

CORRECTED
SESSION OF 2017

SUPPLEMENTAL NOTE ON SENATE BILL NO. 154

As Amended by Senate Committee on Public
Health and Welfare

Brief*

SB 154, as amended, would amend law concerning home health agencies, including licensure and services. The bill also would add and amend definitions applicable to home health agencies and add to and clarify those excluded from the home health agency licensure requirement. Further, the bill would reconcile current statute with certain provisions in Executive Reorganization Order 41, specifically the transfer of health occupations credentialing from the Kansas Department of Health and Environment (KDHE) to the Kansas Department for Aging and Disability Services (KDADS).

Definitions

The bill would add the following definitions to law concerning home health agencies:

- “Attendant care services” to mean basic and ancillary services provided under home and community based services (HCBS) waiver programs;
- “Supportive care services” to mean services that do not require supervision by a healthcare professional, such as a physician assistant or registered nurse, to provide assistance with

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

activities of daily living that the consumer could perform if such consumer were physically capable including, but not limited to, bathing, dressing, eating, medication reminders, transferring, walking, mobility, toileting, and continence care, provided in the consumer's temporary or permanent place of residence so that the consumer can remain safely and comfortably in the consumer's temporary or permanent place of residence. Supportive care services would not include any home health services; and

- “Supportive care worker” to mean an employee of a home health agency who provides supportive care services.

The definition for “home health agency” would be amended to add “supportive care services” and “attendant care services” as follows: a public or private agency or organization or a subdivision or subunit of such agency or organization that provides for a fee one or more home health services, supportive care services, or attendant care services provided under HCBS waiver programs at the residence of a patient but does not include local health departments not federally certified home health agencies, durable medical equipment companies that provide home health services by use of specialized equipment, independent living agencies, KDADS, and KDHE.

The definition of “home health aide” would be amended to insert “supportive care services” and “certified nurse aide” and clarify requirements as follows: an employee of a home health agency who is a certified nurse aide, is in good standing on the public nurse aide registry maintained by KDADS and has completed a 20-hour home health aide course approved by KDADS who assists, under registered nurse supervision, in the provision of home health services and who provides assigned health care to patients but shall not include employees of a home health agency providing only supportive care services or attendant care services.

Licensure

The bill would require any agency, including any Medicare or Medicaid provider, that provides one or more of the home health services, supportive care services, or attendant care services, specified in the bill, or that holds itself out as providing one or more of such services or as a home health agency to be licensed. Any agency found to be providing services meeting the definition of a home health agency without a license would be notified of the agency's need to become licensed. The agency would be offered a 60-day temporary license to continue operating during the pendency of an application for licensure. If the agency fails to obtain licensure within 30 calendar days, the Secretary for Aging and Disability Services (Secretary) would assess a fine on the agency. The Secretary would not be allowed to grant a temporary license to any unlicensed agency that is providing services in a way that presents imminent harm to the public.

Fee

Law requiring a fee to accompany an application for licensure by a home health agency would be changed to specify the fee would be based on the unduplicated number of patients admitted to a health home during the prior licensure year.

Cancellation

The bill would require a home health agency to file its annual report and pay the annual fee within 30 days of the licensure renewal expiration date to avoid automatic licensure cancellation.

New Owner

Current law requires a new owner of a home health agency to file an application for licensure with the Secretary

90 days prior to the effective date of the sale, transfer, or change in corporate status. The bill would retain the requirement for a new owner to file an application for licensure with the Secretary, but the bill would eliminate the 90-day requirement.

Exclusions

The bill would add to and clarify those excluded from home health agency licensure requirements as follows:

- Individuals who personally provide attendant care services if such persons are not under the direct control and doing work for or employed by any business entity;
- Individuals who personally provide one or more home health or attendant care services, if such individuals are employed in accordance with a self-directed care arrangement; or
- Outpatient physical therapy agencies that are certified to participate in the Medicare program and that provide services only to outpatient physical therapy patients.

Training

The bill would allow the Secretary to require an employee of a home health agency to obtain a course of instruction and satisfactorily pass a related exam within 90 days of employment as a condition of continued employment. The bill would delete the provision stating the Secretary would not be allowed to require as a condition to employment or continued employment by a home health agency that persons providing only attendant care services as an employee of a home health agency complete any course of instruction or pass any examination.

Complaints

The bill would allow complaints against a home health agency to be made through a hotline maintained by KDADS and would eliminate the requirement a complaint be made in writing.

Background

The bill was introduced by the Senate Committee on Public Health and Welfare at the request of Senator Bollier. In the Senate Committee hearing, representatives from KDHE, Home Instead Senior Care, and Topeka Independent Living Resource Center provided proponent testimony. Generally, the proponents stated the bill would clarify the difference between home health, a medical service, and other types of home care provided to seniors in their homes so they can maintain their independence. Kansas Home Care Association provided written-only proponent testimony.

Written-only opponent testimony was provided to the Senate Committee the day after the hearing by the current owner and the former owner of Blassingame Home Care.

Written-only neutral testimony was provided by Hearts at Home.

The Senate Committee amended the bill to add the definition of “supportive care services” and “supportive care worker” and to clarify individuals providing home health or attendant care services under a self-directed care employment arrangement would not be subject to licensure requirements.

The fiscal note prepared by the Division of the Budget on the bill, as introduced, states enactment of the bill would require KDADS and KDHE to amend current rules and regulations, and the cost of amending those rules and regulations would be negligible.