

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 HOUSE BILL 2986

By: Schwartz

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5  
6 AS INTRODUCED

7 An Act relating to public health and safety; amending  
8 Section 1, Chapter 255, O.S.L. 2007, as amended by  
9 Section 1, Chapter 41, O.S.L. 2008 (63 O.S. Supp.  
10 2009, Section 1-1972), which relates to the licensure  
11 of companion and sitter service agencies;  
12 establishing certain registry; requiring certain  
13 individuals to submit application; requiring the  
14 State Department of Health to promulgate rules to  
15 establish and maintain the registry; and providing an  
16 effective date.

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

18 SECTION 1. AMENDATORY Section 1, Chapter 255, O.S.L.  
19 2007, as amended by Section 1, Chapter 41, O.S.L. 2008 (63 O.S.  
20 Supp. 2009, Section 1-1972), is amended to read as follows:

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

22 1. "Companion" or "sitter" means assistance with household  
23 tasks, shopping, meal preparation or planning, and provision of  
24 fellowship and other nonpersonal care for the individual including  
transportation, letter writing, socialization, and is intended to

1 enable the individual to remain safely and comfortably in their  
2 place of residence in exchange for consideration; and

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

6 B. The State Board of Health, with the advice and consent of  
7 the Home Health Advisory Board, is authorized to promulgate rules in  
8 accordance with the Home Care Act to cover agencies providing  
9 companion and sitter services that at a minimum require:

10 1. An individual to be designated by the legal entity to  
11 provide supervision of the companion or sitter services;

12 2. Criminal background checks;

13 3. Workers' compensation coverage;

14 4. A nonrefundable application fee of One Thousand Dollars  
15 (\$1,000.00) for an initial license;

16 5. A nonrefundable renewal application fee of Five Hundred  
17 (\$500.00);

18 6. Liability insurance in amounts determined by the Department;  
19 and

20 7. A system of record keeping that shall include:

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

23 b. duties performed for each day of service,  
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- 1 c. criminal background checks of companions or sitters  
2 which shall meet the criteria established for  
3 certified nurse aides as provided for in Section 1-  
4 1950.1 of this title, and  
5 d. any other related information.

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

13 D. Any agency that:

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

16 2. Otherwise offers to perform personal care or home care  
17 services, as defined in Section 1-1961 of this title;

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

20 or

21 4. Is in violation of subsection C of this section,  
22 upon conviction, shall be guilty of a misdemeanor and shall be  
23 punished by a fine of not less than Five Hundred Dollars (\$500.00)  
24 nor more than Five Thousand Dollars (\$5,000.00) for each offense, by

1 imprisonment for a term not to exceed six (6) months in the county  
2 jail, or by both fine and imprisonment.

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

10 F. The provisions of this section shall not apply to those  
11 persons exempted under subsection C of Section 1-1962 of this title  
12 and any individual not employed by an agency.

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

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

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1        I. 1. The State Department of Health shall establish a  
2 registry for those individuals providing companion or sitter  
3 services that are not employed by an agency.

4        2. Each individual desiring to provide companion or sitter  
5 services shall be required to submit an application to the  
6 Department for submission to the registry.

7        3. The Department shall promulgate rules to establish and  
8 maintain the registry. Such rules shall require that a criminal  
9 history records search, to be paid by the applicant, be conducted  
10 prior to the individual's name being submitted to the registry.

11        SECTION 2. This act shall become effective November 1, 2010.

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