

BILL ANALYSIS

S.B. 1498
By: Madla
Human Services
Committee Report (Amended)

BACKGROUND AND PURPOSE

Home and community support services agencies (HCCSAs) provide home health, hospice and/or personal assistance services to an individual in the individual's residence or an independent living environment. In 1999, licensing of HCCSAs was transferred from the Texas Department of Health (TDH) to the Texas Department of Human Services (DHS). Senate Bill 1498 clarifies current law resulting from the transfer of licensure from TDH to DHS.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, department, institution, or agency.

ANALYSIS

SECTION 1. Amends Section 142.001, Health and Safety Code, by amending Subdivisions (6), (13), and (22) and adding Subdivision (22-a), as follows:

- (6) Redefines "certified agency."
- (13) Redefines "home health services."
- (22) Redefines "personal assistance service."
- (22-a) Defines "personal care."

SECTION 2. Amends Section 142.002, Health and Safety Code, by adding Subsection (f), to prohibit a person who is not licensed to provide personal assistance services under this chapter from indicating or implying that the person is licensed to provide personal assistance services by the use of the words "personal assistance services" or in any other manner.

SECTION 3. Amends Section 142.003(a), Health and Safety Code, to provide that 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 (TDMHMR) and monitored by the TDMHMR or its designated local authority in accordance with standards set by the TDMHMR or 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, need not be licensed under this chapter. Redesignates existing Subdivision (18) as (19).

SECTION 4. Amends Section 142.009(j), Health and Safety Code, to delete a reference in existing text.

SECTION 5. Amends Sections 142.016(a) and (b), Health and Safety Code, as follows:

- (a) Requires periodic, rather than annual, review of a memorandum of understanding between the Board of Nurse Examiners and TDMHMR. (b) Deletes Subdivision (3) requiring the appointment of a representative from the Texas Department of Human services as a member of the advisory committee under this section, from existing text and renumbers subsequent subdivisions accordingly.

SECTION 6. Amends Sections 142.018(b) and (c), Health and Safety Code, as follows:

(b) Deletes reference to Sections 48.036 and 48.082 in existing text and makes a conforming change. (c) Authorizes an investigation of alleged abuse, exploitation, or neglect to be conducted without an on-site survey, as appropriate.

SECTION 7. Amends Section 253.008, Health and Safety Code, as follows:

(a) Requires the facility or agency, or person, before a facility, an agency licensed under Chapter 142, or a person exempt from licensing under Section 142.003 (a) (18) may hire an employee, to search the employee misconduct registry under this chapter and the nurse aide registry maintained under the Omnibus Budget Reconciliation Act of 1987 (Pub. L. No. 100-203) to determine whether the applicant for employment is designated in either registry as having abused, neglected, or exploited a resident or consumer of a facility or an individual receiving services from an agency licensed under Chapter 142 or from a person exempt from licensing under Section 142.003 (a) (18). (b) Makes conforming changes.

SECTION 8. Amends Section 253.009(a), Health and Safety Code, to make a conforming change.

SECTION 9. Amends Section 48.401(1), Human Resources Code, to redefine “agency.”

SECTION 10. Repealer: (1) Sections 142.006(d), (e), and (f), Health and Safety Code (License Issuance; Term); (2) Section 142.009(i), Health and Safety Code (Surveys; Consumer Complaints) and; (3) Section 142.0176, Health and Safety Code (Certain Excepted Agencies).

SECTION 11. Effective date: September 1, 2003.

EFFECTIVE DATE

September 1, 2003.

EXPLANATION OF AMENDMENTS

Amendment number 1 inserts a new SECTION 9 which provides a new definition for the word “facility.”

Amendment number 2 adds a new SECTION 4 adding pneumococcal polysaccharide vaccine to the list of dangerous drugs which may be purchased, stored, or transported by a home and community support services agency or its employees.