

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3371

By: McEntire

AS INTRODUCED

An Act relating to long-term care; amending 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), 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:

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~~

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

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

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

1           ~~g. basic infection control practices to include, at a~~  
2           ~~minimum, instruction in acceptable hand hygiene~~  
3           ~~techniques and the application of standard~~  
4           ~~precautions.~~

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

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

15           ~~5. No home care agency may employ a supportive home assistant~~  
16           ~~listed on the Department of Human Services Community Services Worker~~  
17           ~~Registry.~~

18           ~~6. No licensed health care facility, licensed physician,~~  
19           ~~advanced practice registered nurse, physician assistant, or state~~  
20           ~~agency employee acting in the performance of his or her duties shall~~  
21           ~~refer a client for personal care services as defined in paragraph 8~~  
22           ~~of Section 1-1961 of this title or for companion or sitter services~~  
23           ~~as defined in paragraph 1 of subsection A of Section 1-1972 of this~~  
24           ~~title, except to an agency licensed to provide such services. For~~  
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1 purposes of this subsection, "licensed health care facility" shall  
2 include acute care hospitals, long-term acute care hospitals,  
3 rehabilitation hospitals, skilled nursing facilities, assisted  
4 living facilities, residential care homes, home care agencies, adult  
5 day care centers and hospice agencies.

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

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

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

3 c. Any home health aide employed on and after July 1,  
4 1996, shall complete any specified training,  
5 competency evaluation and testing required by the  
6 Department. The home care agency shall develop a  
7 written training plan for the individual that shall  
8 include, at a minimum, the following:

9 (1) observation, reporting, and documentation of  
10 client status and assistance or other services  
11 furnished,

12 (2) maintenance of a clean, safe, and healthy  
13 environment,

14 (3) recognizing an emergency and necessary emergency  
15 procedures,

16 (4) safe techniques to provide assistance with  
17 bathing, grooming, and toileting,

18 (5) assistance with meal preparation and safe food  
19 handling and storage,

20 (6) client rights and responsibilities and the need  
21 for respect for the client and for the privacy  
22 and property of the client, and

23 (7) basic infection control practices to include, at  
24 a minimum, instruction in acceptable hand hygiene  
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1                   techniques and the application of standard  
2                   precautions.

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

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

6           2. A person who provides maid services only;

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

11           4. A person providing hospice services pursuant to the Oklahoma  
12 Hospice Licensing Act;

13           5. A nurse-midwife;

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

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

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

23 9. An individual who:  
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- 1 a. is employed by a licensed home care agency exclusively  
2 to provide personal care services in the home,  
3 b. has no convictions pursuant to a criminal history  
4 investigation as provided in Section 1-1950.1 of this  
5 title,  
6 c. is being continuously trained by a registered nurse to  
7 provide care that is specific to the needs of the  
8 ~~particular~~ client receiving the care, and  
9 d. is supervised by a registered nurse via an on-site  
10 visit at least once ~~each month~~ every six (6) months or  
11 sooner if the client experiences a significant change  
12 in health condition including, but not limited to, a  
13 surgery or a hospital stay;

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

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

20 SECTION 2. This act shall become effective November 1, 2024.

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