

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SENATE BILL 1577

By: Kidd

AS INTRODUCED

An Act relating to long-term care; authorizing Oklahoma Health Care Authority to enter into contracts with providers of Program of All-Inclusive Care for the Elderly (PACE) services; requiring enforcement of certain federal laws and regulations; directing State Department of Health to create and issue certain license; prohibiting certain regulation; authorizing inspections and other oversight; directing promulgation of rules; amending 63 O.S. 2021, Section 1-872, which relates to definitions used in the Adult Day Care Act; amending 63 O.S. 2021, Section 1-1961, which relates to definitions used in the Home Care Act; modifying definitions; providing for codification; and providing an effective date.

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. The Oklahoma Health Care Authority may enter into contracts with providers of Program of All-Inclusive Care for the Elderly (PACE) services. The Authority shall enforce applicable federal laws and regulations governing providers of PACE services including

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

3 B. The State Department of Health shall create and issue to
4 qualifying applicants a license for providers of PACE services. The
5 Department shall not regulate providers of PACE services under the
6 Home Care Act or any other act that governs a different type of
7 facility or provider other than the Adult Day Care Act. The
8 Department shall perform inspections and other necessary oversight
9 of facilities owned or operated by providers of PACE services and
10 shall enforce applicable federal laws and regulations governing
11 providers of PACE services including but not limited to regulations
12 of the Centers for Medicare and Medicaid Services.

13 C. The Oklahoma Health Care Authority Board and the State
14 Commissioner of Health shall promulgate rules to implement this
15 section including, but not limited to, rules governing
16 qualifications of providers of PACE services.

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

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

20 1. "Adult day care center" or "center" means a facility which
21 provides basic day care services to unrelated impaired adults for
22 more than four (4) hours in a twenty-four-hour period. A center
23 shall be a distinct entity, either freestanding or a separate
24 program of a larger organization. A center shall have a separately

1 verifiable staff, space, budget and participant record system. The
2 terms adult day care center or center may include providers of
3 Program of All-Inclusive Care for the Elderly (PACE) services as
4 determined by the State Department of Health. The terms "adult day
5 care center" or "center" shall not include retirement centers and
6 senior citizen centers;

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

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

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

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

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

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

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

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

23 4. "Healthcare provider" means a physician, physician assistant
24 or Advanced Practice Registered Nurse recognized by the Oklahoma

1 Board of Nursing as a Certified Nurse Practitioner or a Clinical
2 Nurse Specialist;

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

- 8 a. individuals who contract with the Department of Human
9 Services to provide personal care services, provided
10 such individuals shall not be exempt from
11 certification as home health aides,
12 b. organizations that contract with the Oklahoma Health
13 Care Authority as Intermediary Services Organizations
14 (ISO) to provide federal Internal Revenue Service
15 fiscal and supportive services to Consumer-Directed
16 Personal Assistance Supports and Services (CD-PASS)
17 waiver program participants who have employer
18 responsibility for hiring, training, directing and
19 managing an individual personal care attendant, ~~or~~
20 c. CD-PASS waiver program employer participants, or
21 d. providers of Program of All-Inclusive Care for the
22 Elderly (PACE) services;

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

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

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

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

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

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

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

22 SECTION 4. This act shall become effective November 1, 2022.
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