

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

SENATE BILL 774

By: David

AS INTRODUCED

An Act relating to the Residential Care Act; amending 63 O.S. 2011, Section 1-822, which relates to applications for licensure; deleting certain fee amount; directing State Board of Health to establish certain fee; specifying limit on fee; requiring submission of certain plans for review; permitting State Department of Health to assess certain fee; specifying limit on fee; directing promulgation of rules for certain purposes; amending 63 O.S. 2011, Section 1-829, which relates to inspections and investigations; reducing required annual inspections; removing certain requirement relating to inspections; permitting inspections to be unannounced; removing requirements relating to observers of inspections; and providing an 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 Five Hundred Dollars (\$500.00). The fee shall not

1 be refunded. Except as provided for in Section 1-824 of this title,
2 a license shall expire twenty-four (24) months from the date of
3 issuance, unless sooner revoked, and may be renewed biannually by
4 the State Department of Health pursuant to the provisions of the
5 Residential Care Act. All licenses shall be on a form prescribed by
6 the State Commissioner of Health, and shall include, but not be
7 limited to, the maximum bed capacity for which the license is
8 granted, the date the license was issued, and the expiration date of
9 the license. The provisions of the license shall require that the
10 license shall:

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

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

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

19 B. An application shall contain the following information:

20 1. The name and address of the owner of the home. If the owner
21 is a firm or partnership, the name and address of each member
22 thereof shall be included in the application. If the owner is a
23 corporation, the name and address of the corporation and the name
24

1 and address of each officer and registered agent of the corporation
2 shall be included in the application;

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

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

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

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

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

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

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

21 2. No person who has been convicted of a felony in connection
22 with the management or operation of a home, or facility as defined
23 in Section 1-1902 of this title or in the care and treatment of the
24 residents of a home, or facility as defined in Section 1-1902 or 1-

1 1950.1 of this title shall be eligible to be licensed or to
2 participate in the management or operation of a home.

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

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

- 13 a. the name, address, telephone number, occupation or
14 business activity, business address, and business
15 telephone number of the owner of the home and of every
16 person who owns the building in which the home is
17 located. If the owner is a partnership or
18 corporation, the name and address of each partner and
19 stockholder with an ownership interest of five percent
20 (5%) or more shall be included in the statement, and
- 21 b. the name and address of any other home in which the
22 owner has a full or partial financial interest or, if
23 the owner is a partnership or corporation, any other
24 home in which the partnership or corporation has a

1 full or partial financial interest. The statement
2 shall indicate whether or not any other home wherein a
3 full or partial financial interest is held would, if
4 located in this state, be required to be licensed.

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

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

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

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

1 I. Each home that proposes new construction or major alteration
2 shall submit construction plans to the Department for review prior
3 to the start of construction. The Department may assess a fee for
4 such review in an amount not more than fifteen one-hundredths
5 percent (0.15%) or Twenty Five Thousand Dollars (\$25,000.00),
6 whichever is the least amount, per project of the total construction
7 cost of the facility or modification. The State Board of Health
8 shall promulgate rules for submission and resubmission of
9 construction plans to ensure the timely review of such plans by the
10 Department.

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

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

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

23 2. An inspection, investigation, survey, or evaluation ~~shall~~
24 may be unannounced. Any licensee, applicant for a license or

1 operator of any unlicensed facility shall be deemed to have given
2 consent to any duly authorized employee, agent of the Department to
3 enter and inspect the home in accordance with the provisions of the
4 Residential Care Act. Refusal to permit such entry or inspection
5 shall constitute grounds for the denial, nonrenewal, suspension, or
6 revocation of a license as well as emergency transfer of all
7 residents.

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

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

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

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

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

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

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

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

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

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

19 E. The Department shall make at least one annual report on each
20 home in the state. The report shall include all conditions and
21 practices not in compliance with the provisions of the Residential
22 Care Act or rules promulgated pursuant thereto within the last year
23 and, if a violation is corrected, or is subject to an approved plan
24 of correction. The Department shall send a copy of the report to

1 any person upon receiving a written request. The Department may
2 charge a reasonable fee to cover the cost of copying and mailing the
3 report.

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

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

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

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