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Why Should You Choose a Licensed Home Care Agency?

In-home care service workers assist a growing number of older adults and those with chronic illnesses or disabilities. These workers are referred to by a variety of job titles, including home health aides, certified nursing assistants, care assistants, personal assistants and home care aides. They make it possible for people with functional limitations to remain at home in a comfortable, safe and familiar environment. Home Care Aides or Personal Assistants (the preferred job title in DADS Texas State's regulations for licensed Home Care Agencies) provide a wide range of assistance with Activities of Daily Living (ADLs). ADLs include bathing, dressing, grooming, assisting with ambulation or transferring, toileting, feeding and providing assistance with self-medication. Home Care Aides and Personal Assistants also help with what professionals call Instrumental Activities of Daily Living (IADLs). IADLs include shopping, meal preparation, making medical appointments, transportation, laundry and housekeeping. The distinction between ADLs and IADLs is that the IADLs require the use of "instruments" such as cars, telephones, washing machines, stoves, and vacuum cleaners to accomplish them. These are often the first daily activities with which an older, injured or disabled person needs assistance, as they have been less frequently performed, are usually more complex, and require greater strength or dexterity.

While it is true that most people would prefer to remain in their own homes, there are circumstances in which care in a residential or nursing facility can be more appropriate and/or effective. Those who will need ongoing 24-hour hands-on care may well find that a nursing facility, assisted living facility or Adult Family Home is more fitting and accommodating to their physical restraints and inabilities.

Primarily because of the rapidly increasing number of older Americans living at home, there is an increasing shortage of available Home Care Aides. Additionally, institutional care settings are becoming less profitable overall, and the number of beds has not kept pace with the increased population of potential patients. As with all products and services in a free society, shortages in supply mean an increase in cost to the consumer. In such situations, untrained or unscrupulous persons see an opportunity to make a quick dollar posing as legitimate service providers. Many families seeking to hire in-home staff turn to private individuals rather than working through an agency. While at first glance this seems reasonable, it can also cause numerous problems and create unexpected liabilities for the family, who becomes the **employer**. These risks can be eliminated or minimized by utilizing a State licensed Home Care Agency.

TAX ISSUES

As a private employer, the individual or family is required to pay Social Security, unemployment and payroll taxes. Many self-employed caregivers will represent themselves as independent contractors, ostensibly relieving the hiring individual of these tax obligations. However, the hiring party has the responsibility to be sure that the caregiver they hire truly meets the criteria of an independent contractor and is paying their own taxes. In many instances, the paid caregiver will not meet the legal criteria as an independent contractor. If the paid caregiver has not met his or her tax obligations, this responsibility falls to the employer. This can be a serious obligation because it may involve interest on back taxes, civil fines and the possibility of criminal penalties. These costs are often finally recovered in full during probate proceedings from the estate of the older person who hired the caregiver. Potential private employers should seek the advice of an attorney familiar with labor laws to assure appropriate hiring practices with respect to federal tax laws.

Case Example: Mr. Z hired an independent caregiver for his mother because a neighbor who also employed this individual recommended her. Mr. Z's mother needed help following a stroke that left her unsteady on her feet. At first, Mrs. Z only needed four hours of help per day to assure that she had a bath, that two meals were prepared and that the weekly shopping and housekeeping were completed. At times, the aide also accompanied Mrs. Z. to some of her many medical appointments. As time went on, Mrs. Z continued to have minor strokes (TIAs) that left her increasingly debilitated. After about 18 months, Mrs. Z. was unable to perform most ADLs without considerable assistance and had become aphasic (lost her ability to speak). At that point, the family decided to ask the paid caregiver to live in full-time and provide total care to Mrs. Z. This relationship was very loving and lasted until Mrs. Z. passed away. Because the aide had given up all of her other clients to care for Mrs. Z full-time, she filed for unemployment benefits. At that point the IRS became aware of the employment relationship and filed a lawsuit for back unemployment taxes, penalties and a fine. The family of Mrs. Z did not understand their responsibility as an **employer** and found themselves in a lengthy, costly, and frustrating legal action. This expensive dilemma would have been avoided if the Aide had been an employee of a Home Care Agency.

WORKERS' COMPENSATION AND LIABILITY ISSUES

As the employer, the individual or family paying for the independent Home Care Aide would be held liable for any work-related injury that occurs on the job. This can include the cost of all medical expenses and any disability payments that might become applicable. The home-care industry is noted for work-related injuries. This can be a huge risk to the employer, especially if the care giving tasks include lifting, transferring or bathing. There are also risks related to communicable diseases if the aide does not abide by universal precautions that are required by all licensed agency personnel. Liability insurance and Labor and Industries payments are a major cost for a licensed Home Care Agency. Along with ongoing costs for licensing, employee recruitment, training and supervision, they account for much of the difference between agency rates and those of an uninsured independent Home Care Aide or Personal Assistant. Furthermore, the employer retains any liability that arises out of an injury to the person being cared for or any other person on the premises. If the Home Care Aide or Personal Assistant causes an accident in which other family members suffered any harm or losses, the employer would bear the full responsibility for all costs and compensation.

Case Example: Home Care Aide Sheila A. had a history of back injuries after many years of work in rehabilitation facilities. Her injuries always responded well to treatment, and were kept at bay with back supports provided by her employer. When a rehab patient's adult children offered Sheila the opportunity to care for their father as a private caregiver, she took advantage of the offer and worked privately for Mr. S. Due to the efforts of the physical therapist and support staff at the rehab center, Mr. S did not need a lot of physical care when he was discharged home. The broken hip that had landed him in the hospital was well on the way to mending. Unfortunately, he had become confused following the surgery, and this problem had not resolved despite changes in medication. Medicare wouldn't pay for hospitalization once there was no need for physical therapy or other skilled care, and going home with some monitoring and assistance seemed the best alternative to costly nursing home care. Sheila worked for Mr. S before and after her regular shift, and on her days off. She was often too worn out to assist Mr. S with his exercise and ambulation routines on a consistent basis. Over time, Mr. S's personal care needs increased, especially for transferring, walking, and dressing. Sheila found herself increasingly taxed by the care of Mr. S, but she had become so attached to him that she did not express her concerns to the family that had hired her. While Sheila was dressing Mr. S one morning, she bent down to help him with his shoes and her back froze in place. She was unable to straighten up. She managed to creep to the phone to call a friend for help, but she had to insist that Mr. S not move out of her sight for fear that he would wander off. Sheila had found herself being treated in the same rehabilitation facility in which she used to work. The doctor told her that she would not be able to work as an aide again. As she got stronger, she filed for benefits through worker's compensation and

disability insurance programs. Once again, the government became aware of the employment situation in which the injury occurred and they pursued the family for medical expenses and for disability coverage. This cost the family many times more than it would have if they had the appropriate insurances or if they had worked through a licensed Home Care Agency.

ABUSE AND EXPLOITATION

Unfortunately, there is the potential for both physical abuse and financial exploitation when work is being done on behalf of a frail, functionally limited, and often cognitively impaired individual. While most individuals who become Home Care Aides and Personal Assistants do so out of a desire to help others, there are always those who see this type of work as an opportunity to take advantage of someone. This becomes especially easy when the aide and the recipient of care are isolated in a private home setting with little or no supervision. Families don't fail to provide supervision out of malicious neglect. Supervision is often difficult because of geographic distance, lack of expertise, or the close emotional bonds that often get established between the aide and the person receiving the care. Furthermore, families often do not have the time or the resources to do criminal background checks or to contact references. Sometimes families are so grateful for the care provided by an aide that they are also vulnerable to manipulation and exploitation. Sadly, most cognizant vulnerable adults blame themselves for being gullible or too trusting, and choose not to pursue prosecution for the crimes committed against them. Others, due to dementia, are unable to provide credible testimony. Those who prey on vulnerable adults know there is a low risk of prosecution.

Criminal home care workers, many of whom are younger relatives who "need a break" because of their "run of bad luck", are all too often guilty of physical neglect and abuse, emotional abuse, forced isolation and false imprisonment, financial exploitation, and even sexual abuse. Some move from community to community as they become known to authorities. In each town they introduce themselves to easily-spotted frail or vulnerable victims by offering to lend a hand in a supermarket parking lot, lend an ear at a church function, bring in the newspaper from the driveway, or in any of a number of ways that seem to mark them as a caring individual. Soon they are revealing their wealth of experience caring for people with exactly the same ailments as your vulnerable relative. Please be extremely cautious of the friendly stranger who enters your older or disabled relative's life and especially if they are not employed by a licensed Home Care Agency.

Before you know it, the perpetrator has moved in, and convinced the older person that they are the only ones who can or will take care of them. As evidence, nobody seems to call any more (the phone is off the hook and/or callers are screened). They'll offer to help pay the bills and do the shopping, but need to be added to the checking account in order to sign the checks at the store or utility company. Err on the side of caution in allowing the hiring of an independent caregiver.

AGENCY SUPERVISION

A licensed home care agency has a responsibility to provide ongoing supervision and proper training for their employees. This includes helping the aides to understand the changing needs of clients, assuring the proper limits of care according to the practice acts of the various levels of staff, and mediating difficult relationship issues. Providing supervision is often as important for the aide as it is for the family. Home Care Aides and Personal Assistants work with very challenging situations in the isolation of the client's private home. There are often issues of different cultural and faith traditions, different expectations about personal schedules, eating preferences and expectations. An agency supervisor will help to clarify the roles of the home care aide, and the expectations of both worker and care recipient. For example, an older adult might expect an aide to help with dressing changes, insulin injections, or other skilled care that is legally the responsibility of a licensed nurse. The agency can support the aide in setting appropriate limits on the types of care that can be provided, and find solutions to those care

issues that are beyond the scope of the Home Care Aide's practice. In situations in which there are personality issues because of cognitive changes or a history of challenging relationships, the agency supervisor is available to provide guidance and support to both staff and care recipient. This can be very delicate, especially if there is a lack of trust or behaviors that are strange to the home health aide. The supervisor can reinforce and expand the aide's awareness that this is part of the disease process and offer techniques and strategies for coping with problematic behaviors so that the aide and the client can have a successful relationship. Supportive supervision is the key to making a challenging situation work. If supervisory help doesn't remedy the relationship problem, the agency can find a more suitable replacement without an interruption in care. Sadly, the independent caregiver often does not utilize or have access to continuing education, training, and supervision, and has an incentive to cover up their deficits.

Be aware that Nurses' Registries do not take on care staff as employees. These caregivers typically affirm to the Registry that they will, as independent contractors, abide by all employment and related tax and worker's compensation requirements, and are qualified to work as care providers. As independent contractors, they are not allowed to be supervised by the Nurses' Registry or made to work at times they do not choose.

Case Example: Mr. B lost his wife who had cared for him for over 60 years. He needed help with shopping, meal preparation, transportation and selecting his clothing. His family had hired many aides since he'd become a widower. It seemed that Mr. B would fire every aide after only a few days, always complaining that they didn't know how to do anything right. When Mr. B's family called a licensed Home Care, an experienced geriatric social worker, spent time talking with him about his needs and expectations. They learned that Mr. B was unhappy because none of the aides did things the way his wife had done them. This made him feel that they were taking over his home and he was uncomfortable in his own home. It was explained that everyone had different ways of keeping house and preparing meals. Mr. B was surprised, because he thought that all women knew all the household tasks that his highly accomplished wife had performed. He also assumed that all women had learned the same techniques for accomplishing them. Each task was then discussed in more and better detail and how the current aide's style differed from what he'd been used to for the last sixty years. Small things like letting dishes air dry on the counter, versus drying them and putting them away, were distressing to him. By going through the daily routine and learning about Mr. B's expectations, clarification could be provided to the aide and she was the first one placed in the home who was able to be successful. The relationship became long term, and Mr. B has nothing but good to say about his aide.

In conclusion, the employer, whether it is a private individual or an agency, has a great deal of responsibility in hiring and managing a Home Care Aide or Personal Assistant. This includes responsibilities that are financial, legal and involve governmental regulations. When a family is ready to hire a Home Care services Agency, they need to make a basic decision about the source of such assistance. This decision needs to take into consideration the type of help needed, the financial and tax implications, the need for supervision and the relative vulnerability of the person receiving the care. If the family is unwilling or unable to assume the full range of responsibilities, they would be better off working through an agency. If the family chooses to hire privately, they need to consult a lawyer and an accountant to assure that they make proper arrangements for all of their obligations. In addition, they need to stay involved in a supportive supervisory role to assure proper care and a healthy personal relationship.

We at Back to the Basics Home Care Services hope that the above information will assist you with your important decision making process. We are all about partnering with the Family as a whole and believe that direct, honest and positive communication between all parties are the keys to an individual's success in being able to stay living within their homes and living as safely, healthy and independently as possible. Please call us today if we can answer any questions you might have about Home Care Services. Call Lisa at (512) 905-0962.