

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1758

By: Garvin

AS INTRODUCED

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 definition; updating statutory language; providing for codification; and declaring 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. "PACE" stands for programs of all-inclusive care for the elderly; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 b. organizations that contract with the Oklahoma Health
21 Care Authority as Intermediary Services Organizations
22 (ISO) to provide federal Internal Revenue Service
23 fiscal and supportive services to Consumer-Directed
24 Personal Assistance Supports and Services (CD-PASS)

1 waiver program participants who have employer
2 responsibility for hiring, training, directing and
3 managing an individual personal care attendant, ~~or~~

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

5 d. PACE organizations as defined by 42 C.F.R., Section
6 460.6;

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

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

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

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

17 10. "Skilled care" means home care services performed on a
18 regular basis by a trained Respiratory Therapist/Technician or by a
19 person currently licensed by this state including but not limited to
20 a Licensed Practical Nurse, Registered Nurse, Physical Therapist,
21 Occupational Therapist, Speech Therapist, or Social Worker;

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

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

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

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