

# An Act

ENROLLED HOUSE  
BILL NO. 3238

By: Lawson, Waldron, Hefner,  
and Pittman of the House

and

Garvin of the Senate

An Act relating to long-term care; defining terms; designating the Oklahoma Health Care Authority as the state administering agency for programs of all-inclusive care for the elderly (PACE) agreements; requiring enforcement of certain federal regulations; providing certain powers and duties; exempting PACE organizations from certain licensure; providing certain construction; authorizing certain interagency agreement; authorizing promulgation of rules; amending 63 O.S. 2021, Section 1-872, which relates to definitions used in the Adult Day Care Act; modifying definition; amending 63 O.S. 2021, Section 1-1961, which relates to definitions used in the Home Care Act; modifying definitions; providing for codification; and declaring an emergency.

SUBJECT: Long-term care

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- a. individuals who contract with the Department of Human Services to provide personal care services, provided such individuals shall not be exempt from certification as home health aides,
- b. organizations that contract with the Oklahoma Health Care Authority as Intermediary Services Organizations

(ISO) to provide federal Internal Revenue Service fiscal and supportive services to Oklahoma Consumer-Directed Personal Assistance ~~Supports and Services and Supports~~ (CD-PASS) waiver program participants who have employer responsibility for hiring, training, directing and managing an individual personal care attendant, ~~or~~

c. CD-PASS waiver program employer participants, or

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

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

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

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

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

10. "Skilled care" means home care services performed on a regular basis by a trained ~~Respiratory Therapist/Technician~~ respiratory therapist/technician or by a person currently licensed by this state including but not limited to a Licensed Practical Nurse, Registered Nurse, ~~Physical Therapist, Occupational Therapist, Speech Therapist~~ physical therapist, occupational therapist, speech therapist, or ~~Social Worker~~ social worker;

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

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

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

Passed the House of Representatives the 7th day of May, 2024.

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

Passed the Senate the 22nd day of April, 2024.

\_\_\_\_\_  
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_