

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 ENGROSSED SENATE
5 BILL NO. 774

By: David of the Senate

and

Caldwell of the House

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8 [Residential Care Act - applications for licensure -
9 inspections and investigations - effective date]

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

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

16 Section 1-822. A. An application for a license, or renewal
17 thereof, to establish or operate a residential care home shall be
18 accompanied by a fee ~~of Fifty Dollars (\$50.00)~~ in an amount
19 established by the State Board of Health by rule, provided such fee
20 does not exceed Ten Dollars (\$10.00) per bed, or Five Hundred
21 Dollars (\$500.00). The fee shall not be refunded. Except as
22 provided for in Section 1-824 of this title, a license shall expire
23 twenty-four (24) months from the date of issuance, unless sooner
24 revoked, and may be renewed biannually by the State Department of

1 Health pursuant to the provisions of the Residential Care Act. All
2 licenses shall be on a form prescribed by the State Commissioner of
3 Health, and shall include, but not be limited to, the maximum bed
4 capacity for which the license is granted, the date the license was
5 issued, and the expiration date of the license. The provisions of
6 the license shall require that the license shall:

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

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

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

15 B. An application shall contain the following information:

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

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

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

3 4. The name of the administrator of the home;

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

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

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

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

17 2. No person who has been convicted of a felony in connection
18 with the management or operation of a home, or facility as defined
19 in Section 1-1902 of this title or in the care and treatment of the
20 residents of a home, or facility as defined in Section 1-1902 or 1-
21 1950.1 of this title shall be eligible to be licensed or to
22 participate in the management or operation of a home.

23 3. If the applicant is a firm, partnership, or corporation, the
24 applicant shall not be eligible to be licensed if any member of the

1 firm or partnership or any officer or major stockholder of the
2 corporation has been convicted of a felony in connection with the
3 operation or management of a home or facility or the care and
4 treatment of the residents of a home or facility as defined in
5 Section 1-1902 of this title.

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

- 9 a. the name, address, telephone number, occupation or
10 business activity, business address, and business
11 telephone number of the owner of the home and of every
12 person who owns the building in which the home is
13 located. If the owner is a partnership or
14 corporation, the name and address of each partner and
15 stockholder with an ownership interest of five percent
16 (5%) or more shall be included in the statement, and
- 17 b. the name and address of any other home in which the
18 owner has a full or partial financial interest or, if
19 the owner is a partnership or corporation, any other
20 home in which the partnership or corporation has a
21 full or partial financial interest. The statement
22 shall indicate whether or not any other home wherein a
23 full or partial financial interest is held would, if
24 located in this state, be required to be licensed.

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

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

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

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

20 I. Each home that proposes new construction or major alteration
21 shall submit construction plans to the Department for review prior
22 to the start of construction. The Department may assess a fee for
23 such review in an amount not more than fifteen one-hundredths
24 percent (0.15%) or Twenty-five Thousand Dollars (\$25,000.00),

1 whichever is the least amount, per project of the total construction
2 cost of the facility or modification. The State Board of Health
3 shall promulgate rules for submission and resubmission of
4 construction plans to ensure the timely review of such plans by the
5 Department.

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

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

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

18 2. An inspection, investigation, survey, or evaluation ~~shall~~
19 may be unannounced. Any licensee, applicant for a license or
20 operator of any unlicensed facility shall be deemed to have given
21 consent to any duly authorized employee, agent of the Department to
22 enter and inspect the home in accordance with the provisions of the
23 Residential Care Act. Refusal to permit such entry or inspection
24 shall constitute grounds for the denial, nonrenewal, suspension, or

1 revocation of a license as well as emergency transfer of all
2 residents.

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

11 One person ~~shall~~ may be invited from a statewide organization of
12 the elderly or disabled by the Department to act as a citizen
13 observer in any inspection. ~~Such person shall receive expenses as~~
14 ~~provided in the State Travel Reimbursement Act.~~

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

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

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

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

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

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

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

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

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

23 F. A state or local ombudsman as that term is defined by the
24 Special Unit on Aging within the Department of Human Services

1 pursuant to the Older Americans' Act, 42 U.S.C.A., Section 3001 et
2 seq., as amended, or case manager employed by the Department of
3 Mental Health and Substance Abuse Services or one of its contract
4 agencies is authorized to accompany and shall be notified by the
5 Department of any inspection conducted of any home licensed pursuant
6 to the provisions of the Residential Care Act. Any state or local
7 ombudsman is authorized to enter any home licensed pursuant to the
8 provisions of the Residential Care Act, communicate privately and
9 without unreasonable restriction with any resident of a home who
10 consents to such communication, to seek consent to communicate
11 privately and without restriction with any resident of a home, and
12 to observe all areas of a home that directly pertain to the care of
13 a resident of a home.

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

19 SECTION 3. This act shall become effective November 1, 2017.
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21 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
22 04/19/2017 - DO PASS, As Amended.
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