

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 1580

By: Peters and Coody of the
House

7 and

8 Ford and Johnson
9 (Constance) of the Senate

10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to public health and safety; defining
12 terms; authorizing the State Department of Health to
13 establish certain licensure; specifying certain
14 requirements; specifying certain fees; requiring
15 investigation of certain complaints; requiring
16 certain service providers to be licensed with the
17 State Department of Health; prohibiting certain acts;
18 providing for penalty and equitable relief; providing
19 exemption; requiring the State Board of Health to
20 promulgate certain rules; providing for codification;
21 and providing an effective date.

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

23 SECTION 1. NEW LAW A new section of law to be codified
24 in the Oklahoma Statutes as Section 1-1972 of Title 63, unless there
is created a duplication in numbering, reads as follows:

A. As used in this section:

1 1. "Companion" or "sitter" means assistance with household
2 tasks, shopping, meal preparation or planning, and provision of
3 fellowship and other nonpersonal care for the individual including
4 transportation, letter writing, socialization, and is intended to
5 enable the individual to remain safely and comfortably in their
6 place of residence in exchange for consideration; and

7 2. "Agency" means any partnership, firm, corporation,
8 association, limited liability company, and any other legal entity
9 authorized to do business in Oklahoma.

10 B. The State Board of Health is authorized to create a second
11 level of licensure with the advice and consent of the Home Health
12 Advisory Board under the Home Care Act and promulgate rules in
13 accordance with the Home Care Act to cover agencies providing
14 companion and sitter services that at a minimum require:

15 1. Supervision by a licensed practical nurse or medical social
16 worker;

17 2. Criminal background checks;

18 3. Workers' compensation coverage;

19 4. Bonding;

20 5. A nonrefundable application fee of One Thousand Dollars
21 (\$1,000.00) for an initial license;

22 6. A nonrefundable renewal application fee of Five Hundred
23 Dollars (\$500.00);

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1 7. Liability insurance in amounts determined by the Department;
2 and

3 8. A system of record keeping that shall include:

- 4 a. the name, address, and services provided for all
- 5 clients,
- 6 b. duties performed for each day of service,
- 7 c. criminal background checks of agency employees which
- 8 shall meet the criteria established for certified
- 9 nurse aides as provided for in Section 1-1950.1 of
- 10 Title 63 of the Oklahoma Statutes, and
- 11 d. any other related information.

12 C. The State Department of Health shall investigate complaints
13 of noncompliance with the requirements provided in subsection B of
14 this section concerning agencies that provide companion or sitter
15 services in this state. Any agency, employer, employee, or
16 designated agent thereof that provides, offers, or advertises
17 companion or sitter services shall become licensed with the State
18 Department of Health pursuant to the Home Care Act.

19 D. Any agency that:

- 20 1. Is represented by the title "home care agency", without
- 21 having first complied with the provisions of the Home Care Act;
- 22 2. Otherwise offers to perform personal care or home care
- 23 services, as defined in Section 1-1961 of Title 63 of the Oklahoma
- 24 Statutes;

1 3. Uses any other name, style, or description denoting that the
2 agency is licensed to provide personal care or home care services;
3 or

4 4. Is in violation of subsection C of this section,
5 upon conviction, shall be guilty of a misdemeanor and shall be
6 punished by a fine of not less than Five Hundred Dollars (\$500.00)
7 nor more than Five Thousand Dollars (\$5,000.00) for each offense, by
8 imprisonment for a term not to exceed six (6) months in the county
9 jail, or by both fine and imprisonment.

10 E. It shall be unlawful for any agency not licensed in
11 accordance with the Home Care Act to advertise or otherwise offer
12 personal care, companion or sitter services, home care services, to
13 use the title "home care agency", "home health agency", or "senior
14 care agency", or to provide personal care, companion or sitter
15 services, or home care services. Such action shall be subject to
16 equitable relief in accordance with Section 1-1967 of Title 63 of
17 the Oklahoma Statutes.

18 F. The provisions of this section shall not apply to those
19 persons exempted under subsection C of Section 1-1962 of Title 63 of
20 the Oklahoma Statutes and any individual not employed by an agency.

21 G. The State Board of Health shall promulgate rules necessary
22 for the investigation and hearing of complaints regarding a
23 companion or sitter service. The rules shall include provisions for
24 a review process to be presided over by a mediator or arbitrator,

1 acceptable to all parties, and who is not an employee of the State
2 Department of Health.

3 SECTION 2. This act shall become effective November 1, 2007.

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