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April 11, 2024

ENGROSSED HOUSE
BILL NO. 3371

By: McEntire, Menz, and Pittman
of the House

and

Rosino of the Senate

An Act relating to long-term care; amending 63 O.S. 2021, Section 1-1962, as last amended by Section 1, Chapter 125, O.S.L. 2021, which relates to home care agency license; removing provisions relating to supportive home assistant; modifying statutory references; modifying applicability of Home Care Act; requiring home care agency to develop written training plan for certain individuals; listing required inclusions of training plan; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2021, Section 1-1962, as amended by Section 38, Chapter 228, O.S.L. 2022 (63 O.S. Supp. 2023, Section 1-1962), is amended to read as follows:

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

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

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

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, licensed physician,~~
22 ~~advanced practice registered nurse, physician assistant, or state~~
23 ~~agency employee acting in the performance of his or her duties shall~~
24 ~~refer a client for personal care services as defined in Section 1-~~

1 1961 of this title or for companion or sitter services as defined in
2 ~~paragraph 1 of~~ subsection A of Section 1-1972 of this title, except
3 to an agency licensed to provide such services. For purposes of
4 this subsection, "licensed health care facility" shall include acute
5 care hospitals, long-term acute care hospitals, rehabilitation
6 hospitals, skilled nursing facilities, assisted living facilities,
7 residential care homes, home care agencies, adult day care centers
8 and hospice agencies.

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

16 2. a. Any person in the employment of a home care agency as
17 a home health aide on June 30, 1992, with continuous
18 employment through June 30, 1993, shall be granted
19 home health aide certification by the Department on
20 July 1, 1993. The home care agency shall maintain
21 responsibility for assurance of specific competencies
22 of the home health aide and shall only assign the home
23 health aide to tasks for which the aide has been
24 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 developmental
23 disabilities or that contracts with the Department of Human Services
24 to provide community services to persons with developmental

1 disabilities; provided, that staff members and individuals providing
2 the services shall receive a level of training, approved by the
3 Department of Human Services, which meets or exceeds the level
4 required pursuant to the Home Care Act. An individual, agency, or
5 organization otherwise covered under the Home Care Act shall be
6 exempt from the act only for those paraprofessional direct care
7 services provided under contracts referenced in this paragraph;

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

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

4 9. An individual who:

- 5 a. is employed by a licensed home care agency exclusively
6 to provide personal care services in the home,
- 7 b. has no convictions pursuant to a criminal history
8 investigation as provided in Section 1-1950.1 of this
9 title,
- 10 c. is being continuously trained by a registered nurse to
11 provide care that is specific to the needs of the
12 ~~particular~~ client receiving the care, ~~and~~
- 13 d. is supervised by a registered nurse via an on-site
14 visit at least once ~~each month~~ every three (3) months
15 or sooner if the client experiences a significant
16 change in health condition including, but not limited
17 to, a surgery or a hospital stay, and
- 18 e. has demonstrated competency in a written training plan
19 developed by a registered nurse employed by the home
20 care agency that shall include, at a minimum, the
21 following:
 - 22 (1) observation, reporting, and documentation of
23 client status and assistance or other services
24 furnished,

- (2) maintenance of a clean, safe, and healthy environment,
- (3) recognizing an emergency and necessary emergency procedures,
- (4) safe techniques to provide assistance with bathing, grooming, and toileting,
- (5) assistance with meal preparation and safe food handling and storage,
- (6) client rights and responsibilities and the need for respect for the client and for the privacy and property of the client, and
- (7) basic infection control practices to include, at a minimum, instruction in acceptable hand hygiene techniques and the application of standard precautions;

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, 2024.

COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
April 11, 2024 - DO PASS