the employment of a home care agency as
4 a home health aide on June 30, 1992, with continuous
5 employment through June 30, 1993, shall be granted
6 home health aide certification by the Department on
7 July 1, 1993. The home care agency shall maintain
8 responsibility for assurance of specific competencies
9 of the home health aide and shall only assign the home
10 health aide to tasks for which the aide has been
11 determined to be competent.

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

16 c. Any home health aide employed on and after July 1,
17 1996, shall complete any specified training,
18 competency evaluation and testing required by the
19 Department.

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

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

23 2. A person who provides maid services only;

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

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

7 5. A nurse-midwife;

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

21 7. An individual, agency or organization that provides or
22 supports the provision of personal care services to an individual
23 who performs individual employer responsibilities of hiring,
24 training, directing and managing a personal care attendant as part

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

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

17 9. An individual who:

- 18 a. is employed by a licensed home care agency exclusively
19 to provide personal care services on a live-in basis,
20 b. has no convictions pursuant to a criminal history
21 investigation as provided in Section 1-1950.1 of this
22 title,

23

24

1 c. is being continuously trained by a registered nurse to
2 provide care that is specific to the needs of the
3 particular client receiving the care, and

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

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

7
8 52-1-1533 JM 3/6/2009 7:40:51 AM
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24