

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 59th Legislature (2024)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3371

By: McEntire of the House

and

Rosino of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to long-term care; amending 63 O.S.
12 2021, Section 1-1962, as last amended by Section 1,
13 Chapter 125, O.S.L. 2021, which relates to home care
14 agency license; removing provisions relating to
15 supportive home assistant; modifying statutory
16 references; modifying applicability of Home Care Act;
17 requiring home care agency to develop written
18 training plan for certain individuals; listing
19 required inclusions of training plan; and providing
20 an effective date.

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

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

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

4 B. 1. ~~No home care agency, except as otherwise provided by
5 this subsection, shall place an individual in the role of supportive
6 home assistant with a client on a full-time, temporary, per diem, or
7 other basis, unless the individual has completed agency-based
8 supportive home assistant training taught by a registered nurse in
9 the sections applicable to the assistance required by the client.
10 Each supportive home assistant who successfully completes agency-
11 based training shall demonstrate competence by testing through an
12 independent entity approved by the State Department of Health. The
13 requirements related to application, approval, renewal, and denial
14 of such testing entities shall be set forth in administrative rules
15 promulgated by the State Commissioner of Health.~~

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

- 18 a. ~~observation, reporting, and documentation of client
19 status and the standby assistance or other services
20 furnished,~~
- 21 b. ~~maintenance of a clean, safe, and healthy environment,~~
- 22 c. ~~recognizing an emergency and necessary emergency
23 procedures,~~

- 1 d. ~~safe techniques to provide standby assistance with~~
2 ~~bathing, grooming, and toileting,~~
- 3 e. ~~assistance with meal preparation and safe food~~
4 ~~handling and storage,~~
- 5 f. ~~client rights and responsibilities and the need for~~
6 ~~respect for the client and for the privacy and~~
7 ~~property of the client, and~~
- 8 g. ~~basic infection control practices to include, at a~~
9 ~~minimum, instruction in acceptable hand hygiene~~
10 ~~techniques and the application of standard~~
11 ~~precautions.~~

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

15 4. ~~No supportive home assistant shall provide services to a~~
16 ~~client until a criminal history background check and a check of the~~
17 ~~nurse aide registry maintained by the State Department of Health is~~
18 ~~performed in accordance with Section 1-1950.1 of this title and the~~
19 ~~assistant is found to have no notations of abuse of any kind on the~~
20 ~~registry and no convictions of the crimes listed in subsection F of~~
21 ~~Section 1-1950.1 of this title.~~

22 5. ~~No home care agency may employ a supportive home assistant~~
23 ~~listed on the Department of Human Services Community Services Worker~~
24 ~~Registry.~~

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

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

20 2. a. Any person in the employment of a home care agency as
21 a home health aide on June 30, 1992, with continuous
22 employment through June 30, 1993, shall be granted
23 home health aide certification by the Department on
24 July 1, 1993. The home care agency shall maintain

1 responsibility for assurance of specific competencies
2 of the home health aide and shall only assign the home
3 health aide to tasks for which the aide has been
4 determined to be competent.

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

9 c. Any home health aide employed on and after July 1,
10 1996, shall complete any specified training,
11 competency evaluation and testing required by the
12 Department.

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

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

16 2. A person who provides maid services only;

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

21 4. A person providing hospice services pursuant to the Oklahoma
22 Hospice Licensing Act;

23 5. A nurse-midwife;

24

1 6. An individual, agency, or organization that contracts with
2 the Oklahoma Health Care Authority to provide services under the
3 Home- and Community-Based Waiver for persons with developmental
4 disabilities or that contracts with the Department of Human Services
5 to provide community services to persons with developmental
6 disabilities; provided, that staff members and individuals providing
7 the services shall receive a level of training, approved by the
8 Department of Human Services, which meets or exceeds the level
9 required pursuant to the Home Care Act. An individual, agency, or
10 organization otherwise covered under the Home Care Act shall be
11 exempt from the act only for those paraprofessional direct care
12 services provided under contracts referenced in this paragraph;

13 7. An individual, agency, or organization that provides or
14 supports the provision of personal care services to an individual
15 who performs individual employer responsibilities of hiring,
16 training, directing and managing a personal care attendant as part
17 of the Oklahoma Health Care Authority Consumer-Directed Personal
18 Assistance Supports and Services (CD-PASS) waiver program. An
19 individual, agency, or organization otherwise covered under the
20 provisions of the Home Care Act shall be exempt from the act only
21 for those paraprofessional direct care services provided under
22 Oklahoma Health Care Authority contracts referenced in this
23 paragraph, but shall not be exempt from the criminal history
24 background check required under the Home Care Act and Section 1-

1 1950.1 of this title for other paraprofessional direct care service
2 providers. A personal care attendant hired by a consumer under the
3 CD-PASS program shall be exempt from certification as a home health
4 aide, provided such personal care attendant receives the training
5 required and approved by the Department of Human Services;

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

9 9. An individual who:

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

1 care agency that shall include, at a minimum, the
2 following:

3 (1) observation, reporting, and documentation of
4 client status and assistance or other services
5 furnished,

6 (2) maintenance of a clean, safe, and healthy
7 environment,

8 (3) recognizing an emergency and necessary emergency
9 procedures,

10 (4) safe techniques to provide assistance with
11 bathing, grooming, and toileting,

12 (5) assistance with meal preparation and safe food
13 handling and storage,

14 (6) client rights and responsibilities and the need
15 for respect for the client and for the privacy
16 and property of the client, and

17 (7) basic infection control practices to include, at
18 a minimum, instruction in acceptable hand hygiene
19 techniques and the application of standard
20 precautions;

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

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

3 SECTION 2. This act shall become effective November 1, 2024.
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5 COMMITTEE REPORT BY: COMMITTEE ON HEALTH SERVICES AND LONG-TERM
6 CARE, dated 02/28/2024 - DO PASS, As Amended and Coauthored.
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