

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1765

By: Hamilton (Jeff)

COMMITTEE SUBSTITUTE

An Act relating to public health and safety; enacting the Traumatic Brain Injury and Spinal Cord Injury Rehabilitation Licensure Act; providing short title; defining terms; specifying certain powers and duties; requiring certain licenses; authorizing certain grace periods; requiring certain qualifications for licensure; specifying applications for licensure; providing for certain fees; providing for the issuance of certain licenses and license renewals; authorizing the adoption of certain license expiration systems and prorating of fees related thereto; prohibiting certain acts; requiring the exhibition of certain licenses under certain conditions; requiring notification by certain licensees of certain changes; requiring the maintenance of certain records; authorizing the revocation or suspension of certain licenses, the reprimanding of certain licensees, or the denial of application for or renewal of certain licenses under certain conditions; providing for certain investigations and proceedings related thereto; providing for certain proceedings and record keeping concerning such actions; providing certain penalties for certain acts; providing for certain exemptions from certain certificate of need requirements; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-890.8 of Title 63, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Traumatic Brain Injury and Spinal Cord Injury Rehabilitation Licensure Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-890.9 of Title 63, unless there is created a duplication in numbering, reads as follows:

As used in the Traumatic Brain Injury and Spinal Cord Injury Rehabilitation Licensure Act:

1. "Commissioner" means the State Commissioner of Health;
  2. "Council" means the Advisory Council on Traumatic Spinal Cord and Traumatic Brain Injury;
  3. "Board" means the State Board of Health;
  4. "Department" means the State Department of Health;
  5. "Person" means any owner or lessee of a facility providing inpatient or outpatient rehabilitation and offering or providing services to persons who have sustained a traumatic brain injury or spinal cord injury, or any individual offering or providing such services as an in-home service provider;
  7. "Licensee" means any person licensed pursuant to this act;
- and
8. "Applicant" means any person who applies for a license pursuant to this act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-890.10 of Title 63, unless there is created a duplication in numbering, reads as follows:

In addition to those duties and powers otherwise prescribed by law, the Council shall have the following duties and powers:

1. To assist the Board in licensing and otherwise regulating persons engaged in the providing or offering of rehabilitative services to persons who have sustained a traumatic brain injury or spinal cord injury;
2. To determine qualifications of applicants pursuant to this act;
3. To prescribe and adopt forms for license applications and initiate mailing of such application forms to all persons requesting such applications;
4. To assist the Board in the denial, suspension or revocation of licenses as provided by this act;
5. To charge and collect such fees as are prescribed by this act;

6. To assist the Board in establishing and enforcing standards governing the services and conduct of the licensees and their employees in regard to this act;

7. To assist the Board in promulgating rules necessary to carry out the administration of this act, which shall be substantially similar to the standards of care promulgated by the Commission on Accreditation of Rehabilitation Facilities;

8. To assist the Board in establishing, if appropriate, categories of licenses and application requirements for each category necessary for full implementation of this act;

10. To assist the Board in providing for grievance and appeal procedures pursuant to the Oklahoma Administrative Procedures Act for any person whose license is denied, revoked or suspended; and

11. To have such other powers and duties as are necessary to implement this act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-890.11 of Title 63, unless there is created a duplication in numbering, reads as follows:

In addition to those duties and powers otherwise prescribed by law, the Board shall have the following duties and powers:

1. To promulgate and adopt rules pursuant to the Administrative Procedures Act necessary to effectuate the provisions of this act;

2. To conduct investigations of persons who apply for the issuance of a license;

3. To charge and collect such fees as are prescribed by this act;

4. To investigate alleged violations of the provisions of this act and of any rules promulgated pursuant to this act;

5. To establish and levy administrative penalties against any person who violates any of the provisions of this act or any rule promulgated pursuant to this act;

6. To initiate disciplinary, prosecution and injunctive proceedings against any person who violates any of the provisions of this act or any rule promulgated pursuant to this act; and

7. To have such other powers and duties as are necessary to implement this act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-890.12 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Beginning July 1, 1994, no person shall be engaged in offering or providing medically related rehabilitation services or operate a rehabilitation facility or offer or provide in-home rehabilitation services for persons who have sustained a spinal cord or traumatic brain injury in this state without first having obtained a license pursuant to the provisions of this act.

B. Every person engaged in the providing or offering of such services in this state on the effective date of this act shall have thirty (30) days in which to apply to the Board for a license. A person applying for a license within this period may continue the person's providing for offering such services pending a final determination of his application. Additional time beyond the thirty-day period may be granted by the Commissioner.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-890.13 of Title 63, unless there is created a duplication in numbering, reads as follows:

Any person applying for a license to engage in providing for offering services specified in this act shall provide evidence to the Council that the person meets such standards as may be established by the Board.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-890.14 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. An application for a license shall include:

1. The name of the person;
2. The business address of the person or the resident address of the person, if the person is an in-home care giver; and
3. Such other information, statements or documents as may be required by the Board.

B. Fees for license and renewal issued pursuant to this act shall be adopted by the rules of the Board. Provided, the fees

provided for in this subsection shall not exceed One Hundred Dollars (\$100.00) for a license fee, and Seventy-five Dollars (\$75.00) for a renewal license fee. An applicant shall pay the license fee at the time such person makes application.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-890.15 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Upon the making of proper application, payment of the proper license fee, and certification of approval by the Council, a license shall be issued by the Commissioner to the applicant. The license shall be valid for a one-year term.

B. Renewal of a license shall not prohibit disciplinary proceedings for an act committed prior to the renewal.

C. The Board may adopt a system under which licenses expire on various dates throughout the year. For any change in such expiration dates, license fees shall be prorated on an appropriate periodic basis.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-890.16 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. A license shall not be altered or assigned.

B. A license shall be exhibited by the licensee upon request of any person doing business with such licensee pursuant to the provisions of this act or by any member or authorized employee of the Department.

C. A licensee shall notify the Council within fourteen (14) days of any change of information furnished on his application for license or on his license including, but not limited to, change of name, address, or any developments related to the facility of the licensee. If the required notice of change is not given within fourteen (14) days, the license may be suspended or revoked by the Commissioner on recommendation of the Council.

D. No person shall represent falsely that he is licensed or employed by a licensee.

E. Each licensee shall maintain a record containing such information relative to his employees as may be required by the Board.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-890.17 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Commissioner may revoke or suspend any license, reprimand any licensee or deny any application for license or renewal of such license, if in the judgement of the Council:

1. The applicant or licensee has violated any provision of this act or any rule promulgated in accordance with this act;

2. The applicant or licensee has practiced fraud, deceit, or misrepresentation;

3. The applicant or licensee has made a material misstatement in any information required by the Board; or

4. The applicant or licensee has demonstrated incompetence or untrustworthiness in the actions of the applicant or licensee.

B. Before final action under subsection A of this section, the Council shall provide thirty (30) days of written notice to the applicant or licensee involved of the action intended, and give sufficient opportunity for such person to request a hearing before the Council and the Commissioner and to be represented by an attorney. A hearing shall be scheduled by the Council if so requested by the applicant or licensee.

C. In the event the application for a license is denied, or the license is revoked or suspended, or any reprimand is imposed, a record of such action shall be in writing and officially signed by the Commissioner. The original copy shall be filed with the Board and a copy mailed to the affected applicant or licensee within two (2) days of the final action taken by the Commissioner.

D. A suspended license shall be subject to expiration and may be renewed as provided by this act, regardless of suspension. Provided, such renewal shall not remove the suspension.

E. A revoked license terminates on the date of revocation and cannot be reinstated. Provided, the Commissioner may reserve the

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revocation action. Any licensee whose license is revoked shall apply for a new license and meet all requirements for a license as stated in this act prior to engaging in any services licensed pursuant to this act. The Council and the Commissioner shall take action on the new application and may require additional safeguards against such acts by the applicant as may have been the cause of the revocation of the prior license.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-890.18 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. If after a hearing in accordance with the Administrative Procedures Act, the Board shall find any person to be in violation of any of the provisions of this act, such person may be subject to an administrative penalty of not more than One Thousand Dollars (\$1,000.00) for each violation. Each day a person is in violation of this act may constitute a separate violation. All administrative penalties collected pursuant to the provisions of this subsection shall be deposited in the Public Health Special Fund. Administrative penalties imposed pursuant to this subsection shall be enforceable in the district courts of this state.

B. The Board may make application to the appropriate court for an order enjoining the acts or practices prohibited by this act, and upon a showing by the Board that the person has engaged in any of the prohibited acts or practices, an injunction, restraining order, or other order as may be appropriate shall be granted by the court.

C. In addition to the assessment of administrative penalties specified in this section, any person convicted of violating the provisions of this act or of the rules promulgated pursuant to this act, shall be guilty of a misdemeanor.

D. Any licensee may elect to surrender the license in lieu of the administrative penalty specified in this section but shall be forever barred from obtaining a reissuance of the license issued pursuant to this act.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-890.19 of Title 63, unless there is created a duplication in numbering, reads as follows:

A long-term care service or facility subject to licensure in accordance with the provisions of this act which has completed predevelopment or development activities or converted or acquired a facility for the purposes of offering or providing rehabilitation services to persons who have sustained a traumatic brain injury or spinal cord injury prior to January 1, 1993, shall not be subject to the provisions of the Long-term Care Facility Certificate of Need Act for said activities, conversion or acquisition. Any subsequent establishment or expansion for such purpose shall be in accordance with the provisions of the Long-term Care Facility Certificate of Need Act.

SECTION 13. This act shall become effective September 1, 1993.

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