

1 State of Arkansas As Engrossed: S3/13/19 S3/25/19

2 92nd General Assembly

# A Bill

3 Regular Session, 2019

SENATE BILL 468

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5 By: Senator B. Sample

6 By: Representative Penzo

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## For An Act To Be Entitled

9 AN ACT TO AMEND THE REQUIREMENTS FOR A PERSONAL CARE  
10 SERVICE PROVIDER, PRIVATE CARE AGENCY, AND HOME  
11 HEALTHCARE SERVICES AGENCY REGARDING VISITS TO A  
12 PATIENT'S HOME AND THE DISTANCE OF A PRIVATE CARE  
13 AGENCY OFFICE FROM A PATIENT'S HOME; AND FOR OTHER  
14 PURPOSES.

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## Subtitle

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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SECTION 1. Arkansas Code § 20-10-2304(c), concerning the rules by the  
29 State Board of Health regarding personal care service providers and private  
30 care agencies, is amended to read as follows:

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(c) The board shall:

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(1) establish Establish a separate licensure category for  
33 private care agencies that provide personal care services twenty-four (24)  
34 hours a day and seven (7) days a week;

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(2)(A) Adopt, promulgate, and enforce rules and standards as  
36 necessary to implement this subchapter.



1 (B) A rule adopted to implement this subchapter shall be  
2 amended or repealed by the board as in the interest of the public through the  
3 Arkansas Administrative Procedure Act, § 25-15-201 et seq.;

4 (3) Require that:

5 (A)(i) A qualified supervisor shall establish the  
6 frequency of in-person supervisory visits as part of the patient's plan of  
7 care based on the specific needs of the patient and the recommendations of  
8 the registered nurse.

9 (ii) The frequency of in-person visits shall be at  
10 least annually.

11 (iii)(a) A qualified supervisor shall be a licensed  
12 nurse or have completed two (2) years of full-time study at an accredited  
13 institution of higher education.

14 (b) An individual who has a high school  
15 diploma or general equivalency diploma may substitute one (1) year of full-  
16 time employment in a supervisory capacity in a healthcare facility or  
17 community-based agency for one (1) year at an institution of higher  
18 education; and

19 (B) A private care agency maintain a primary location in  
20 Arkansas and a sufficient number of regional offices to adequately service  
21 the administrative needs of the private care agency and the patients of the  
22 private care agency; and

23 (4) Not require:

24 (A) A registered nurse to visit a patient every sixty-two  
25 (62) days to supervise services; or

26 (B) A branch office of a private care agency to be within  
27 a one-hundred-mile radius of a patient's home.

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29 SECTION 2. Arkansas Code § 20-10-806(b), concerning the administration  
30 and rules of home healthcare services agencies, as amended by Acts 2019, No.  
31 315, is amended to read as follows:

32 (b)(1) The State Board of Health shall adopt, promulgate, and enforce  
33 such rules and standards as may be necessary for the accomplishment of the  
34 purposes of this subchapter.

35 (2) The rules and standards shall be ~~modified~~, amended, or  
36 rescinded from time to time by the board as may be in the public interest,

1 after first complying with the Arkansas Administrative Procedure Act, § 25-  
2 15-201 et seq.

3 (3) Rules under this subchapter shall:

4 (A)(i) Require that a qualified supervisor shall establish  
5 the frequency of in-person supervisory visits as part of the patient's plan  
6 of care based on the specific needs of the patient and the recommendations of  
7 the registered nurse.

8 (ii) The frequency of in-person visits shall be at  
9 least annually.

10 (iii)(a) A qualified supervisor shall be a licensed  
11 nurse or have completed two (2) years of full-time study at an accredited  
12 institution of higher education.

13 (b) An individual who has a high school  
14 diploma or general equivalency diploma may substitute one (1) year of full-  
15 time employment in a supervisory capacity in a healthcare facility or  
16 community-based agency for one (1) year at an institution of higher  
17 education; and

18 (B) Not require:

19 (i) A registered nurse to visit a patient every  
20 sixty-two (62) days to supervise services; or

21 (ii) A branch office of a home healthcare services  
22 agency that only provides unskilled home healthcare services to be within a  
23 an one-hundred-mile radius of a patient's home.

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25 SECTION 3. DO NOT CODIFY. Advisory Private Care Agency and Home  
26 Healthcare Services Agency Rule Working Group.

27 (a) There is created the Advisory Private Care Agency and Home  
28 Healthcare Services Agency Rule Working Group within the Department of  
29 Health.

30 (b) The group shall consist of the following individuals appointed by  
31 the Director of the Department of Health:

32 (1) One (1) member from a list of individuals provided by the  
33 HomeCare Association of Arkansas;

34 (2) Three (3) members from a list of individuals provided by  
35 private care agencies; and

36 (3) Three (3) members from a list of individuals provided by

1 home healthcare services agencies that provide unskilled home healthcare  
2 services.

3 (c)(1) The director shall call the first meeting of the group.

4 (2) The group shall select a chair from the membership at the  
5 first meeting.

6 (d) Within sixty (60) days of the effective date of this act, the  
7 group shall review the rules regarding private care agencies and make  
8 recommendations to the Department of Health for changes to the rules  
9 regarding private care agencies and home healthcare services agencies that  
10 provide unskilled home healthcare to make the rules consistent with rules  
11 regarding private care agencies in the surrounding states.

12 (e)(1) On or before November 1, 2019, the group shall provide a report  
13 on their review and recommendations described in subsection (d) of this  
14 section to:

15 (A) The director;

16 (B) The Governor; and

17 (C) The Legislative Council.

18 (2) The recommendations by the group shall not relate to contract  
19 labor laws that are related to business models for personal care service  
20 providers, private care agencies, or home healthcare services agencies.

21 (f) The members shall not receive expense reimbursement, per diem, or  
22 stipends.

23 (g) This section shall expire on November 1, 2019.

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25 SECTION 4. DO NOT CODIFY. Legislative intent.

26 It is the intent of the General Assembly to address and require  
27 amendments to rules concerning nonskilled, nonmedical personal care and  
28 private care services without making any alternations to skilled home  
29 healthcare services or the provision of medical home care services.

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31 /s/B. Sample  
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