

1 **SENATE FLOOR VERSION**

2 April 11, 2024

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL NO. 3238

By: Lawson and Waldron of the
House

6 and

7 Garvin of the Senate

8
9 An Act relating to long-term care; defining terms;
10 designating the Oklahoma Health Care Authority as the
11 state administering agency for programs of all-
12 inclusive care for the elderly (PACE) agreements;
13 requiring enforcement of certain federal regulations;
14 providing certain powers and duties; exempting PACE
15 organizations from certain licensure; providing
16 certain construction; authorizing certain interagency
17 agreement; authorizing promulgation of rules;
18 amending 63 O.S. 2021, Section 1-872, which relates
19 to definitions used in the Adult Day Care Act;
20 modifying definition; amending 63 O.S. 2021, Section
21 1-1961, which relates to definitions used in the Home
22 Care Act; modifying definition; updating statutory
23 language; providing for codification; and declaring
24 an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1017.7 of Title 56, unless there
is created a duplication in numbering, reads as follows:

A. As used in this section:

1 1. "PACE" stands for programs of all-inclusive care for the
2 elderly; and

3 2. The terms "PACE program agreement", "PACE organization",
4 "participant" and "state administering agency" have the same meaning
5 as provided by 42 C.F.R., Section 460.6.

6 B. The Oklahoma Health Care Authority shall serve as the state
7 administering agency responsible for administering PACE program
8 agreements under 42 C.F.R., Part 460, Subpart C.

9 C. The Authority shall enforce the federal regulations of the
10 Centers for Medicare and Medicaid Services governing PACE codified
11 at 42 C.F.R., Part 460. The Authority shall have all the powers and
12 duties provided to the state administering agency under 42 C.F.R.,
13 Part 460.

14 D. PACE organizations shall be exempt from licensure by the
15 State Department of Health under the Home Care Act, the Adult Day
16 Care Act, or any other act that governs a different type of facility
17 or provider. This subsection shall not be construed to prevent the
18 Department from enforcing such acts with respect to facilities or
19 providers contracted by the PACE organization to provide services to
20 PACE program participants.

21 E. The Authority may, as necessary, execute an interagency
22 agreement with the State Department of Health to carry out any of
23 the functions of the state administering agency under 42 C.F.R.,
24 Part 460.

1 F. The Oklahoma Health Care Authority Board may promulgate
2 rules as necessary to implement this section.

3 SECTION 2. AMENDATORY 63 O.S. 2021, Section 1-872, is
4 amended to read as follows:

5 Section 1-872. As used in the Adult Day Care Act:

6 1. "Adult day care center" or "center" means a facility which
7 provides basic day care services to unrelated impaired adults for
8 more than four (4) hours in a twenty-four-hour period. A center
9 shall be a distinct entity, either freestanding or a separate
10 program of a larger organization. A center shall have a separately
11 verifiable staff, space, budget and participant record system. The
12 terms ~~"adult day care center"~~ adult day care center or ~~"center"~~
13 center shall not include retirement centers ~~and,~~ senior citizen
14 centers, or PACE organizations as defined by 42 C.F.R., Section
15 460.6;

16 2. "Basic day care services" means supervised health, social
17 supportive, and recreational services in a structured daytime
18 program which serves functionally impaired adults who continue to
19 live in their own homes, usually with the aid of family care givers;

20 3. "Department" means the State Department of Health; and

21 4. "Participant" means any person attending an adult day care
22 center.

23 SECTION 3. AMENDATORY 63 O.S. 2021, Section 1-1961, is
24 amended to read as follows:

1 Section 1-1961. As used in the Home Care Act:

2 1. "Board" means the State Board of Health;

3 2. "Certification" means verification of appropriate training
4 and competence established by the State Commissioner of Health by
5 rules promulgated pursuant to the Home Care Act for home health
6 aides and home care agency administrators;

7 3. "Department" means the State Department of Health;

8 4. ~~"Healthcare~~ "Health care provider" means a physician,
9 physician assistant or Advanced Practice Registered Nurse recognized
10 by the Oklahoma Board of Nursing as a Certified Nurse Practitioner
11 or a Clinical Nurse Specialist;

12 5. "Home care agency" means any sole proprietorship,
13 partnership, association, corporation or other organization which
14 administers, offers or provides home care services, for a fee or
15 pursuant to a contract for such services, to clients in their place
16 of residence. The term ~~"home care agency"~~ home care agency shall
17 not include:

18 a. individuals who contract with the Department of Human
19 Services to provide personal care services, provided
20 such individuals shall not be exempt from
21 certification as home health aides,

22 b. organizations that contract with the Oklahoma Health
23 Care Authority as Intermediary Services Organizations
24 (ISO) to provide federal Internal Revenue Service

1 fiscal and supportive services to Oklahoma Consumer-
2 Directed Personal Assistance Supports and Support
3 Services (CD-PASS) waiver program participants who
4 have employer responsibility for hiring, training,
5 directing and managing an individual personal care
6 attendant, ~~or~~

7 c. CD-PASS waiver program employer participants, or

8 d. PACE organizations as defined by 42 C.F.R., Section
9 460.6;

10 6. "Home care services" means skilled or personal care services
11 provided to clients in their place of residence for a fee;

12 7. "Home health aide" means an individual who provides personal
13 care to clients in their temporary or permanent place of residence
14 for a fee;

15 8. "Home care agency administrator" means a person who
16 operates, manages, or supervises, or is in charge of a home care
17 agency;

18 9. "Personal care" means assistance with dressing, bathing,
19 ambulation, exercise or other personal needs;

20 10. "Skilled care" means home care services performed on a
21 regular basis by a trained ~~Respiratory Therapist/Technician~~
22 respiratory therapist/technician or by a person currently licensed
23 by this state including but not limited to a Licensed Practical
24 Nurse, Registered Nurse, ~~Physical Therapist, Occupational Therapist,~~

1 ~~Speech Therapist~~ physical therapist, occupational therapist, speech
2 therapist, or Social Worker social worker;

3 11. "Standby assistance" means supervision of client directed
4 activities with verbal prompting and infrequent, incidental hands-on
5 intervention only; and

6 12. "Supportive home assistant" means an individual employed by
7 a home care agency who provides standby assistance to ambulatory
8 clients, in conjunction with other companionship or homemaker
9 services, in the temporary or permanent place of residence of the
10 client for a fee.

11 SECTION 4. It being immediately necessary for the preservation
12 of the public peace, health or safety, an emergency is hereby
13 declared to exist, by reason whereof this act shall take effect and
14 be in full force from and after its passage and approval.

15 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
16 April 11, 2024 - DO PASS AS AMENDED BY CS

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