

By Senator Alexander

17-03487-08

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1 A bill to be entitled

2 An act relating to home care services; creating s.  
3 400.519, F.S.; providing a short title; providing  
4 legislative intent; providing definitions; providing  
5 application; requiring each organization that provides  
6 home care services to provide a consumer with a notice  
7 regarding the responsibilities, obligations, and legal  
8 liabilities of the organization to the home care services  
9 worker and to the consumer; providing requirements for the  
10 consumer notice; requiring each organization to provide to  
11 each home care services worker a worker notice regarding  
12 the responsibilities, obligations, and legal liabilities  
13 of the organization, the home care services worker, and  
14 the consumer; providing requirements of the worker notice;  
15 providing an effective date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

18  
19 Section 1. Section 400.519, Florida Statutes, is created to  
20 read:

21 400.519 Home care consumer and worker protection.--

22 (1) SHORT TITLE.--This section may be cited as the "Home  
23 Care Consumer and Worker Act."

24 (2) LEGISLATIVE INTENT.--The Legislature intends to protect  
25 the consumer of home care services and those individuals  
26 providing such services by ensuring that both the consumer and  
27 the home care services worker have the ability to make informed,  
28 knowing decisions regarding their status as employers,  
29 independent contractors, and employees.

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30 (3) DEFINITIONS.--As used in this section, the term:

31 (a) "Consumer" means an individual who receives skilled or  
32 unskilled care in his or her temporary or permanent residence  
33 through a home care services worker, or an individual who pays  
34 for and directs the services on behalf of the person receiving  
35 services.

36 (b) "Home care services" means skilled or nonskilled care  
37 provided to an individual in or at his or her temporary or  
38 permanent residence for the purpose of enabling that individual  
39 to remain safely and comfortably in his or her temporary or  
40 permanent residence.

41 (c) "Home care services worker" means any individual  
42 performing home care services of any kind or character whatsoever  
43 for hire.

44 (d) "Unskilled care" means services that are not skilled  
45 care. Unskilled care includes, but is not limited to, homemaker  
46 services, companion services, and personal care.

47 (4) APPLICATION.--This section applies to any organization  
48 that is licensed or registered under s. 400.506 or s. 400.509 and  
49 that provides skilled or unskilled care.

50 (5) CONSUMER NOTICE.--

51 (a) Each organization shall provide each consumer with a  
52 consumer notice that must include, at a minimum:

53 1. The duties, responsibilities, obligations, and legal  
54 liabilities of the organization to the home care services worker  
55 and to the consumer. Such description shall clearly set forth the  
56 consumer's responsibility for:

- 57 a. Day-to-day supervision of the home care services worker;  
58 b. Assigning duties to the home care services worker;

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59 c. Hiring, firing, and discipline of the home care services  
60 worker;

61 d. Providing equipment or materials for use by the home  
62 care services worker;

63 e. Performing a level 2 background check on the home care  
64 services worker; and

65 f. Checking references of the home care services worker.

66 2. A statement identifying the organization as an employer,  
67 joint employer, leasing employer, or nonemployer, as applicable,  
68 of the home care services worker along with identification of the  
69 person who is responsible for state, federal, and local taxes.

70 (b) The consumer notice shall be provided to the consumer  
71 each time a home care services worker is placed in the consumer's  
72 home. A separate consumer notice is not required when a home care  
73 services worker is temporarily substituting for the consumer's  
74 regular home care services worker.

75 (c) The consumer notice shall be on a form developed by the  
76 agency.

77 (d) The consumer notice must be signed by the consumer and  
78 retained by the organization at its office for at least 3 years.

79 (6) WORKER NOTICE.--Each organization shall provide a  
80 worker notice to each home care services worker to explain the  
81 home care services worker's legal relationships with the  
82 organization and the consumer. The worker notice must include, at  
83 a minimum, information regarding the duties, responsibilities,  
84 obligations, and legal liabilities of the organization, the  
85 consumer, and the home care services worker.

86 (a) If the home care services worker is an independent  
87 contractor, the worker notice must include:

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88       1. A statement as to the party responsible for the payment  
89 of the home care services worker's wages and state, federal, and  
90 local taxes.

91       2. A statement identifying which party is responsible for  
92 the home care services worker's hiring, firing, discipline, day-  
93 to-day supervision, assignment of duties, and provision of  
94 equipment or materials for use by the home care services worker.

95       (b) The worker notice shall be provided to the home care  
96 services worker upon his or her placement in a consumer's home.

97       (c) The worker notice shall be on a form developed by the  
98 agency.

99       (d) The worker notice must be signed by the worker and  
100 retained by the organization at its office for at least 3 years.

101       Section 2. This act shall take effect July 1, 2008.