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THE STATE SENATE
Monday, April 7, 2008

ENGROSSED
House Bill No. 2641
As Amended

ENGROSSED HOUSE BILL NO. 2641 - By: Peters of the House and Ford of the Senate.

[public health and safety - companion and sitter service
licensure - emergency]

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

SECTION 1. AMENDATORY Section 1, Chapter 255, O.S.L. 2007 (63 O.S. Supp. 2007, Section 1-1972), is amended to read as follows:

Section 1-1972. A. As used in this section:

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

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

1 B. The State Board of Health, with the advice and consent of
2 the Home Health Advisory Board, is authorized to ~~create a second~~
3 ~~level of licensure with the advice and consent of the Home Health~~
4 ~~Advisory Board under the Home Care Act~~ and promulgate rules in
5 accordance with the Home Care Act to cover agencies providing
6 companion and sitter services that at a minimum require:

7 1. ~~Supervision by a licensed practical nurse or medical social~~
8 ~~worker~~ An individual to be designated by the legal entity to provide
9 supervision of the companion or sitter services;

10 2. Criminal background checks;

11 3. Workers' compensation coverage;

12 4. ~~Bonding;~~

13 ~~5.~~ A nonrefundable application fee of One Thousand Dollars
14 (\$1,000.00) for an initial license;

15 ~~6.~~ 5. A nonrefundable renewal application fee of Five Hundred
16 (\$500.00);

17 ~~7.~~ 6. Liability insurance in amounts determined by the
18 Department; and

19 ~~8.~~ 7. A system of record keeping that shall include:

20 a. the name, address, and services provided for all
21 clients,

22 b. duties performed for each day of service,

1 c. criminal background checks of ~~agency employees~~
2 companions or sitters which shall meet the criteria
3 established for certified nurse aides as provided for
4 in Section 1-1950.1 of ~~Title 63 of the Oklahoma~~
5 ~~Statutes~~ this title, and

6 d. any other related information.

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

14 D. Any agency that:

15 1. Is represented by the title "home care agency", without
16 having first complied with the provisions of the Home Care Act;

17 2. Otherwise offers to perform personal care or home care
18 services, as defined in Section 1-1961 of ~~Title 63 of the Oklahoma~~
19 ~~Statutes~~ this title;

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

23 4. Is in violation of subsection C of this section,

1 upon conviction, shall be guilty of a misdemeanor and shall be
2 punished by a fine of not less than Five Hundred Dollars (\$500.00)
3 nor more than Five Thousand Dollars (\$5,000.00) for each offense, by
4 imprisonment for a term not to exceed six (6) months in the county
5 jail, or by both fine and imprisonment.

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

14 F. The provisions of this section shall not apply to those
15 persons exempted under subsection C of Section 1-1962 of ~~Title 63 of~~
16 ~~the Oklahoma Statutes~~ this title and any individual not employed by
17 an agency.

18 G. The State Board of Health shall promulgate rules necessary
19 for the investigation and hearing of complaints regarding a
20 companion or sitter service. The rules shall include provisions for
21 a review process to be presided over by a mediator or arbitrator,
22 acceptable to all parties, and who is not an employee of the State
23 Department of Health.

1 H. An entity that holds a valid license as a home care agency
2 under the Home Care Act and meets the requirements of this section
3 may provide companion or sitter services in addition to home care
4 services under an existing license.

5 SECTION 2. It being immediately necessary for the preservation
6 of the public peace, health and safety, an emergency is hereby
7 declared to exist, by reason whereof this act shall take effect and
8 be in full force from and after its passage and approval.

9 COMMITTEE REPORT BY: COMMITTEE ON HEALTH & HUMAN RESOURCES, dated
10 4-3-08 - DO PASS, As Amended.