By:  Kolkhorst S.B. No. 1808

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of providers of certain Medicaid services to persons with an intellectual or developmental disability.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  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, habilitation, 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, habilitation, 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;

(18)  the Texas Department of Criminal Justice;

(19)  a person that provides home health, hospice, habilitation, or personal assistance services only to persons receiving benefits under:

(A)  the home and community-based services (HCS) waiver program;

(B)  the Texas home living (TxHmL) waiver program;

(C)  the STAR + PLUS or other Medicaid managed care program under the program's HCS or TxHmL certification; or

(D)  Section 534.152, Government Code; [~~or~~]

(20)  a person who provides intellectual and developmental disabilities habilitative specialized services under Medicaid and is:

(A)  a certified HCS or TxHmL provider; or

(B)  a local intellectual and developmental disability authority contracted under Section 534.105; or

(21)  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.

SECTION 2.  Section 250.001(3), Health and Safety Code, is amended to read as follows:

(3)  "Facility" means:

(A)  a nursing facility, custodial care home, or other institution licensed by the Department of Aging and Disability Services under Chapter 242;

(B)  an assisted living facility licensed by the Department of Aging and Disability Services under Chapter 247;

(C)  a home and community support services agency licensed under Chapter 142;

(D)  a day activity and health services facility licensed by the Department of Aging and Disability Services under Chapter 103, Human Resources Code;

(E)  an ICF-IID licensed under Chapter 252;

(F)  an adult foster care provider that contracts with the Department of Aging and Disability Services;

(G)  a facility that provides mental health services and that is operated by or contracts with the Department of State Health Services;

(H)  a local mental health authority designated under Section 533.035 or a local intellectual and developmental disability authority designated under Section 533.035;

(I)  a person exempt from licensing under Section 142.003(a)(19) or (20);

(J)  a special care facility licensed by the Department of State Health Services under Chapter 248;

(K)  a mental health service unit of a hospital licensed under Chapter 241; or

(L)  a prescribed pediatric extended care center licensed by the Department of Aging and Disability Services under Chapter 248A.

SECTION 3.  Section 260.002, Health and Safety Code, is amended to read as follows:

Sec. 260.002.  EXEMPTIONS. This chapter does not apply to:

(1)  a person that is required to be licensed under Chapter 142, 242, 246, 247, or 252;

(2)  a person that is exempt from licensing under Section 142.003(a)(19) or (20), 242.003(3), or 247.004(4);

(3)  a hotel as defined by Section 156.001, Tax Code;

(4)  a retirement community;

(5)  a monastery or convent;

(6)  a child-care facility as defined by Section 42.002, Human Resources Code;

(7)  a family violence shelter center as defined by Section 51.002, Human Resources Code; or

(8)  a sorority or fraternity house or other dormitory associated with an institution of higher education.

SECTION 4.  Section 48.401(1), Human Resources Code, is amended to read as follows:

(1)  "Agency" means:

(A)  an entity licensed under Chapter 142, Health and Safety Code;

(B)  a person exempt from licensing under Section 142.003(a)(19) or (20), Health and Safety Code;

(C)  a facility licensed under Chapter 252, Health and Safety Code; or

(D)  a provider investigated by the department under Subchapter F or under Section 261.404, Family Code.

SECTION 5.  This Act takes effect September 1, 2021.