

Home Health Agencies; SB 154

SB 154 amends law concerning home health agencies, including licensure and services. The bill also adds and amends definitions applicable to home health agencies and adds to and clarifies those excluded from the home health agency licensure requirement. Further, the bill reconciles current statutes with certain provisions in Executive Reorganization Order No. 41, specifically the transfer of health occupations credentialing from the Kansas Department of Health and Environment (KDHE) to the Kansas Department for Aging and Disability Services (KDADS).

Definitions

The bill adds the following definitions to law concerning home health agencies:

- “Attendant care services” means basic and ancillary services provided under home and community based services (HCBS) waiver programs;
- “Supportive care services” means services that do not require supervision by a health care professional, such as a physician assistant or registered nurse, to provide assistance with activities of daily living that the consumer could perform if such consumer was physically capable, including, but not limited to, bathing, dressing, eating, medication reminders, transferring, walking, mobility, toileting, and continence care, provided in the consumer’s temporary or permanent place of residence so the consumer can remain safely and comfortably in the consumer’s temporary or permanent place of residence. No home health services are included in supportive care services; and
- “Supportive care worker” means an employee of a home health agency who provides supportive care services.

The definition for “home health agency” is amended to add “supportive care services” and “attendant care services” as follows: a public or private agency or organization or a subdivision or subunit of such agency or organization that provides for a fee one or more home health services, supportive care services, or attendant care services provided under HCBS waiver programs at the residence of a patient but does not include local health departments not federally certified as home health agencies, durable medical equipment companies that provide home health services by use of specialized equipment, independent living agencies, KDADS, and KDHE.

The definition of “home health aide” is amended to insert “supportive care services” and “certified nurse aide” and to clarify requirements as follows: an employee of a home health agency who is a certified nurse aide, is in good standing on the public nurse aide registry maintained by KDADS, and has completed a 20-hour home health aide course approved by KDADS who assists, under registered nurse supervision, in the provision of home health services and who provides assigned health care to patients but shall not include employees of a home health agency providing only supportive care services or attendant care services.

Licensure

The bill requires any agency, including any Medicare or Medicaid provider, that provides one or more of the home health services, supportive care services, or attendant care services specified in the bill, or that holds itself out as providing one or more of such services or as a home health agency, to be licensed. Any agency found to be providing services meeting the definition of a home health agency without a license shall be notified of the agency's need to become licensed. The agency shall be offered a 60-day temporary license to continue operating during the pendency of an application for licensure. If the agency fails to obtain licensure within 30 calendar days, the Secretary for Aging and Disability Services (Secretary) shall assess a fine on the agency. The Secretary is not allowed to grant a temporary license to any unlicensed agency that is providing services in a way that presents imminent harm to the public.

Fee

Law requiring a fee to accompany an application for licensure by a home health agency is changed to specify the fee shall be based on the unduplicated number of patients admitted to a health home during the prior licensure year.

Cancellation

The bill requires a home health agency to file its annual report and pay the annual fee within 30 days of the licensure renewal expiration date to avoid automatic licensure cancellation.

New Owner

Law requiring a new owner of a home health agency to file an application for licensure with the Secretary 90 days prior to the effective date of the sale, transfer, or change in corporate status is changed to eliminate the 90-day requirement.

Exclusions

The bill adds to and clarifies those excluded from home health agency licensure requirements as follows:

- Individuals who personally provide attendant care services if such persons are not under the direct control and doing work for or employed by any business entity;
- Individuals who personally provide one or more home health or attendant care services, if such individuals are employed in accordance with a self-directed care arrangement; or
- Outpatient physical therapy agencies that are certified to participate in the Medicare program and that provide services only to outpatient physical therapy patients.

Training

The bill allows the Secretary to require an employee of a home health agency to complete a course of instruction and satisfactorily pass a related examination within 90 days of employment as a condition to continued employment. The bill deletes a provision stating the Secretary shall not be allowed to require as a condition to employment or continued employment by a home health agency that persons providing only attendant care services as an employee of a home health agency complete any course of instruction or pass any examination.

Complaints

The bill allows complaints against a home health agency to be made through a hotline maintained by KDADS and eliminates the requirement a complaint be made in writing.