

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 744

By: Kidd

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5
6 AS INTRODUCED

7 An Act relating to Program of All-Inclusive Care for
8 the Elderly (PACE) services; designating Oklahoma
9 Health Care Authority as primary regulating agency;
10 requiring enforcement of certain federal laws and
11 regulations; prohibiting certain regulation;
12 authorizing inspections and other oversight;
13 directing promulgation of rules; amending 63 O.S.
14 2011, Section 1-872, which relates to definitions
15 used in the Adult Day Care Act; amending 63 O.S.
16 2011, Section 1-1961, which relates to definitions
17 used in the Home Care Act; excluding providers of
18 PACE services from certain definitions; updating
19 statutory language; providing for codification; and
20 providing an effective date.

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

22 SECTION 1. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 5013.2 of Title 63, unless there
24 is created a duplication in numbering, reads as follows:

25 A. The Oklahoma Health Care Authority shall be the primary
26 agency responsible for regulating providers of Program of All-
27 Inclusive Care for the Elderly (PACE) services. The Authority shall
28 enforce applicable federal laws and regulations governing providers

1 of PACE services including, but not limited to, regulations of the
2 Centers for Medicare and Medicaid Services.

3 B. The State Department of Health shall not regulate providers
4 of PACE services under the Adult Day Care Act, the Home Care Act or
5 any other act that governs a different type of facility or provider.
6 The State Department of Health shall perform inspections and other
7 necessary oversight of facilities owned or operated by providers of
8 PACE services.

9 C. The Oklahoma Health Care Authority Board and the State
10 Commissioner of Health shall promulgate rules to implement this
11 section.

12 SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-872, is
13 amended to read as follows:

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

15 1. "Adult day care center" or "center" means a facility which
16 provides basic day care services to unrelated impaired adults for
17 more than four (4) hours in a twenty-four-hour period. A center
18 shall be a distinct entity, either freestanding or a separate
19 program of a larger organization. A center shall have a separately
20 verifiable staff, space, budget and participant record system. The
21 terms "adult day care center" or "center" shall not include
22 retirement centers and senior citizen centers or providers of
23 Program of All-Inclusive Care for the Elderly (PACE) services;
24

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

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

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

9 SECTION 3. AMENDATORY 63 O.S. 2011, Section 1-1961, is
10 amended to read as follows:

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

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

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

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

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

23 a. individuals who contract with the Department of Human
24 Services to provide personal care services, provided

1 such individuals shall not be exempt from
2 certification as home health aides,

3 b. organizations that contract with the Oklahoma Health
4 Care Authority as Intermediary Services Organizations
5 (ISO) to provide federal Internal Revenue Service
6 fiscal and supportive services to Consumer-Directed
7 Personal Assistance Supports and Services (CD-PASS)
8 waiver program participants who have employer
9 responsibility for hiring, training, directing and
10 managing an individual personal care attendant, ~~or~~

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

12 d. providers of Program of All-Inclusive Care for the
13 Elderly (PACE) services;

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

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

19 7. "Home care agency administrator" means a person who
20 operates, manages, or supervises, ~~r~~ or is in charge of a home care
21 agency;

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

1 9. "Skilled care" means home care services performed on a
2 regular basis by a trained Respiratory Therapist/Technician or by a
3 person currently licensed by this state, including, but not limited
4 to, a Licensed Practical Nurse, Registered Nurse, Physical
5 Therapist, Occupational Therapist, Speech Therapist, or Social
6 Worker;

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

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

15 SECTION 4. This act shall become effective November 1, 2021.

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