

CHAPTER 72**(SB 61)**

AN ACT relating to direct-care staff.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 216.710 is amended to read as follows:

As used in KRS 216.710 to 216.714:

- (1) "Cabinet" means the Cabinet for Health and Family Services;
- (2) "Client" means an individual who has been accepted to receive personal services from a personal services agency;
- (3) "Crime" means a conviction of or plea of guilty to a felony offense related to theft; abuse or sale of illegal drugs; abuse, neglect, or exploitation of an adult or child; or the commission of a sex crime. Conviction of or a plea of guilty to an offense committed outside the Commonwealth of Kentucky is a crime if the offense would have been a felony if committed in Kentucky;
- (4) "Department" means a department designated by the Cabinet for Health and Family Services;
- (5) "Designated representative" means a person who has legal authority or is designated by the client to act on behalf of the client with regard to the action to be taken;
- (6) ***"Direct-care staff member" means a home health aide or a personal service aide whose work involves extensive contact with residents or program participants who exhibit symptoms of Alzheimer's disease or other dementias;***
- (7) "Direct service" means personal or group interaction between the employee and the client;
- (8) ***"Facilities or programs" means residential facilities or home-and-community-based service programs and includes but is not limited to personal service agencies and home health agencies that have residents or program participants who exhibit symptoms of Alzheimer's disease or other dementias;***
- ~~(7)~~ (a) "Personal services" means:
 1. Assisting with a client's ambulation and activities of daily living as defined in KRS 194A.700;
 2. Facilitating the self-administration of medications if such medications are prepared or directed by a licensed health-care professional or the client's designated representative;
 3. Providing services which may be referred to as attendant care, in-home companion, sitter and respite care services, and homemaker services when provided in conjunction with other personal services; and
 4. Providing services that enable the client to live safely, comfortably, and independently;
- (b) "Personal services" excludes the following:
 1. Housing and services provided by a health facility or service as defined in KRS 216B.015;
 2. Voluntary services provided by employers or membership organizations for their employees, members, and families of the employees or members if the services are not the predominant purpose of the employer or the membership organization's business;
 3. House cleaning, laundry, personal shopping, or transportation provided by an entity if the entity offers no other personal services;
 4. Services provided by the client's family or by individuals who provide services to no more than three (3) clients concurrently;
 5. Individuals or entities that provide all personal services on a voluntary basis;
 6. Services that require the order of a licensed health-care professional to be lawfully performed in Kentucky;
 7. Hospitals or other entities that provide information to consumers regarding persons who are available as caregivers if the hospital or other entity makes no attempt to manage or coordinate the selection of such persons for consumers and a disclaimer is provided that the entity providing

the information has not made an independent assessment of the ability of the individual or agency to provide personal services;

8. Free Internet resources that identify potential caregivers; and
 9. Any health-care entity or health-care practitioner otherwise licensed, certified, or regulated by local, state, or federal statutes or regulations;
- (10)~~(8)~~ "Personal services agency" means any person, business entity, corporation, or association, either for-profit or not-for-profit, that directly provides or makes provision for personal services through:
- (a) Its own employees or agents;
 - (b) Contractual arrangements with independent contractors; or
 - (c) Referral of persons to render personal services if the person making the referral has an ownership or financial interest that is realized from the delivery of those services;
- (11)~~(9)~~ "Parent personal services agency" means a personal services agency located in Kentucky that develops and maintains administrative and fiscal control over a branch office in a different Kentucky location, and does not include an out-of-state personal services agency with a branch office in Kentucky;~~and~~
- (12) ***"Recipient" means an individual receiving nonmedical home health services or medical home-health services; and***
- (13)~~(10)~~ "Secretary" means the secretary of the Cabinet for Health and Family Services.

➔SECTION 2. A NEW SECTION OF KRS 216.710 TO 216.716 IS CREATED TO READ AS FOLLOWS:

- (1) ***The purpose of this section is to set minimum training requirements for direct-care staff members that are employed by facilities or programs regulated by the cabinet that provide services to individuals who exhibit symptoms of Alzheimer's disease or other dementias in the populations they serve.***
- (2) ***Direct-care staff members shall, prior to providing care to recipients who exhibit symptoms of Alzheimer's disease or other dementias, complete cabinet-approved training in dementia care that includes a curriculum that is:***
 - (a) ***Culturally competent for staff and care recipients; and***
 - (b) ***Person-centered, including thorough knowledge of the recipient and the recipient's abilities and care needs, advancement of optimal functioning and a high quality of life, use of problem-solving approaches to care, and techniques that ensure and preserve the recipient's respect, values, choice, and dignity.***
- (3) ***Facilities or programs shall ensure that all direct-care staff members who provide care to recipients who exhibit symptoms of Alzheimer's disease or other dementias have completed the training required in subsection (2) of this section, received at least six (6) hours of cabinet-approved training within the first sixty (60) days of employment and a minimum of three (3) additional hours of cabinet-approved training annually. The content of this annual training shall address the most current information on best practices in the treatment and care of persons who exhibit symptoms of Alzheimer's disease or other dementias. The training curriculum shall include but not be limited to the following topics:***
 - (a) ***Alzheimer's disease or other dementias;***
 - (b) ***Person-centered care;***
 - (c) ***Assessment and care planning;***
 - (d) ***Activities of daily living; and***
 - (e) ***Dementia-related behaviors and communications.***
- (4) ***Facilities or programs shall provide certificates of completion of cabinet-approved trainings to direct-care staff members who successfully complete the required courses. Successful completion is determined by attendance for the entire course and achievement of a passing grade on the post-evaluation measures. The certificates of completion shall be portable among employment settings within the state.***
- (5) ***Facilities or programs shall be responsible for maintaining documentation of completed training courses for each direct-care staff member who provides care to recipients who exhibit symptoms of Alzheimer's disease or other dementias.***

- (6) *Direct-care staff members who have a lapse of twenty-four (24) months or more providing home health aide services to recipients who exhibit symptoms of Alzheimer's disease or other dementias shall be required to complete the six (6) hours of initial dementia care training within sixty (60) days of providing care to recipients who exhibit symptoms of Alzheimer's disease or other dementias as required by subsection (3) of this section.*
- (7) *Facilities or programs may submit any training curriculums currently in use to the cabinet for approval.*
- (8) *Advertising, marketing, or verbally offering to provide care for a recipient who exhibits symptoms of Alzheimer's disease or other dementias that is not in compliance with the requirements set forth in this section is prohibited.*
- (9) *Any facility or program licensed, certified, or regulated by the cabinet that knowingly holds itself out as a provider to a recipient who exhibits symptoms of Alzheimer's disease or other dementias and fails to comply with this section is deemed to have violated this section and shall be fined an amount not to exceed five hundred dollars (\$500) for each day it is in violation of this section.*
- (10) *Any individual or entity, not a facility or program or not operated by the federal government or any agency thereof, that knowingly holds himself, herself, or itself out as a provider of care to a recipient who exhibits symptoms of Alzheimer's disease or other dementias and fails to comply with this section is deemed to have violated this section and shall be fined an amount not to exceed five hundred dollars (\$500) for each day it is in violation of this section.*
- (11) *The cabinet shall within ninety (90) days of the effective date of this Act:*
- Promulgate administrative regulations to implement, monitor, and enforce compliance with the training requirements of this section;*
 - Identify, designate, and approve standardized curriculums, including online training programs, that will satisfy the requirements of this section; and*
 - Ensure that the cabinet-approved training programs, both online and in classroom, reflect current standards and best practices in the care and treatment of persons who exhibit symptoms of Alzheimer's disease or other dementias.*

➔Section 3. KRS 216.935 is amended to read as follows:

As used in KRS 216.935 to 216.939, unless the context requires otherwise:

- "Direct-care staff member" means a home health aide or a personal service aide whose work involves extensive contact with residents or program participants who exhibit symptoms of Alzheimer's disease or other dementias;*
- "Facilities or programs" means residential facilities or home-and-community-based service programs and include but are not limited to personal service agencies and home health agencies that have residents or program participants who exhibit symptoms of Alzheimer's disease or other dementias;*
- "Home health aide" means an individual who is hired to perform home health aide services;[;]*
- ~~(4)(2)~~ *"Home health agency" means a public agency or private organization, or a subdivision of such an agency or organization which is licensed as a home health agency by the Cabinet for Health and Family Services and is certified to participate as a home health agency under Title XVIII of the Social Security Act;[;]*
- ~~(5)(3)~~ *"Home health aide services" means those services provided by a home health aide and supervised by a registered nurse which are directed towards the personal care of the patient. Such services shall include, but not be limited to, the following:*
 - Helping the patient with bath and care of mouth, skin, and hair;*
 - Helping the patient to the bathroom or in using a bedpan;*
 - Helping the patient in and out of bed and assisting with ambulation;*
 - Helping the patient with prescribed exercises which the patient and home health aide have been taught by appropriate professional personnel;*
 - Assisting with medication ordinarily self-administered that has been specifically ordered by a physician or advanced practice registered nurse;*

- (f) Performing incidental household services as are essential to the patient's health care at home, if these services would have been performed if the patient was in a hospital or skilled nursing facility; and
 - (g) Reporting changes in the patient's condition or family situation to the professional nurse supervisor;~~;~~
- (6)~~(4)~~ "Nurse aide" means an individual, including a nursing student, medication aide, and a person employed through a nursing pool, who provides nursing or nursing related services to a resident in a nursing facility or home health agency, excluding:
- (a) An individual who is a licensed health professional;
 - (b) A volunteer who provides the nursing or nursing-related services without monetary compensation; and
 - (c) A person who is hired by the resident or family to sit with the resident and who does not perform nursing or nursing-related services; ~~and~~

- (7) *"Recipient" means an individual receiving non-medical home health services or medical home-health services.*

➔SECTION 4. A NEW SECTION OF KRS 216.935 TO 216.939 IS CREATED TO READ AS FOLLOWS:

- (1) *The purpose of this section is to set minimum training requirements for direct-care staff members that are employed by facilities or programs regulated by the cabinet that provide services to individuals who exhibit symptoms of Alzheimer's disease or other dementias in the populations they serve.*
- (2) *Direct-care staff members shall, prior to providing care to recipients who exhibit symptoms of Alzheimer's disease or other dementias, complete cabinet-approved training in dementia care that includes a curriculum that is:*
 - (a) *Culturally competent for staff and care recipients; and*
 - (b) *Person-centered, including thorough knowledge of the recipient and the recipient's abilities and care needs, advancement of optimal functioning and a high quality of life, use of problem-solving approaches to care, and techniques that ensure and preserve the recipient's respect, values, choice, and dignity.*
- (3) *Facilities or programs shall ensure that all direct-care staff members who provide care to recipients who exhibit symptoms of Alzheimer's disease or other dementias have completed the training required in subsection (2) of this section, received at least six (6) hours of cabinet-approved training within the first sixty (60) days of employment and a minimum of three (3) additional hours of cabinet-approved training annually. The content of this annual training shall address the most current information on best practices in the treatment and care of persons who exhibit symptoms of Alzheimer's disease or other dementias. The training curriculum shall include but not be limited to the following topics:*
 - (a) *Alzheimer's disease or other dementias;*
 - (b) *Person-centered care;*
 - (c) *Assessment and care planning;*
 - (d) *Activities of daily living; and*
 - (e) *Dementia-related behaviors and communications.*
- (4) *Facilities or programs shall provide certificates of completion of cabinet-approved trainings to direct-care staff members who successfully complete the required courses. Successful completion is determined by attendance for the entire course and achievement of a passing grade on the post-evaluation measures. The certificates of completion shall be portable among employment settings within the state.*
- (5) *Facilities or programs shall be responsible for maintaining documentation of completed training courses for each direct-care staff member who provides care to recipients who exhibit symptoms of Alzheimer's disease or other dementias.*
- (6) *Direct-care staff members who have a lapse of twenty-four (24) months or more providing home health aide services to recipients who exhibit symptoms of Alzheimer's disease or other dementias shall be required to complete the six (6) hours of initial dementia care training within sixty (60) days of providing care to recipients who exhibit symptoms of Alzheimer's disease or other dementias as required by subsection (3) of this section.*

- (7) *Facilities or programs may submit any training curriculums currently in use to the cabinet for approval.*
- (8) *Advertising, marketing, or verbally offering to provide care for a recipient who exhibits symptoms of Alzheimer's disease or other dementias that is not in compliance with the requirements set forth in this section is prohibited.*
- (9) *Any facility or program licensed, certified, or regulated by the cabinet that knowingly holds itself out as a provider to a recipient who exhibits symptoms of Alzheimer's disease or other dementias and fails to comply with this section is deemed to have violated this section and shall be fined an amount not to exceed five hundred dollars (\$500) for each day it is in violation of this section.*
- (10) *Any individual or entity, not a facility or program or not operated by the federal government or any agency thereof, that knowingly holds himself, herself, or itself out as a provider of care to a recipient who exhibits symptoms of Alzheimer's disease or other dementias and fails to comply with this section is deemed to have violated this section and shall be fined an amount not to exceed five hundred dollars (\$500) for each day it is in violation of this section.*
- (11) *The cabinet shall within ninety (90) days of the effective date of this Act:*
 - (a) *Promulgate administrative regulations to implement, monitor, and enforce compliance with the training requirements of this section;*
 - (b) *Identify, designate, and approve standardized curriculums, including online training programs, that will satisfy the requirements of this section; and*
 - (c) *Ensure that the cabinet-approved training programs, both online and in classroom, reflect current standards and best practices in the care and treatment of persons who exhibit symptoms of Alzheimer's disease or other dementias.*

Signed by Governor March 22, 2021.