

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 2136

By: Shelton

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5
6 AS INTRODUCED

7 An Act relating to public health and safety;
8 requiring liability insurance for nursing facilities;
9 specifying coverage; providing for proof of coverage;
10 directing the Oklahoma Health Care Authority to
11 promulgate rules establishing certain form; providing
12 exception for mandated coverage; providing for
13 certain form; providing for suspension or revocation
14 of license for failure to comply; providing for
15 codification; and providing an effective date.

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

17 SECTION 1. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 1-1903.1 of Title 63, unless
19 there is created a duplication in numbering, reads as follows:

20 A. A nursing facility shall maintain liability insurance
21 coverage of at least Two Hundred Thousand Dollars (\$200,000.00) for
22 each occurrence of negligence. An insurance policy or contract
23 required under this section shall cover injury to a patient that
24 occurs while the patient is on the premises of the nursing facility
or in the care of the nursing facility.

1 B. The Oklahoma Health Care Authority shall promulgate rules
2 providing for a standard form to be signed and dated by an insurance
3 agent licensed in this state stating that the nursing facility has
4 an unexpired and uncanceled insurance policy or contract of at
5 least Two Hundred Thousand Dollars (\$200,000.00) that meets the
6 requirements of this section. This form shall be completed annually
7 and shall be kept in a file at the facility.

8 C. Should the nursing facility for financial reasons or for
9 lack of availability of an underwriter willing to issue a policy be
10 unable to secure the insurance required under subsection A of this
11 section or should the policy limits be exhausted, the nursing
12 facility shall notify the patient, a relative, or guardian of each
13 patient for whom the nursing facility provides care a written notice
14 that the liability coverage is not provided and there will not be a
15 ground for suspension or revocation of the nursing facility's
16 license under the Nursing Home Care Act. The nursing facility shall
17 also notify the Authority that coverage is not provided and provide
18 the reason for same.

19 D. The Authority shall promulgate rules providing for a
20 standard form for the facility to provide to patients, relatives, or
21 guardians notifying the patients, relatives, or guardians that the
22 facility does not carry liability insurance for the reasons allowed
23 in subsection C of this section. This form shall be signed and
24 dated by a patient, relative, or guardian and maintained in the file

1 of the patient. If the facility is without insurance for reasons
2 provided for in subsection C of this section for longer than one (1)
3 year, the facility shall update this notification form with
4 signatures and dates annually. In no case shall the inability to
5 secure coverage serve to indemnify the nursing facility due to
6 negligence.

7 E. The insurance policy or contract shall be maintained at all
8 times in an amount as required by this section, except as provided
9 for in subsections C and D of this section. Failure by a nursing
10 facility to renew the policy or contract or to maintain the policy
11 or contract in the required amount is a ground for suspension or
12 revocation of the nursing facility license under the Nursing Home
13 Care Act.

14 SECTION 2. This act shall become effective November 1, 2009.

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