

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 57th Legislature (2020)

4 HOUSE BILL 3880

 By: Caldwell (Chad)

7 AS INTRODUCED

8 An Act relating to long-term care; amending 63 O.S.
9 2011, Section 1-822, as amended by Section 1, Chapter
10 367, O.S.L. 2017 (63 O.S. Supp. 2019, Section 1-822),
11 which relates to the Residential Care Act; modifying
12 licensure fees; modifying duration of license;
13 amending 63 O.S. 2011, Section 1-873, which relates
14 to the Adult Day Care Act; modifying entity
15 responsible for licensure requirements and rules;
16 modifying duration of licensure; amending 63 O.S.
17 2011, Section 1-874, which relates to license
18 application for adult day care; modifying license
19 fees; amending 63 O.S. 2011, Section 1-890.4, as
20 amended by Section 2, Chapter 183, O.S.L. 2013 (63
21 O.S. Supp. 2019, Section 1-890.4), which relates to
22 the Continuum of Care and Assisted Living Act;
23 modifying entity responsible for developing a sliding
24 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:

1 Section 1-822. A. An application for a license, or renewal
2 thereof, to establish or operate a residential care home shall be
3 accompanied by a fee of Fifty Dollars (\$50.00) for the probationary
4 license and Twenty-five Dollars (\$25.00) per year for the renewal
5 license. The fee shall not be refunded. Except as provided for in
6 Section 1-824 of this title, a license shall expire ~~twenty-four (24)~~
7 thirty-six (36) months from the date of issuance, unless sooner
8 revoked, and may be renewed ~~biannually~~ by the State Department of
9 Health pursuant to the provisions of the Residential Care Act.
10 Renewal licenses may be issued for a period of more than twenty-four
11 (24) months, but not more than thirty-six (36) months, for the
12 license period immediately following November 1, 2020, in order to
13 permit an equitable distribution of license expiration dates. All
14 licenses shall be on a form prescribed by the State Commissioner of
15 Health, and shall include, but not be limited to, the maximum bed
16 capacity for which the license is granted, the date the license was
17 issued, and the expiration date of the license. The provisions of
18 the license shall require that the license shall:

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

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

23 3. Be issued only for the premises named in the application,
24 and may be renewed ~~for twenty-four-month periods~~ upon application,

1 inspection, and payment of the license fee, as required by the
2 provisions of the Residential Care Act.

3 B. An application shall contain the following information:

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

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

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

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

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

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

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

24

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

5 2. No person who has been convicted of a felony in connection
6 with the management or operation of a home, or facility as defined
7 in Section 1-1902 of this title or in the care and treatment of the
8 residents of a home, or facility as defined in Section 1-1902 or 1-
9 1950.1 of this title shall be eligible to be licensed or to
10 participate in the management or operation of a home.

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

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

21 a. the name, address, telephone number, occupation or
22 business activity, business address, and business
23 telephone number of the owner of the home and of every
24 person who owns the building in which the home is

1 located. If the owner is a partnership or
2 corporation, the name and address of each partner and
3 stockholder with an ownership interest of five percent
4 (5%) or more shall be included in the statement, and

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

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

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

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

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

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

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

- 15 1. Health and social services which may be provided to
16 participants;
- 17 2. The range of services to be provided by a center based on
18 the type of participants to be served;
- 19 3. Staff to participant ratios;
- 20 4. Staff and volunteer qualifications;
- 21 5. Staff training;
- 22 6. Food services;
- 23 7. Participant records and care plans;
- 24 8. Antidiscrimination policies;

1 9. Sanitary and fire standards; and

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

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

10 Organizations operating more than one center shall obtain a license
11 for each site.

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

14 1. Not be transferable or assignable;

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

16 3. Be issued only for the premises named in the application;

17 and

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

1 permit an equitable distribution of license expiration dates to all
2 months of the year.

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

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

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

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

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

18 B. Applications for license renewal must be filed at least
19 forty-five (45) days before the expiration date of the current
20 license on a form approved by the Department and a license renewal
21 fee must be paid which shall be determined by the Department. The
22 ~~annual~~ license renewal fee shall ~~not exceed~~ be Seventy-five Dollars
23 (\$75.00) per year of licensure. Revenue generated by the collection
24 of license fees shall be deposited into the Department revolving

1 fund, and shall be used to help finance the costs associated with
2 the licensing of such center.

3 C. The applicant must provide evidence of compliance with the
4 requirements of all applicable federal, state and local laws and
5 regulations. In addition to other requirements, an applicant shall
6 provide a statement of ownership and a financial statement.

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

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

19 B. Each application for an initial license, or ~~annual~~ renewal
20 of the license, to operate a continuum of care facility or assisted
21 living center shall be accompanied by a license fee ~~of~~. The initial
22 license fee shall be Ten Dollars (\$10.00) for each bed included in
23 the maximum bed capacity at such facility or center and the renewal
24 license fee shall be Ten Dollars (\$10.00) for each bed included in

1 the maximum bed capacity at such facility or center, per year of
2 licensure, except that any facility operated by the Oklahoma
3 Department of Veterans Affairs shall be exempt from ~~this fee~~ these
4 fees. Each application for an initial or renewal license for a
5 continuum of care facility that includes an adult day care component
6 shall be accompanied by an additional license fee in an amount to be
7 determined by the Board, but not to exceed Seventy-five Dollars
8 (\$75.00) per year of licensure, except that any facility operated by
9 the Oklahoma Department of Veterans Affairs shall be exempt from the
10 fee.

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

- 14 1. Disclosure of the applicant's identity and background in the
15 operation of continuum of care and assisted living services; and
- 16 2. Evidence of the adequacy of the applicant's financial
17 resources and ability to ensure adequate staffing.

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

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

COMMITTEE REPORT BY: COMMITTEE ON HEALTH SERVICES AND LONG-TERM CARE, dated 02/12/2020 - DO PASS.