

1 ENGROSSED HOUSE AMENDMENTS
TO
2 ENGROSSED SENATE BILL NO. 1401

By: Brinkley of the Senate

3 and

4 McNiel of the House
5

6 An Act relating to nursing and specialized
7 facilities; requiring certain disclosure; defining
8 terms; permitting the State Board of Health to
9 promulgate certain rules; providing for codification;
and providing an effective date.

10 AUTHORS: Add the following House Coauthors: Dorman and Walker

11 AMENDMENT NO. 1. Page 1, line 12 through page 2, line 3, delete all
12 of Section 1 and add a new Section 1 to read

13 "SECTION 1. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1-1925.4 of Title 63, unless
15 there is created a duplication in numbering, reads as follows:

16 A. Upon admittance into the facility, nursing facilities and
17 specialized facilities that do not have emergency power generators
18 available or a written disaster plan on file during an emergency
19 situation shall provide a written disclosure to any resident or
20 resident's caregiver stating that the facility does not have either
21 a generator available or a written disaster plan on file during an
22 emergency situation.

23 B. All nursing facilities, assisted living centers, residential
24 care homes and specialized facilities shall have an emergency

1 evacuation plan in place. Such plan shall be coordinated and on
2 file at the local emergency management agency. Such plan shall also
3 be filed with the State Department of Health.

4 C. For purposes of this section, "assisted living center" shall
5 have the same meaning as specified in Section 1-890.2 of Title 63 of
6 the Oklahoma Statutes, and "nursing facility", "residential care
7 home" and "specialized facility" shall have the same meaning as
8 specified in Section 1-1902 of Title 63 of the Oklahoma Statutes.

9 D. The State Board of Health may promulgate rules as necessary
10 to implement the provisions of this section, including, but not
11 limited to, requirements for disclosure and enforcement."

12 and renumber subsequent section

13 and amend title to conform

14 AMENDMENT NO. 2. Page 2, line 3 1/2, insert a new Section 2 to read

15 "SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-1962, is
16 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 home care agency, except as otherwise provided by
21 this subsection, shall place an individual in the role of supportive
22 home assistant with a client on a full-time, temporary, per diem, or
23 other basis, unless the individual has completed agency-based
24 supportive home assistant training taught by a registered nurse in

1 the sections applicable to the assistance required by the client.
2 Each supportive home assistant who successfully completes agency-
3 based training shall demonstrate competence by testing through an
4 independent entity approved by the State Department of Health. The
5 requirements related to application, approval, renewal, and denial
6 of such testing entities shall be set forth in administrative rules
7 promulgated by the State Board of Health.

8 2. The home care agency shall develop a written training plan
9 that shall include, at a minimum, the following:

- 10 a. observation, reporting, and documentation of client
11 status and the standby assistance or other services
12 furnished,
- 13 b. maintenance of a clean, safe, and healthy environment,
- 14 c. recognizing an emergency and necessary emergency
15 procedures,
- 16 d. safe techniques to provide standby assistance with
17 bathing, grooming, and toileting,
- 18 e. assistance with meal preparation and safe food
19 handling and storage,
- 20 f. client rights and responsibilities and the need for
21 respect for the client and for the privacy and
22 property of the client, and
- 23 g. basic infection control practices to include, at a
24 minimum, instruction in acceptable hand hygiene

1 techniques and the application of standard
2 precautions.

3 3. Supervisory visits shall be made according to the client
4 need, as determined by the nursing supervisor, but no less than once
5 every six (6) months.

6 4. No supportive home assistant shall provide services to a
7 client until a criminal history background check and a check of the
8 nurse aide registry maintained by the State Department of Health is
9 performed in accordance with Section 1-1950.1 of this title and the
10 assistant is found to have no notations of abuse of any kind on the
11 registry and no convictions of the crimes listed in subsection F of
12 Section 1-1950.1 of this title.

13 5. No home care agency may employ a supportive home assistant
14 listed on the Department of Human Services Community Services Worker
15 Registry.

16 6. No licensed health care facility, licensed physician,
17 advanced practice registered nurse, physician assistant, or state
18 agency employee acting in the performance of his or her duties shall
19 refer a client for personal care services as defined in paragraph 8
20 of Section 1-1961 of this title or for companion or sitter services
21 as defined in paragraph 1 of subsection A of Section 1-1972 of this
22 title, except to an agency licensed to provide such services. For
23 purposes of this subsection, "licensed health care facility" shall
24 include acute care hospitals, long-term acute care hospitals,

1 rehabilitation hospitals, skilled nursing facilities, assisted
2 living facilities, residential care homes, home care agencies, adult
3 day care centers and hospice agencies.

4 C. 1. No employer or contractor, except as otherwise provided
5 by this subsection, shall employ or contract with any individual as
6 a home health aide for more than four (4) months, on a full-time,
7 temporary, per diem or other basis, unless such individual is a
8 licensed health professional or unless such individual has satisfied
9 the requirements for certification and placement on the home health
10 aide registry maintained by the State Department of Health; ~~and~~.

11 2. a. Any person in the employment of a home care agency as
12 a home health aide on June 30, 1992, with continuous
13 employment through June 30, 1993, shall be granted
14 home health aide certification by the Department on
15 July 1, 1993. The home care agency shall maintain
16 responsibility for assurance of specific competencies
17 of the home health aide and shall only assign the home
18 health aide to tasks for which the aide has been
19 determined to be competent.

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

24

1 c. Any home health aide employed on and after July 1,
2 1996, shall complete any specified training,
3 competency evaluation and testing required by the
4 Department.

5 D. The provisions of the Home Care Act shall not apply to:

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

8 2. A person who provides maid services only;

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

13 4. A person providing hospice services pursuant to the Oklahoma
14 Hospice Licensing Act;

15 5. A nurse-midwife;

16 6. An individual, agency, or organization that contracts with
17 the Oklahoma Health Care Authority to provide services under the
18 Home and Community-Based Waiver for persons with mental retardation
19 or that contracts with the Department of Human Services to provide
20 community services to persons with mental retardation; provided,
21 that staff members and individuals providing such services shall
22 receive a level of training, approved by the Department of Human
23 Services, which meets or exceeds the level required pursuant to the
24 Home Care Act. An individual, agency or organization otherwise

1 covered under the Home Care Act shall be exempt from the act only
2 for those paraprofessional direct care services provided under
3 contracts referenced in this paragraph;

4 7. An individual, agency or organization that provides or
5 supports the provision of personal care services to an individual
6 who performs individual employer responsibilities of hiring,
7 training, directing and managing a personal care attendant as part
8 of the Oklahoma Health Care Authority Consumer-Directed Personal
9 Assistance Supports and Services (CD-PASS) waiver program. An
10 individual, agency or organization otherwise covered under the
11 provisions of the Home Care Act shall be exempt from the act only
12 for those paraprofessional direct care services provided under
13 Oklahoma Health Care Authority contracts referenced in this
14 paragraph, but shall not be exempt from the criminal history
15 background check required under the Home Care Act and Section 1-
16 1950.1 of this title for other paraprofessional direct care service
17 providers. A personal care attendant hired by a consumer under the
18 CD-PASS program shall be exempt from certification as a home health
19 aide, provided such personal care attendant receives the training
20 required and approved by the Department of Human Services;

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

24 9. An individual who:

ENGROSSED SENATE
BILL NO. 1401

By: Brinkley of the Senate

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McNiel of the House

An Act relating to nursing and specialized facilities; requiring certain disclosure; defining terms; permitting the State Board of Health to promulgate certain rules; providing for codification; and providing an effective date.

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

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1925.4 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Upon admittance into the facility, nursing facilities and specialized facilities that do not have emergency power generators shall provide a written disclosure to any resident or resident's caregiver stating that the facility does not have an emergency power generator available for use during an emergency situation.

B. For purposes of this section, "nursing facility" and "specialized facility" shall have the same meaning as specified in Section 1-1902 of Title 63.

