

1-1 By: Kolkhorst S.B. No. 1808  
 1-2 (In the Senate - Filed March 12, 2021; March 26, 2021, read  
 1-3 first time and referred to Committee on Health & Human Services;  
 1-4 April 20, 2021, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 8, Nays 0; April 20, 2021,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12			X	
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1808 By: Powell

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to the regulation of providers of certain Medicaid  
 1-22 services to persons with an intellectual or developmental  
 1-23 disability.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 142.003(a), Health and Safety Code, is  
 1-26 amended to read as follows:

1-27 (a) The following persons need not be licensed under this  
 1-28 chapter:

1-29 (1) a physician, dentist, registered nurse,  
 1-30 occupational therapist, or physical therapist licensed under the  
 1-31 laws of this state who provides home health services to a client  
 1-32 only as a part of and incidental to that person's private office  
 1-33 practice;

1-34 (2) a registered nurse, licensed vocational nurse,  
 1-35 physical therapist, occupational therapist, speech therapist,  
 1-36 medical social worker, or any other health care professional as  
 1-37 determined by the department who provides home health services as a  
 1-38 sole practitioner;

1-39 (3) a registry that operates solely as a clearinghouse  
 1-40 to put consumers in contact with persons who provide home health,  
 1-41 hospice, habilitation, or personal assistance services and that  
 1-42 does not maintain official client records, direct client services,  
 1-43 or compensate the person who is providing the service;

1-44 (4) an individual whose permanent residence is in the  
 1-45 client's residence;

1-46 (5) an employee of a person licensed under this  
 1-47 chapter who provides home health, hospice, habilitation, or  
 1-48 personal assistance services only as an employee of the license  
 1-49 holder and who receives no benefit for providing the services,  
 1-50 other than wages from the license holder;

1-51 (6) a home, nursing home, convalescent home, assisted  
 1-52 living facility, special care facility, or other institution for  
 1-53 individuals who are elderly or who have disabilities that provides  
 1-54 home health or personal assistance services only to residents of  
 1-55 the home or institution;

1-56 (7) a person who provides one health service through a  
 1-57 contract with a person licensed under this chapter;

1-58 (8) a durable medical equipment supply company;

1-59 (9) a pharmacy or wholesale medical supply company  
 1-60 that does not furnish services, other than supplies, to a person at

2-1 the person's house;

2-2 (10) a hospital or other licensed health care facility

2-3 that provides home health or personal assistance services only to

2-4 inpatient residents of the hospital or facility;

2-5 (11) a person providing home health or personal

2-6 assistance services to an injured employee under Title 5, Labor

2-7 Code;

2-8 (12) a visiting nurse service that:

2-9 (A) is conducted by and for the adherents of a

2-10 well-recognized church or religious denomination; and

2-11 (B) provides nursing services by a person exempt

2-12 from licensing by Section 301.004, Occupations Code, because the

2-13 person furnishes nursing care in which treatment is only by prayer

2-14 or spiritual means;

2-15 (13) an individual hired and paid directly by the

2-16 client or the client's family or legal guardian to provide home

2-17 health or personal assistance services;

2-18 (14) a business, school, camp, or other organization

2-19 that provides home health or personal assistance services,

2-20 incidental to the organization's primary purpose, to individuals

2-21 employed by or participating in programs offered by the business,

2-22 school, or camp that enable the individual to participate fully in

2-23 the business's, school's, or camp's programs;

2-24 (15) a person or organization providing

2-25 sitter-companion services or chore or household services that do

2-26 not involve personal care, health, or health-related services;

2-27 (16) a licensed health care facility that provides

2-28 hospice services under a contract with a hospice;

2-29 (17) a person delivering residential acquired immune

2-30 deficiency syndrome hospice care who is licensed and designated as

2-31 a residential AIDS hospice under Chapter 248;

2-32 (18) the Texas Department of Criminal Justice;

2-33 (19) a person that provides home health, hospice,

2-34 habilitation, or personal assistance services only to persons

2-35 receiving benefits under:

2-36 (A) the home and community-based services (HCS)

2-37 waiver program;

2-38 (B) the Texas home living (TxHmL) waiver program;

2-39 (C) the STAR + PLUS or other Medicaid managed

2-40 care program under the program's HCS or TxHmL certification; or

2-41 (D) Section 534.152, Government Code; ~~or~~

2-42 (20) a person who provides intellectual and

2-43 developmental disabilities habilitative specialized services under

2-44 Medicaid and is:

2-45 (A) a certified HCS or TxHmL provider; or

2-46 (B) a local intellectual and developmental

2-47 disability authority contracted under Section 534.105; or

2-48 (21) an individual who provides home health or

2-49 personal assistance services as the employee of a consumer or an

2-50 entity or employee of an entity acting as a consumer's fiscal agent

2-51 under Section 531.051, Government Code.

2-52 SECTION 2. Section 250.001(3), Health and Safety Code, is

2-53 amended to read as follows:

2-54 (3) "Facility" means:

2-55 (A) a nursing facility, custodial care home, or

2-56 other institution licensed by the Department of Aging and

2-57 Disability Services under Chapter 242;

2-58 (B) an assisted living facility licensed by the

2-59 Department of Aging and Disability Services under Chapter 247;

2-60 (C) a home and community support services agency

2-61 licensed under Chapter 142;

2-62 (D) a day activity and health services facility

2-63 licensed by the Department of Aging and Disability Services under

2-64 Chapter 103, Human Resources Code;

2-65 (E) an ICF-IID licensed under Chapter 252;

2-66 (F) an adult foster care provider that contracts

2-67 with the Department of Aging and Disability Services;

2-68 (G) a facility that provides mental health

2-69 services and that is operated by or contracts with the Department of

3-1 State Health Services;  
3-2 (H) a local mental health authority designated  
3-3 under Section 533.035 or a local intellectual and developmental  
3-4 disability authority designated under Section 533.035;  
3-5 (I) a person exempt from licensing under Section  
3-6 142.003(a)(19) or (20);  
3-7 (J) a special care facility licensed by the  
3-8 Department of State Health Services under Chapter 248;  
3-9 (K) a mental health service unit of a hospital  
3-10 licensed under Chapter 241; or  
3-11 (L) a prescribed pediatric extended care center  
3-12 licensed by the Department of Aging and Disability Services under  
3-13 Chapter 248A.

3-14 SECTION 3. Section 260.002, Health and Safety Code, is  
3-15 amended to read as follows:

3-16 Sec. 260.002. EXEMPTIONS. This chapter does not apply to:

3-17 (1) a person that is required to be licensed under  
3-18 Chapter 142, 242, 246, 247, or 252;

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

3-21 (3) a hotel as defined by Section 156.001, Tax Code;

3-22 (4) a retirement community;

3-23 (5) a monastery or convent;

3-24 (6) a child-care facility as defined by Section  
3-25 42.002, Human Resources Code;

3-26 (7) a family violence shelter center as defined by  
3-27 Section 51.002, Human Resources Code; or

3-28 (8) a sorority or fraternity house or other dormitory  
3-29 associated with an institution of higher education.

3-30 SECTION 4. Section 48.401(1), Human Resources Code, is  
3-31 amended to read as follows:

3-32 (1) "Agency" means:

3-33 (A) an entity licensed under Chapter 142, Health  
3-34 and Safety Code;

3-35 (B) a person exempt from licensing under Section  
3-36 142.003(a)(19) or (20), Health and Safety Code;

3-37 (C) a facility licensed under Chapter 252, Health  
3-38 and Safety Code; or

3-39 (D) a provider investigated by the department  
3-40 under Subchapter F or under Section 261.404, Family Code.

3-41 SECTION 5. This Act takes effect September 1, 2021.

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