

South Carolina General Assembly
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A18, R38, H3012

STATUS INFORMATION

General Bill

Sponsors: Reps. Horne, H.B. Brown and Lowe

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Introduced in the House on January 11, 2011

Introduced in the Senate on March 9, 2011

Last Amended on March 8, 2011

Passed by the General Assembly on April 27, 2011

Governor's Action: May 11, 2011, Signed

Summary: Licensure of In-Home Care Provider Act

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
12/7/2010	House	Prefiled
12/7/2010	House	Referred to Committee on Medical, Military, Public and Municipal Affairs
1/11/2011	House	Introduced and read first time (House Journal-page 8)
1/11/2011	House	Referred to Committee on Medical, Military, Public and Municipal Affairs (House Journal-page 8)
3/1/2011	House	Member(s) request name added as sponsor: Lowe
3/3/2011	House	Committee report: Favorable with amendment Medical, Military, Public and Municipal Affairs (House Journal-page 2)
3/4/2011		Scrivener's error corrected
3/8/2011	House	Amended (House Journal-page 62)
3/8/2011	House	Read second time (House Journal-page 62)
3/8/2011	House	Roll call Yeas-83 Nays-21 (House Journal-page 62)
3/9/2011	House	Read third time and sent to Senate (House Journal-page 20)
3/9/2011	Senate	Introduced and read first time (Senate Journal-page 8)
3/9/2011	Senate	Referred to Committee on Medical Affairs (Senate Journal-page 8)
4/20/2011	Senate	Committee report: Favorable Medical Affairs (Senate Journal-page 10)
4/21/2011		Scrivener's error corrected
4/26/2011	Senate	Read second time (Senate Journal-page 15)
4/26/2011	Senate	Roll call Ayes-29 Nays-12 (Senate Journal-page 15)
4/27/2011	Senate	Read third time and enrolled (Senate Journal-page 7)
5/5/2011		Ratified R 38
5/11/2011		Signed By Governor
5/13/2011		Effective date See Act for Effective Date
5/17/2011		Act No. 18

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VERSIONS OF THIS BILL

[12/7/2010](#)

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(A18, R38, H3012)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 70 TO TITLE 44 TO ENACT THE “LICENSURE OF IN-HOME CARE PROVIDERS ACT” SO AS TO REQUIRE A BUSINESS TO BE LICENSED TO PROVIDE, OR TO MAKE PROVISIONS FOR, IN-HOME CARE SERVICES THROUGH ITS EMPLOYEES OR AGENTS OR THROUGH CONTRACTUAL ARRANGEMENTS; TO REQUIRE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO PROMULGATE REGULATIONS FOR LICENSURE REQUIREMENTS, INCLUDING, BUT NOT LIMITED TO, LICENSE APPLICATION AND RENEWAL REQUIREMENTS, AND DRUG TESTING AND CRIMINAL RECORD CHECKS FOR LICENSURE APPLICANTS; TO REQUIRE CRIMINAL RECORD CHECKS FOR IN-HOME CAREGIVERS EMPLOYED BY IN-HOME CARE PROVIDERS; AND TO PROVIDE THAT THE DEPARTMENT SHALL RETAIN ALL FEES COLLECTED PURSUANT TO THIS CHAPTER TO BE USED EXCLUSIVELY TO CARRY OUT THE DEPARTMENT’S RESPONSIBILITIES PURSUANT TO THIS CHAPTER; AND TO AMEND SECTION 44-7-2910, AS AMENDED, RELATING TO REQUIRED CRIMINAL RECORD CHECKS FOR CAREGIVERS, SO AS TO ALSO REQUIRE THESE CHECKS FOR IN-HOME CARE PROVIDERS.

Be it enacted by the General Assembly of the State of South Carolina:

Licensure of in-home care providers

SECTION 1. Title 44 of the 1976 Code is amended by adding:

“CHAPTER 70

Licensure of In-Home Care Providers

Section 44-70-10. This chapter may be cited as the ‘Licensure of In-Home Care Providers Act’.

Section 44-70-20. As used in this chapter:

(1) ‘Department’ means the South Carolina Department of Health and Environmental Control.

(2) 'In-home care' means care:

(a) primarily intended to assist an individual with an activity of daily living or in meeting a personal rather than a medical need, but not including skilled care or specific therapy for an illness or injury;

(b) given to assist an individual in an activity of daily living, such as walking, getting in and out of bed, bathing, dressing, feeding, using the toilet, preparing special diets, and supervising self-administered medication; and

(c) personal in nature but not mandating continuing attention or supervision from trained and licensed medical personnel.

(3) 'In-home care provider' means a business entity, corporation, or association, whether operated for profit or not for profit, that for compensation directly provides or makes provision for in-home care services through its own employees or agents or through contractual arrangements with independent contractors or through referral of other persons to render in-home care services when the individual making the referral has a financial interest in the delivery of those services by those other persons who would deliver those services. An in-home care provider does not include:

(a) a home health agency or hospice or an entity licensed pursuant to Section 44-7-260; or

(b) an individual or agency who provides only a house cleaning service; or

(c) a direct care entity defined by Section 44-7-2910(B)(1)(e), a direct caregiver or caregiver defined by Section 44-7-2910(B)(2)(e), or an individual who provides a service or services defined by Section 44-21-60;

(d) an individual hired directly by the person receiving care or hired by his family; or

(e) a church or another religious institution recognized as a 501(c)(3) organization by the Internal Revenue Service that provides in-home care services without compensation or for a nominal fee collected to cover incidental expenses directly related to such care.

Section 44-70-30. An in-home care provider must apply for and obtain a license issued by the department that is effective for a specified time period following the date of issue as determined by the department.

Section 44-70-40. The department shall promulgate regulations for the licensure of in-home care providers. The department must include the following standards and procedures in developing regulations:

(1) license application and renewal procedures;

- (2) criminal record checks for licensure applicants, which may include criminal offenses that preclude licensure;
- (3) drug testing of licensure applicants;
- (4) responsibilities and duties of a licensee, including requirements for bonding, record keeping, and reporting;
- (5) fees the department may charge to process an application for a license, the issuance of a license, the renewal of a license, and the reinstatement of a revoked or suspended license;
- (6) criteria that a licensee's employee, agent, independent contractor, or referral must satisfy before providing in-home care service. These criteria must include, but are not limited to, personal information, completion of a minimum education requirement, completion of minimum training and continuing education requirements, and screening for communicable diseases;
- (7) standards for liability and other appropriate insurance coverage; and
- (8) sanctions that the department may impose for a violation of this chapter, including the suspension or revocation of a license or the imposition of a monetary penalty. Sanctions imposed may be appealed pursuant to Section 44-1-60.

Section 44-70-50. A license to operate as an in-home care provider is:

- (1) not transferable or assignable; and
- (2) subject to suspension or revocation for failure to comply with a provision of this chapter or regulations promulgated by the department.

Section 44-70-60. (A) Before becoming licensed as an in-home care provider, a person must undergo a criminal record check as provided for in regulations promulgated by the department pursuant to Section 44-70-40 and submit to a drug test.

(B) Before being employed as an in-home caregiver by a licensed in-home care provider, a person shall undergo a criminal record check as provided for in Section 44-7-2910 and submit to a drug test.

Section 44-70-70. A licensed in-home provider and an individual employed as an in-home caregiver by a licensed in-home care provider are subject to random drug testing.

Section 44-70-80. Fees collected pursuant to this chapter must be retained by the department and credited to a separate and distinct account to be used exclusively by the department to carry out its responsibilities under this chapter.”

Direct caregiver required to have criminal record checks, in-home care providers added

SECTION 2. Section 44-7-2910(B)(1) of the 1976 Code, as last amended by Act 207 of 2010, is further amended by adding:

“(h) an in-home care provider, as defined in Section 44-70-20(3).”

Time effective

SECTION 3. This act takes effect upon approval by the Governor, except the licensure requirements of Section 44-70-30 of the 1976 Code, as added by Section 1 of this act, become effective upon the effective date of regulations promulgated by the Department of Health and Environmental Control pursuant to Section 44-70-40, as added by Section 1 of this act.

Ratified the 5th day of May, 2011.

Approved the 11th day of May, 2011.
