

By: Kolkhorst

S.B. No. 1808

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the regulation of providers of certain Medicaid
3 services to persons with an intellectual or developmental
4 disability.

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

6 SECTION 1. Section 142.003(a), Health and Safety Code, is
7 amended to read as follows:

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

10 (1) a physician, dentist, registered nurse,
11 occupational therapist, or physical therapist licensed under the
12 laws of this state who provides home health services to a client
13 only as a part of and incidental to that person's private office
14 practice;

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

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

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

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

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

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

15 (8) a durable medical equipment supply company;

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

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

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

25 (12) a visiting nurse service that:

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

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

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

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

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

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

19 (17) a person delivering residential acquired immune
20 deficiency syndrome hospice care who is licensed and designated as
21 a residential AIDS hospice under Chapter 248;

22 (18) the Texas Department of Criminal Justice;

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

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

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

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

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

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

8 (A) a certified HCS or TxHmL provider; or

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

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

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

17 (3) "Facility" means:

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

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

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

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

- 1 (E) an ICF-IID licensed under Chapter 252;
- 2 (F) an adult foster care provider that contracts
3 with the Department of Aging and Disability Services;
- 4 (G) a facility that provides mental health
5 services and that is operated by or contracts with the Department of
6 State Health Services;
- 7 (H) a local mental health authority designated
8 under Section 533.035 or a local intellectual and developmental
9 disability authority designated under Section 533.035;
- 10 (I) a person exempt from licensing under Section
11 142.003(a)(19) or (20);
- 12 (J) a special care facility licensed by the
13 Department of State Health Services under Chapter 248;
- 14 (K) a mental health service unit of a hospital
15 licensed under Chapter 241; or
- 16 (L) a prescribed pediatric extended care center
17 licensed by the Department of Aging and Disability Services under
18 Chapter 248A.

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

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

- 22 (1) a person that is required to be licensed under
23 Chapter 142, 242, 246, 247, or 252;
- 24 (2) a person that is exempt from licensing under
25 Section 142.003(a)(19) or (20), 242.003(3), or 247.004(4);
- 26 (3) a hotel as defined by Section 156.001, Tax Code;
- 27 (4) a retirement community;

- 1 (5) a monastery or convent;
- 2 (6) a child-care facility as defined by Section
- 3 [42.002](#), Human Resources Code;
- 4 (7) a family violence shelter center as defined by
- 5 Section [51.002](#), Human Resources Code; or
- 6 (8) a sorority or fraternity house or other dormitory
- 7 associated with an institution of higher education.

8 SECTION 4. Section [48.401\(1\)](#), Human Resources Code, is

9 amended to read as follows:

- 10 (1) "Agency" means:
- 11 (A) an entity licensed under Chapter [142](#), Health
- 12 and Safety Code;
- 13 (B) a person exempt from licensing under Section
- 14 [142.003\(a\)\(19\) or \(20\)](#), Health and Safety Code;
- 15 (C) a facility licensed under Chapter [252](#), Health
- 16 and Safety Code; or
- 17 (D) a provider investigated by the department
- 18 under Subchapter F or under Section [261.404](#), Family Code.

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