

1                                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2   STATE OF OKLAHOMA

3   2nd Session of the 53rd Legislature (2012)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 2640

By: Schwartz

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8   COMMITTEE SUBSTITUTE

9                   An Act relating to public health and safety; amending  
10                   63 O.S. 2011, Section 1-1962, which relates to  
11                   requirements of a home care agency; prohibiting  
12                   licensed health care facility from referring client  
13                   for certain services except to licensed agency;  
14                   providing definition; and providing an effective  
15                   date.

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

17                   SECTION 1.           AMENDATORY           63 O.S. 2011, Section 1-1962, is  
18 amended to read as follows:

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

22                   B. 1. No home care agency, except as otherwise provided by  
23 this subsection, shall place an individual in the role of supportive  
24 home assistant with a client on a full-time, temporary, per diem, or

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

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

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

- 12 a. observation, reporting, and documentation of client  
13 status and the standby assistance or other services  
14 furnished,
- 15 b. maintenance of a clean, safe, and healthy environment,
- 16 c. recognizing an emergency and necessary emergency  
17 procedures,
- 18 d. safe techniques to provide standby assistance with  
19 bathing, grooming, and toileting,
- 20 e. assistance with meal preparation and safe food  
21 handling and storage,

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1 f. client rights and responsibilities and the need for  
2 respect for the client and for the privacy and  
3 property of the client, and

4 g. basic infection control practices to include, at a  
5 minimum, instruction in acceptable hand hygiene  
6 techniques and the application of standard  
7 precautions.

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

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

18 5. No home care agency may employ a supportive home assistant  
19 listed on the Department of Human Services Community Services Worker  
20 Registry.

21 6. No licensed health care facility shall refer a client for  
22 personal care services as defined in paragraph 8 of Section 1-1961  
23 of this title or for companion or sitter services as defined in

1 paragraph 1 of subsection A of Section 1-1972 of this title, except  
2 to an agency licensed to provide such services. For purposes of  
3 this subsection, "licensed health care facility" shall include acute  
4 care hospitals, long-term acute care hospitals, rehabilitation  
5 hospitals, skilled nursing facilities, assisted living facilities,  
6 residential care homes, home care agencies, adult day care centers  
7 and hospice agencies.

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

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

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

5           c. Any home health aide employed on and after July 1,  
6           1996, shall complete any specified training,  
7           competency evaluation and testing required by the  
8           Department.

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

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

12          2. A person who provides maid services only;

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

17          4. A person providing hospice services pursuant to the Oklahoma  
18 Hospice Licensing Act;

19          5. A nurse-midwife;

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

9 7. An individual, agency or organization that provides or  
10 supports the provision of personal care services to an individual  
11 who performs individual employer responsibilities of hiring,  
12 training, directing and managing a personal care attendant as part  
13 of the Oklahoma Health Care Authority Consumer-Directed Personal  
14 Assistance Supports and Services (CD-PASS) waiver program. An  
15 individual, agency or organization otherwise covered under the  
16 provisions of the Home Care Act shall be exempt from the act only  
17 for those paraprofessional direct care services provided under  
18 Oklahoma Health Care Authority contracts referenced in this  
19 paragraph, but shall not be exempt from the criminal history  
20 background check required under the Home Care Act and Section 1-  
21 1950.1 of this title for other paraprofessional direct care service  
22 providers. A personal care attendant hired by a consumer under the  
23 CD-PASS program shall be exempt from certification as a home health

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1 aide, provided such personal care attendant receives the training  
2 required and approved by the Department of Human Services;

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

6 9. An individual who:

7 a. is employed by a licensed home care agency exclusively  
8 to provide personal care services on a live-in basis,

9 b. has no convictions pursuant to a criminal history  
10 investigation as provided in Section 1-1950.1 of this  
11 title,

12 c. is being continuously trained by a registered nurse to  
13 provide care that is specific to the needs of the  
14 particular client receiving the care, and

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

17 SECTION 2. This act shall become effective November 1, 2012.

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19 COMMITTEE REPORT BY: COMMITTEE ON LONG TERM CARE AND SENIOR  
20 SERVICES, dated 02-08-12 - DO PASS, As Amended.

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