

PUBLIC CHAPTER NO. 408

SENATE BILL NO. 838

By Cooper, Haynes, Marrero

Substituted for: House Bill No. 2088

By Maddox

AN ACT to amend Tennessee Code Annotated, Title 33, relative to providers of personal support services.

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

SECTION 1. Tennessee Code Annotated, Title 33, Chapter 2, Part 4, is amended by adding the following language as a new section:

§ 33-2-421. (a) As used in this section:

(1) "Personal support services agency" means a sole proprietorship, partnership, corporation, limited liability company, or a limited partnership providing personal support services as defined in this part. Personal support services agency includes an entity that employs or subcontracts with individuals who provide personal support services to service recipients; and

(2) "Personal support services worker" means a person licensed as a personal support services agency, or an employee or an individual subcontracted by a personal support services agency who is providing personal support services pursuant to an arrangement between a service recipient and a personal support services agency.

(b) In addition to the standards and requirements for personal support services as established by rules adopted by the department, personal support services agencies shall comply with the requirements in this section.

(c) A personal support services agency shall provide to each service recipient a consumer notice before beginning service which shall include, at a minimum, the following:

(1) The duties, responsibilities, obligations and legal liabilities of the personal support services agency, the personal support services worker, and the personal support services recipient.

Such description shall clearly set forth the service recipient's responsibility, if any, for:

(A) Day-to-day supervision of the personal support services workers;

(B) Assigning duties to the personal support services worker;

(C) Hiring, firing and discipline of the personal support services worker;

(D) Provision of equipment or materials for use by the personal support services worker;

(E) Performing a criminal background check on the personal support services worker;

(F) Checking the personal support services worker's references; and

(G) Ensuring credentials and appropriate licensure/certification of a personal support services worker;

(2) A statement identifying the personal support services agency as an employer, or contractor, as applicable, of the personal support services worker along with the responsibility the personal support services agency will assume for the payment of the personal support services worker's wages, including overtime pay for hours worked in excess of forty (40) hours in a workweek, taxes, social security, workers' compensation and unemployment compensation payments;

(d) A personal support services agency shall provide a notice to each personal support services worker who is placed with a service recipient before the worker provides any service to the service recipient. The worker notice shall contain the following information:

(1) The relationship between the personal support services agency and the personal support services workers; and

(2) A description of the duties, responsibilities, obligations and legal liabilities of the personal support services agency, the service recipient, and the personal support services worker. Such description shall include the following information:

(A) A statement identifying the employing or contracting personal support services agency as responsible for the payment of the personal support services worker's wages, including overtime pay for hours worked in excess of forty (40) hours in a workweek, taxes, social security, unemployment and workers' compensation insurance as prescribed by state and federal law; and

(B) A statement identifying which party will be responsible for the personal support services worker's hiring, firing, discipline, day-to-day supervision, assignment of duties and provision of

equipment or materials for use by the personal support services worker.

(e) The notices required under subsection (c) shall be signed by the service recipient or authorized representative and retained by the personal support services agency at its office for not less than two (2) years following termination of service.

SECTION 2. This act shall take effect July 1, 2007, the public welfare requiring it.

PASSED: May 29, 2007



RON RAMSEY
SPEAKER OF THE SENATE



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 11th day of June 2007



PHIL BREDESEN, GOVERNOR