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February 24, 2020

By: Rader of the Senate

and

Dills of the House

An Act relating to home care; amending 63 O.S. 2011, Section 1-1962, as last amended by Section 3, Chapter 77, O.S.L. 2017 (63 O.S. Supp. 2019, Section 1-1962), which relates to home care agency license; modifying applicability of act; updating statutory language; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2011, Section 1-1962, as last amended by Section 3, Chapter 77, O.S.L. 2017 (63 O.S. Supp. 2019, Section 1-1962), is amended to read as follows:

Section 1-1962. A. No home care agency as that term is defined by the Home Care Act shall operate without first obtaining a license as required by the Home Care Act.

B. 1. No home care agency, except as otherwise provided by this subsection, shall place an individual in the role of supportive home assistant with a client on a full-time, temporary, per diem, or other basis, unless the individual has completed agency-based 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~~ Commissioner 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 the individual is a
8 licensed health professional or unless the individual has satisfied
9 the requirements for certification and placement on the home health
10 aide registry maintained by the State Department of Health.

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 developmental
19 disabilities or that contracts with the Department of Human Services
20 to provide community services to persons with developmental
21 disabilities; provided, that staff members and individuals providing
22 the services shall receive a level of training, approved by the
23 Department of Human Services, which meets or exceeds the level
24 required pursuant to the Home Care Act. An individual, agency or

1 organization otherwise covered under the Home Care Act shall be
2 exempt from the act only for those paraprofessional direct care
3 services provided under 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;

24 9. An individual who:

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

10. A home or facility approved and annually reviewed by the United States Department of Veterans Affairs as a medical foster home in which care is provided exclusively to three or fewer veterans; or

11. A person qualified by the Department as a certified nurse aide pursuant to the provisions of Section 1-1951 of this title.

SECTION 2. This act shall become effective November 1, 2020.

COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
February 24, 2020 - DO PASS