

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

HOUSE BILL 3880

By: Caldwell (Chad)

AS INTRODUCED

An Act relating to long-term care; amending 63 O.S. 2011, Section 1-822, as amended by Section 1, Chapter 367, O.S.L. 2017 (63 O.S. Supp. 2019, Section 1-822), which relates to the Residential Care Act; modifying licensure fees; modifying duration of license; amending 63 O.S. 2011, Section 1-873, which relates to the Adult Day Care Act; modifying entity responsible for licensure requirements and rules; modifying duration of licensure; amending 63 O.S. 2011, Section 1-874, which relates to license application for adult day care; modifying license fees; amending 63 O.S. 2011, Section 1-890.4, as amended by Section 2, Chapter 183, O.S.L. 2013 (63 O.S. Supp. 2019, Section 1-890.4), which relates to the Continuum of Care and Assisted Living Act; modifying entity responsible for developing a sliding fee scale; modifying licensure fees; providing for expiration of licenses; 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, as amended by Section 1, Chapter 367, O.S.L. 2017 (63 O.S. Supp. 2019, 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

1 accompanied by a fee of Fifty Dollars (\$50.00) for the probationary
2 license and Twenty-five Dollars (\$25.00) per year for the renewal
3 license. The fee shall not be refunded. Except as provided for in
4 Section 1-824 of this title, a license shall expire ~~twenty-four (24)~~
5 thirty-six (36) months from the date of issuance, unless sooner
6 revoked, and may be renewed ~~biannually~~ by the State Department of
7 Health pursuant to the provisions of the Residential Care Act.
8 Renewal licenses may be issued for a period of more than twenty-four
9 (24) months, but not more than thirty-six (36) months, for the
10 license period immediately following November 1, 2020, in order to
11 permit an equitable distribution of license expiration dates. All
12 licenses shall be on a form prescribed by the State Commissioner of
13 Health, and shall include, but not be limited to, the maximum bed
14 capacity for which the license is granted, the date the license was
15 issued, and the expiration date of the license. The provisions of
16 the license shall require that the license shall:
17 1. Not be transferable or assignable except as authorized by
18 the provisions of the Residential Care Act;
19 2. Be posted in a conspicuous place on the licensed premises;
20 and
21 3. Be issued only for the premises named in the application,
22 and may be renewed ~~for twenty-four-month periods~~ upon application,
23 inspection, and payment of the license fee, as required by the
24 provisions of the Residential Care Act.

1 B. An application shall contain the following information:

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

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

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

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

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

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

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

22 D. 1. An applicant shall be twenty-one (21) years of age or
23 older and meet the specific requirements for licensure as specified
24

1 in rules promulgated by the State Board of Health pursuant to the
2 provisions of the Residential Care Act.

3 2. No person who has been convicted of a felony in connection
4 with the management or operation of a home, or facility as defined
5 in Section 1-1902 of this title or in the care and treatment of the
6 residents of a home, or facility as defined in Section 1-1902 or 1-
7 1950.1 of this title shall be eligible to be licensed or to
8 participate in the management or operation of a home.

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

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

19 a. the name, address, telephone number, occupation or
20 business activity, business address, and business
21 telephone number of the owner of the home and of every
22 person who owns the building in which the home is
23 located. If the owner is a partnership or
24 corporation, the name and address of each partner and

1 stockholder with an ownership interest of five percent
2 (5%) or more shall be included in the statement, and
3 b. the name and address of any other home in which the
4 owner has a full or partial financial interest or, if
5 the owner is a partnership or corporation, any other
6 home in which the partnership or corporation has a
7 full or partial financial interest. The statement
8 shall indicate whether or not any other home wherein a
9 full or partial financial interest is held would, if
10 located in this state, be required to be licensed.

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

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

22 G. Upon payment of the required application fees, the
23 Commissioner may issue and renew licenses which substantially comply
24 with the provisions of the Residential Care Act and rules

1 promulgated pursuant thereto; provided, however, a plan of
2 correction shall be submitted and accepted by both parties prior to
3 licensure.

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

6 SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-873, is
7 amended to read as follows:

8 Section 1-873. A. The State ~~Board~~ Commissioner of Health, with
9 the advice of the Long-Term Care Facility Advisory Board, created
10 pursuant to Section 1-1923 of this title, shall define minimum adult
11 day care licensure requirements and rules including standards for:

12 1. Health and social services which may be provided to
13 participants;

14 2. The range of services to be provided by a center based on
15 the type of participants to be served;

16 3. Staff to participant ratios;

17 4. Staff and volunteer qualifications;

18 5. Staff training;

19 6. Food services;

20 7. Participant records and care plans;

21 8. Antidiscrimination policies;

22 9. Sanitary and fire standards; and

23 10. Any other requirements necessary to ensure the safety and
24 well-being of frail elderly and disabled adults.

1 B. Centers to be licensed shall include all adult day care
2 centers. Sheltered workshops and senior recreational centers which
3 do not receive participant fees for services are not required to be
4 licensed. It shall be unlawful to operate a center without first
5 obtaining a license for such operation as required by the Adult Day
6 Care Act, regardless of other licenses held by the operator.
7 Organizations operating more than one center shall obtain a license
8 for each site.

9 C. The license for operation of a center shall be issued by the
10 State Department of Health. The license shall:

- 11 1. Not be transferable or assignable;
- 12 2. Be posted in a conspicuous place on the licensed premises;
- 13 3. Be issued only for the premises named in the application;

14 and

15 4. Expire ~~twelve (12)~~ thirty-six (36) months from the date of
16 issuance, provided an initial license shall expire one hundred
17 eighty (180) days after the date of issuance. Licenses may be
18 issued for a period of more than twelve (12) months, but not more
19 than ~~twenty-four (24)~~ thirty-six (36) months, for the licensing
20 period immediately following November 1, ~~2011~~ 2020, in order to
21 permit an equitable distribution of license expiration dates to all
22 months of the year.

23 D. A center shall meet the safety, sanitation and food service
24 standards of the State Department of Health.

1 E. Local health, fire and building codes relating to adult day
2 care centers shall be classified as an education use group.

3 F. The issuance or renewal of a license after notice of a
4 violation has been sent shall not constitute a waiver by the State
5 Department of Health of its power to subsequently revoke the license
6 or take other enforcement action for any violations of the Adult Day
7 Care Act committed prior to issuance or renewal of the license.

8 SECTION 3. AMENDATORY 63 O.S. 2011, Section 1-874, is
9 amended to read as follows:

10 Section 1-874. A. An applicant for a license to operate an
11 adult day care center must file an application on a form approved by
12 the State Department of Health and pay an initial license fee which
13 shall be determined by the Department.

14 B. Applications for license renewal must be filed at least
15 forty-five (45) days before the expiration date of the current
16 license on a form approved by the Department and a license renewal
17 fee must be paid which shall be determined by the Department. The
18 ~~annual~~ license renewal fee shall ~~not exceed~~ be Seventy-five Dollars
19 (\$75.00) per year of licensure. Revenue generated by the collection
20 of license fees shall be deposited into the Department revolving
21 fund, and shall be used to help finance the costs associated with
22 the licensing of such center.

23 C. The applicant must provide evidence of compliance with the
24 requirements of all applicable federal, state and local laws and

1 regulations. In addition to other requirements, an applicant shall
2 provide a statement of ownership and a financial statement.

3 SECTION 4. AMENDATORY 63 O.S. 2011, Section 1-890.4, as
4 amended by Section 2, Chapter 183, O.S.L. 2013 (63 O.S. Supp. 2019,
5 Section 1-890.4), is amended to read as follows:

6 Section 1-890.4 A. Each application for establishment of a
7 continuum of care facility or assisted living center shall be
8 accompanied by a nonrefundable application fee. The State ~~Board~~
9 Commissioner of Health shall develop a sliding fee scale not to
10 exceed One Thousand Dollars (\$1,000.00) for each application, except
11 that any facility operated by the Oklahoma Department of Veterans
12 Affairs shall be exempt from the fee. The scale shall be based upon
13 the bed capacity of the continuum of care facilities or assisted
14 living centers.

15 B. Each application for an initial license, or ~~annual~~ renewal
16 of the license, to operate a continuum of care facility or assisted
17 living center shall be accompanied by a license fee ~~of~~. The initial
18 license fee shall be Ten Dollars (\$10.00) for each bed included in
19 the maximum bed capacity at such facility or center and the renewal
20 license fee shall be Ten Dollars (\$10.00) for each bed included in
21 the maximum bed capacity at such facility or center, per year of
22 licensure, except that any facility operated by the Oklahoma
23 Department of Veterans Affairs shall be exempt from ~~this fee~~ these
24 fees. Each application for an initial or renewal license for a

1 continuum of care facility that includes an adult day care component
2 shall be accompanied by an additional license fee in an amount to be
3 determined by the Board, but not to exceed Seventy-five Dollars
4 (\$75.00) per year of licensure, except that any facility operated by
5 the Oklahoma Department of Veterans Affairs shall be exempt from the
6 fee.

7 C. Each application to establish or license a continuum of care
8 facility or assisted living center shall be on a form approved by
9 the Commissioner to include, but not be limited to, the following:

10 1. Disclosure of the applicant's identity and background in the
11 operation of continuum of care and assisted living services; and

12 2. Evidence of the adequacy of the applicant's financial
13 resources and ability to ensure adequate staffing.

14 D. The renewal license shall expire three (3) years from the
15 date of issuance. An initial license shall expire one hundred
16 eighty (180) days after the date of issuance. Renewal licenses may
17 be issued for a period of more than twelve (12) months, but not more
18 than thirty-six (36) months, for the license period immediately
19 following November 1, 2020, in order to permit an equitable
20 distribution of license expiration dates.

21 SECTION 5. This act shall become effective November 1, 2020.

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