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February 15, 2017

COMMITTEE SUBSTITUTE
FOR

SENATE BILL NO. 774

By: David

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

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)~~ in an amount established by the State Board of Health by rule, provided such fee does not exceed Ten Dollars (\$10.00) per bed, or Five Hundred Dollars (\$500.00). 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

1 capacity for which the license is granted, the date the license was
2 issued, and the expiration date of the license. The provisions of
3 the license shall require that the license shall:

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

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

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

12 B. An application shall contain the following information:

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

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

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

23 4. The name of the administrator of the home;
24

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

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

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

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

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

20 3. If the applicant is a firm, partnership, or corporation, the
21 applicant shall not be eligible to be licensed if any member of the
22 firm or partnership or any officer or major stockholder of the
23 corporation has been convicted of a felony in connection with the
24 operation or management of a home or facility or the care and

1 treatment of the residents of a home or facility as defined in
2 Section 1-1902 of this title.

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

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

22 2. The applicant shall agree in writing, prior to the issuance
23 of a license, to notify the Department if there is any change in the
24 information required to be included in the statement of ownership

1 thirty (30) days in advance of such change. The information
2 contained in the statement of ownership shall be public information
3 and shall be available upon request from the Department.

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

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

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

17 I. Each home that proposes new construction or major alteration
18 shall submit construction plans to the Department for review prior
19 to the start of construction. The Department may assess a fee for
20 such review in an amount not more than fifteen one-hundredths
21 percent (0.15%) or Twenty Five Thousand Dollars (\$25,000.00),
22 whichever is the least amount, per project of the total construction
23 cost of the facility or modification. The State Board of Health
24 shall promulgate rules for submission and resubmission of

1 construction plans to ensure the timely review of such plans by the
2 Department.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 F. A state or local ombudsman as that term is defined by the
22 Special Unit on Aging within the Department of Human Services
23 pursuant to the Older Americans' Act, 42 U.S.C.A., Section 3001 et
24 seq., as amended, or case manager employed by the Department of

1 Mental Health and Substance Abuse Services or one of its contract
2 agencies is authorized to accompany and shall be notified by the
3 Department of any inspection conducted of any home licensed pursuant
4 to the provisions of the Residential Care Act. Any state or local
5 ombudsman is authorized to enter any home licensed pursuant to the
6 provisions of the Residential Care Act, communicate privately and
7 without unreasonable restriction with any resident of a home who
8 consents to such communication, to seek consent to communicate
9 privately and without restriction with any resident of a home, and
10 to observe all areas of a home that directly pertain to the care of
11 a resident of a home.

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

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

18 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
19 February 15, 2017 - DO PASS AS AMENDED
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