

# An Act

ENROLLED SENATE  
BILL NO. 774

By: David of the Senate

and

Caldwell of the House

An Act relating to the Residential Care Act; amending 63 O.S. 2011, Section 1-822, which relates to applications for licensure; modifying requirement for certain administrator; amending 63 O.S. 2011, Section 1-829, which relates to inspections and investigations; reducing required annual inspections; providing for announced inspections; directing promulgation of rules for certain purposes; updating statutory reference; making certain observer optional; modifying types of organizations from which observers may be invited; deleting certain reimbursement requirement; modifying certain reporting requirements; authorizing the Department of Health to access certain books, records and other documents; and providing an effective date.

SUBJECT: Residential Care Act

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

SECTION 1. AMENDATORY 63 O.S. 2011, Section 1-822, is amended to read as follows:

Section 1-822. A. An application for a license, or renewal thereof, to establish or operate a residential care home shall be accompanied by a fee of Fifty Dollars (\$50.00). The fee shall not be refunded. Except as provided for in Section 1-824 of this title,

a license shall expire twenty-four (24) months from the date of issuance, unless sooner revoked, and may be renewed biannually by the State Department of Health pursuant to the provisions of the Residential Care Act. All licenses shall be on a form prescribed by the State Commissioner of Health, and shall include, but not be limited to, the maximum bed capacity for which the license is granted, the date the license was issued, and the expiration date of the license. The provisions of the license shall require that the license shall:

1. Not be transferable or assignable except as authorized by the provisions of the Residential Care Act;

2. Be posted in a conspicuous place on the licensed premises; and

3. Be issued only for the premises named in the application, and may be renewed for twenty-four-month periods upon application, inspection, and payment of the license fee, as required by the provisions of the Residential Care Act.

B. An application shall contain the following information:

1. The name and address of the owner of the home. If the owner is a firm or partnership, the name and address of each member thereof shall be included in the application. If the owner is a corporation, the name and address of the corporation and the name and address of each officer and registered agent of the corporation shall be included in the application;

2. The name and address of the applicant if the applicant is not the owner and is acting as agent for the owner;

3. The name and location of the home for which a license is sought;

4. The name of the administrator of the home;

5. The number and type of residents for whom services are to be provided; and

6. The staffing pattern for providing resident care. In the case of an application for an initial license, the staffing pattern shown may be the projected staffing pattern.

C. Each initial application shall be accompanied by a statement from the unit of local government having zoning jurisdiction over the location of the home stating that the location is not in violation of a zoning ordinance.

D. 1. An applicant shall be twenty-one (21) years of age or older and meet the specific requirements for licensure as specified in rules promulgated by the State Board of Health pursuant to the provisions of the Residential Care Act.

2. No person who has been convicted of a felony in connection with the management or operation of a home, or facility as defined in Section 1-1902 of this title or in the care and treatment of the residents of a home, or facility as defined in Section 1-1902 or 1-1950.1 of this title shall be eligible to be licensed or to participate in the management or operation of a home.

3. If the applicant is a firm, partnership, or corporation, the applicant shall not be eligible to be licensed if any member of the firm or partnership or any officer or major stockholder of the corporation has been convicted of a felony in connection with the operation or management of a home or facility or the care and treatment of the residents of a home or facility as defined in Section 1-1902 of this title.

E. 1. The application for a license or renewal of a license shall be accompanied by a statement of ownership which shall include the following:

- a. the name, address, telephone number, occupation or business activity, business address, and business telephone number of the owner of the home and of every person who owns the building in which the home is located. If the owner is a partnership or corporation, the name and address of each partner and stockholder with an ownership interest of five percent (5%) or more shall be included in the statement, and

- b. the name and address of any other home in which the owner has a full or partial financial interest or, if the owner is a partnership or corporation, any other home in which the partnership or corporation has a full or partial financial interest. The statement shall indicate whether or not any other home wherein a full or partial financial interest is held would, if located in this state, be required to be licensed.

2. The applicant shall agree in writing, prior to the issuance of a license, to notify the Department if there is any change in the information required to be included in the statement of ownership thirty (30) days in advance of such change. The information contained in the statement of ownership shall be public information and shall be available upon request from the Department.

F. Upon application of a licensee, a license may be modified in accordance with the provisions of the Residential Care Act. Such application for modification of a license shall be accompanied by a fee of Twenty Dollars (\$20.00) and shall be submitted in such form and manner as required by the Department.

G. Upon payment of the required application fees, the Commissioner may issue and renew licenses which substantially comply with the provisions of the Residential Care Act and rules promulgated pursuant thereto; provided, however, a plan of correction shall be submitted and accepted by both parties prior to licensure.

H. All residential care homes shall be required to have or employ a ~~certified~~ licensed administrator for the home.

SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-829, is amended to read as follows:

Section 1-829. A. Every home for which a license has been issued shall be inspected by a duly appointed representative of the State Department of Health pursuant to rules promulgated by the State Board of Health with the advice and counsel of the Long-Term Care Facility Advisory Board. Inspection reports shall be prepared on forms prescribed by the Department with the advice and counsel of the Advisory Board.

B. 1. The Department shall at least ~~three times~~ one time a year and whenever it deems necessary inspect, survey, and evaluate each home to determine compliance with applicable licensure rules.

2. An inspection, investigation, survey, or evaluation shall be either announced or unannounced. The State Board of Health shall promulgate rules determining the criteria when an inspection, investigation, survey or evaluation shall be unannounced or may be announced by the Department. Any licensee, applicant for a license or operator of any unlicensed facility shall be deemed to have given consent to any duly authorized employee, agent of the Department to enter and inspect the home in accordance with the provisions of the Residential Care Act. Refusal to permit such entry or inspection shall constitute grounds for the denial, nonrenewal, suspension, or revocation of a license as well as emergency transfer of all residents.

3. Any employee of the Department who discloses to any unauthorized person, prior to an inspection, information regarding an unannounced residential care home inspection that is required pursuant to the provisions of ~~this act~~ the Residential Care Act shall, upon conviction thereof, be guilty of a misdemeanor. In addition, such action shall be construed to be a misuse of office and punishable as a violation of rules promulgated by the Ethics Commission.

One person ~~shall~~ may be invited from a statewide organization of ~~the elderly~~ older adults or persons with disabilities by the Department to act as a citizen observer in any inspection. ~~Such person shall receive expenses as provided in the State Travel Reimbursement Act.~~

C. The Department shall maintain a log, updated at least monthly and available for public inspection, which shall at a minimum detail:

1. The name of the home and date of inspection, investigation, survey, or evaluation;

2. Any deficiencies, lack of compliance, or violation noted at the inspection, investigation, survey, or evaluation;

3. The date a notice of violation, license denial, nonrenewal, suspension, or revocation was issued or other enforcement action occurred;

4. The date a plan of correction was submitted and the date the plan was approved;

5. The date corrections were completed, as verified by an inspection; and

6. If the inspection or investigation was made pursuant to the receipt of a complaint, the date such complaint was received and the date the complainant was notified of the results of the inspection or investigation.

D. The Department ~~shall~~ may require the residential care home to submit periodic reports ~~and~~. The Department shall have access to books, records and other documents maintained by the home to the extent necessary to implement the provisions of the Residential Care Act and the rules promulgated by the Board pursuant thereto.

E. The Department shall make at least one annual report on each home in the state. The report shall include all conditions and practices not in compliance with the provisions of the Residential Care Act or rules promulgated pursuant thereto within the last year and, if a violation is corrected, or is subject to an approved plan of correction. The Department shall send a copy of the report to any person upon receiving a written request. The Department may charge a reasonable fee to cover the cost of copying and mailing the report.

F. A state or local ombudsman as that term is defined by the Special Unit on Aging within the Department of Human Services pursuant to the Older Americans' Act, 42 U.S.C.A., Section 3001 et seq., as amended, or case manager employed by the Department of Mental Health and Substance Abuse Services or one of its contract agencies is authorized to accompany and shall be notified by the Department of any inspection conducted of any home licensed pursuant to the provisions of the Residential Care Act. Any state or local ombudsman is authorized to enter any home licensed pursuant to the provisions of the Residential Care Act, communicate privately and

without unreasonable restriction with any resident of a home who consents to such communication, to seek consent to communicate privately and without restriction with any resident of a home, and to observe all areas of a home that directly pertain to the care of a resident of a home.

G. Following any inspection by the Department, pursuant to the provisions of this section, all reports relating to the inspection shall be filed in the county office of the Department of Human Services in which the home is located and with the Department of Mental Health and Substance Abuse Services.

SECTION 3. This act shall become effective November 1, 2017.

Passed the Senate the 25th day of May, 2017.

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Presiding Officer of the Senate

Passed the House of Representatives the 25th day of May, 2017.

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Presiding Officer of the House  
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_