

Amend CSHB 2292 (committee printing) as follows:

(1) Add the following appropriately numbered SECTIONS to ARTICLE 2 of the bill:

SECTION _____. Section 142.001, Health and Safety Code, is amended by amending Subdivisions (6), (13), and (22) and adding Subdivision (22-a) to read as follows:

(6) "Certified agency" means a home and community support services agency, or a portion of the agency, that:

(A) provides a home health service; and

(B) is certified by an official of the Department of Health and Human Services as in compliance with conditions of participation in Title XVIII, Social Security Act (42 U.S.C. Section 1395 et seq.).

(13) "Home health service" means the provision of one or more of the following health services required by an individual in a residence or independent living environment:

(A) nursing, including blood pressure monitoring and diabetes treatment;

(B) physical, occupational, speech, or respiratory therapy;

(C) medical social service;

(D) intravenous therapy;

(E) dialysis;

(F) service provided by unlicensed personnel under the delegation or supervision of a licensed health professional;

(G) the furnishing of medical equipment and supplies, excluding drugs and medicines; or

(H) nutritional counseling.

(22) "Personal assistance service" means routine ongoing care or services required by an individual in a residence or independent living environment that enable the individual to engage in the activities of daily living or to perform the physical functions required for independent living, including respite services. The term includes:

(A) personal care;

(B) health-related services performed under

circumstances that are defined as not constituting the practice of professional nursing by the Board of Nurse Examiners through a memorandum of understanding with the department in accordance with Section 142.016; and

(C) health-related tasks provided by unlicensed personnel under the delegation of a registered nurse or that a registered nurse determines do not require delegation.

(22-a) "Personal care" means the provision of one or more of the following services required by an individual in a residence or independent living environment:

(A) bathing;

(B) dressing;

(C) grooming;

(D) feeding;

(E) exercising;

(F) toileting;

(G) positioning;

(H) assisting with self-administered medications;

(I) routine hair and skin care; and

(J) transfer or ambulation.

SECTION _____. Section 142.002, Health and Safety Code, is amended by adding Subsection (f) to read as follows:

(f) A person who is not licensed to provide personal assistance services under this chapter may not indicate or imply that the person is licensed to provide personal assistance services by the use of the words "personal assistance services" or in any other manner.

(2) Strike SECTION 2.53 of the bill (page 57, line 39, through page 58, line 45) and substitute the following appropriately numbered SECTION:

SECTION _____. Section 142.003(a), Health and Safety Code, is amended to read as follows:

(a) The following persons need not be licensed under this chapter:

(1) a physician, dentist, registered nurse, occupational therapist, or physical therapist licensed under the

laws of this state who provides home health services to a client only as a part of and incidental to that person's private office practice;

(2) a registered nurse, licensed vocational nurse, physical therapist, occupational therapist, speech therapist, medical social worker, or any other health care professional as determined by the department who provides home health services as a sole practitioner;

(3) a registry that operates solely as a clearinghouse to put consumers in contact with persons who provide home health, hospice, or personal assistance services and that does not maintain official client records, direct client services, or compensate the person who is providing the service;

(4) an individual whose permanent residence is in the client's residence;

(5) an employee of a person licensed under this chapter who provides home health, hospice, or personal assistance services only as an employee of the license holder and who receives no benefit for providing the services, other than wages from the license holder;

(6) a home, nursing home, convalescent home, assisted living facility, special care facility, or other institution for individuals who are elderly or who have disabilities that provides home health or personal assistance services only to residents of the home or institution;

(7) a person who provides one health service through a contract with a person licensed under this chapter;

(8) a durable medical equipment supply company;

(9) a pharmacy or wholesale medical supply company that does not furnish services, other than supplies, to a person at the person's house;

(10) a hospital or other licensed health care facility that provides home health or personal assistance services only to inpatient residents of the hospital or facility;

(11) a person providing home health or personal assistance services to an injured employee under Title 5, Labor Code;

(12) a visiting nurse service that:

(A) is conducted by and for the adherents of a well-recognized church or religious denomination; and

(B) provides nursing services by a person exempt from licensing by Section 301.004, Occupations Code, because the person furnishes nursing care in which treatment is only by prayer or spiritual means;

(13) an individual hired and paid directly by the client or the client's family or legal guardian to provide home health or personal assistance services;

(14) a business, school, camp, or other organization that provides home health or personal assistance services, incidental to the organization's primary purpose, to individuals employed by or participating in programs offered by the business, school, or camp that enable the individual to participate fully in the business's, school's, or camp's programs;

(15) a person or organization providing sitter-companion services or chore or household services that do not involve personal care, health, or health-related services;

(16) a licensed health care facility that provides hospice services under a contract with a hospice;

(17) a person delivering residential acquired immune deficiency syndrome hospice care who is licensed and designated as a residential AIDS hospice under Chapter 248; ~~[ex]~~

(18) the Texas Department of Criminal Justice;

(19) a person that provides home health, hospice, or personal assistance services only to persons enrolled in a program funded wholly or partly by the Texas Department of Mental Health and Mental Retardation and monitored by the Texas Department of Mental Health and Mental Retardation or its designated local authority in accordance with standards set by the Texas Department of Mental Health and Mental Retardation; or

(20) an individual who provides home health or personal assistance services as the employee of a consumer or an entity or employee of an entity acting as a consumer's fiscal agent under Section 531.051, Government Code.

(3) Add the following appropriately numbered SECTIONS to

ARTICLE 2 of the bill:

SECTION _____. Section 142.0062(a), Health and Safety Code, is amended to read as follows:

(a) A home and community support services agency or its employees who are registered nurses or licensed vocational nurses may purchase, store, or transport for the purpose of administering to the agency's employees, home health or hospice patients, or patient family members under physician's standing orders the following dangerous drugs:

- (1) hepatitis B vaccine;
- (2) influenza vaccine; ~~and~~
- (3) tuberculin purified protein derivative for tuberculosis; and
- (4) pneumococcal polysaccharide vaccine.

SECTION _____. Sections 142.016(a) and (b), Health and Safety Code, are amended to read as follows:

(a) The Board of Nurse Examiners and the department shall adopt a memorandum of understanding governing the circumstances under which the provision of health-related tasks or services do not constitute the practice of professional nursing. The agencies periodically ~~annually~~ shall review and shall renew or modify the memorandum as necessary.

(b) The Board of Nurse Examiners and the department shall consult with an advisory committee in developing, modifying, or renewing the memorandum of understanding. The advisory committee shall be appointed by the Board of Nurse Examiners and the department and at a minimum shall include:

- (1) one representative from the Board of Nurse Examiners and one representative from the department to serve as cochairmen;
- (2) one representative from the Texas Department of Mental Health and Mental Retardation;
- (3) ~~one representative from the Texas Department of Human Services;~~
- ~~[(4)]~~ one representative from the Texas Nurses Association;
- (4) ~~[(5)]~~ one representative from the Texas

Association for Home Care, Incorporated, or its successor;

(5) [~~(6)~~] one representative from the Texas Hospice Organization, Incorporated, or its successor;

(6) [~~(7)~~] one representative of the Texas Respite Resource Network or its successor; and

(7) [~~(8)~~] two representatives of organizations such as the Personal Assistance Task Force or the Disability Consortium that advocate for clients in community-based settings.

SECTION _____. Sections 142.018(b) and (c), Health and Safety Code, are amended to read as follows:

(b) A home and community support services agency that has cause to believe that a person receiving services from the agency has been abused, exploited, or neglected by an employee of the agency shall report the information to:

(1) the department; and

(2) the Department of Protective and Regulatory Services or other appropriate state agency as required by Section 48.051 [~~Sections 48.036 and 48.082~~], Human Resources Code.

(c) This section does not affect the duty or authority of any state agency to conduct an investigation of alleged abuse, exploitation, or neglect as provided by other law. An investigation of alleged abuse, exploitation, or neglect may be conducted without an on-site survey, as appropriate.

SECTION _____. Section 250.001(3), Health and Safety Code, is amended to read as follows:

(3) "Facility" means:

(A) a nursing home, custodial care home, or other institution licensed by the Texas Department of Human Services under Chapter 242;

(B) an assisted living facility licensed by the Texas Department of Human Services under Chapter 247;

(C) a home and community support services [~~health~~] agency licensed under Chapter 142;

(D) an adult day care facility licensed by the Texas Department of Human Services under Chapter 103, Human Resources Code;

(E) a facility for persons with mental

retardation licensed under Chapter 252;

(F) [~~an unlicensed attendant care agency that contracts with the Texas Department of Human Services;~~

~~(G)]~~ an adult foster care provider that contracts with the Texas Department of Human Services;

(G) [~~(H)]~~ a facility that provides mental health services and that is operated by or contracts with the Texas Department of Mental Health and Mental Retardation; [~~(I)]~~

(H) [~~(J)]~~ a local mental health or mental retardation authority designated under Section 533.035; or

(J) a person exempt from licensing under Section 142.003(a)(19).

(4) Renumber SECTIONS of ARTICLE 2 of the bill accordingly.