

INITIAL RULE IMPACT STATEMENT

(This document may be revised based on comment received during the public comment period.)

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 680. RESIDENTIAL CARE HOMES**

1. DESCRIPTION:

The proposed rule amendments will change the licensure from annual to renewal every three years. The purpose of the rule change is to align rule requirements with SB 654, which became effective November 1, 2021. This legislation changed the licensure from annual to renewal every three years. This changes the fee for licensure to \$75.00 every three years, which is the sum of the previous \$50.00 every two years.

2. DESCRIPTION OF PERSONS AFFECTED AND COST IMPACT RESPONSE:

The Residential Care Homes are affected in that the cost has shifted from an annual basis to every three years. The cost of licensure did not change cumulatively. Over the duration of time, there is minimal to no impact of cost.

3. DESCRIPTION OF PERSONS BENEFITING, VALUE OF BENEFIT AND EXPECTED HEALTH OUTCOMES:

There are no expected health outcomes affiliated with the licensure renewal change. Residential Care Homes will benefit from extended timeline in renewing their licenses. This will provide additional time for client care and focus on services provided.

4. ECONOMIC IMPACT, COST OF COMPLIANCE, AND FEE CHANGES: COST OF COMPLIANCE AND FEE CHANGES:

This changes the fee for licensure to \$75.00 every three years, which is the sum of the previous \$50.00 every two years.

5. COST AND BENEFITS OF IMPLEMENTATION AND ENFORCEMENT TO THE AGENCY:

There will be administrative benefits over time, with the decreased frequency of licensure renewal for Residential Care Homes.

6. IMPACT ON POLITICAL SUBDIVISIONS:

There will be no impact on political subdivisions.

7. ADVERSE EFFECT ON SMALL BUSINESS:

There is the possibility of an adverse effect to the cost of renewal initially being the sum of three years; with the expectation that the adverse effect will not be lasting.

8. EFFORTS TO MINIMIZE COSTS OF THE RULE:

There are no less costly means currently identified.

9. EFFECT ON PUBLIC HEALTH AND SAFETY:

No effect on public health and safety is projected.

10. DETRIMENTAL EFFECTS ON PUBLIC HEALTH AND SAFETY WITHOUT ADOPTION:

There are no detrimental effects on public health and safety.

11. PREPARATION AND MODIFICATION DATES:

This rule impact statement was prepared on November 30, 2021.

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 680. RESIDENTIAL CARE HOMES**

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Licensure Requirements

310:680-3-2 [AMENDED]

310:680-3-3 [AMENDED]

SUMMARY:

The proposed rule amendments will change the licensure from annual to renewal every three years. The purpose of the rule change is to align rule requirements with SB 654, which became effective November 1, 2021. This legislation changed the licensure from annual to renewal every three years. This changes the fee for licensure to \$75.00 every three years, which is the sum of the previous \$50.00 every two years.

AUTHORITY:

Commissioner of Health; Title 63 O.S. § 1-104; Title 63 O.S. § 1-822

COMMENT PERIOD:

January 18, 2022 through the close of the Department's normal business hours, 5 PM, on February 18, 2022. Interested persons may informally discuss the proposed rules with the contact person identified below; or may, through the close of the Department's normal business hours, 5 PM, on February 18, 2022, submit written comment to the contact person identified below, or may, at the hearing, ask to present written or oral views.

PUBLIC HEARING:

Pursuant to 75 O.S. § 303(A), the public hearing for the proposed rulemaking in this chapter shall be on February 18, 2022 at the Oklahoma State Department of Health Auditorium, 123 Robert S. Kerr Avenue, Oklahoma City, Oklahoma 73102 from 9:30 AM to 12:30 PM. The meeting may adjourn earlier if all attendees who signed up to comment have completed giving their comments. The alternate date and time in the event of an office closure due to inclement weather is February 22, 2022 in the Auditorium, from 9:30 AM to 12:30 PM. Those wishing to present oral comments should be present at that time to register to speak. The hearing will close at the conclusion of those registering to speak. Interested persons may attend for the purpose of submitting data, views or concerns, orally or in writing, about the rule proposal described and summarized in this Notice. Validated parking will be provided for the parking lot located at the east corner of Broadway and Robert S. Kerr Avenue, subject to availability.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, on the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule. Business entities may submit this information in writing through the close of the Department's normal business hours, 5 PM, on February 18, 2022, to the contact person identified below.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from the contact person identified below or via the agency website at www.ok.gov/health.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a rule impact statement is available through the contact person identified below or via the agency website at www.ok.gov/health.

CONTACT PERSON:

Audrey C. Talley, Agency Rule Liaison, Oklahoma State Department of Health, 123 Robert S. Kerr Avenue, Oklahoma City, OK 73102, phone (405) 426-8563, e-mail AudreyT@health.ok.gov.

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 680. RESIDENTIAL CARE HOMES**

SUBCHAPTER 3. LICENSURE REQUIREMENTS

310:680-3-2. Licenses

(a) **Regular license.** ~~The A regular license shall be issued for a twenty-four (24) month period expiring two years~~ is valid for 36 months from date of issue. A license may be issued upon receipt of completed application, payment of license fee, and verification by the Department that the home ~~complies with the Residential Care Standards and Regulation for Licensure, and the Residential Care Act~~ is in compliance with this Chapter and the Act. A nonrefundable \$75 fee must be included with a regular license application. [63 O.S. § 1-822(A)]

(b) **Probationary license.** ~~If the applicant has not been previously licensed, or if the home is not in operation at the time application is made, the Department shall issue a probationary license. A probationary license shall be valid for one hundred twenty (120) days unless sooner suspended or revoked by the Department.~~ **Renewal License.** *Renewal licenses may be issued for a period of more than twenty-four (24) months, but not more than thirty-six (36) months, for the license period immediately following November 1, 2021, in order to permit an equitable distribution of license expiration dates.* [63 O.S. § 1-822(A)] Thereafter, all renewal licenses will be for 36 months. A nonrefundable fee of \$25 per year for the renewal license must be included with the renewal application. [63 O.S. § 1-822(A)].

(c) **Probationary license.** Before an applicant is eligible to apply for a regular license, it must first apply and receive a probationary license. A probationary license shall be valid for one hundred twenty (120) days unless sooner suspended or revoked by the Department. A nonrefundable \$50 fee must be included with a probationary license application. [63 O.S. § 1-822(A)]. Prior to issuance of a probationary license, the Department shall:

- (1) Ascertain whether or not the applicant is qualified to be licensed.
- (2) Inspect the home and inform the applicant of any condition which requires correction prior to issuance of a license. If the home is a new home, the Department shall also inform the applicant of any conditions which require correction prior to acceptance of residents into the home.
- (3) If the home is an existing home whose ownership is being transferred, the probationary license issued to the transferee, in addition to any corrections required as a result of the inspection, shall be subject to any plan of correction submitted by the previous owner and approved by the Department.

(d) **Conditional license.**

- (1) ~~The Department may issue a conditional license to any residential care home in which it finds that a violation exists. The issuance of a conditional license shall revoke any license held by the residential care home.~~ If the Department finds that a residential care home is in violation of the Residential Care Act or this Chapter, then it may revoke the residential care home's regular license and issue it a conditional license. There is no fee associated with this change in license status.
- (2) Prior to the issuance of a conditional license, the Department shall review and approve a written plan of correction. The Department shall specify the violations which prevent full licensure and shall establish a time schedule for correction of the violation. Written notice of the decision to issue a conditional license shall be sent to the residential care home, together with the proposed plan of correction. The notice shall inform the home of the right to an informal conference prior to issuance of the conditional license, and its right to a full hearing.
- (3) A conditional license shall be issued for a period specified by the Department, but in no event for more than one (1) year.
- (4) The Department shall periodically, but not less than semiannually, inspect any home operating under a conditional license. If the Department finds substantial failure by the residential care home to follow the plan of correction, the conditional license may be revoked.
- (5) If the Department determines that a conditional license shall expire without renewal or replacement of the conditional license by a regular license, the Department shall notify the licensee at

least thirty (30) days prior to expiration of the license. The licensee is entitled to a hearing if requested prior to expiration of the conditional license.

310:680-3-3. Applications

- (a) An applicant for probationary license, regular license or renewal thereof to operate a residential care home shall submit to the Department a completed application along with ~~the fifty dollar (\$50.00) license fee~~ the appropriate fee, and documents required by the Commissioner to determine that the applicant is of reputable and responsible character and otherwise demonstrates the skill and fitness to provide the necessary services. In addition, the applicant shall have appropriate business or professional experience in dealing with the type of residents in the home. ~~The license fee of fifty dollars (\$50.00) is not refundable.~~
- (b) A license fee of twenty dollars (\$20.00) shall accompany any application for modification of a license.
- (c) An application for license, or renewal, shall include a copy of all agreements with the professional consultants utilized by the home.
- (d) An application for an initial license to operate a residential care home shall include documentation that the State Fire Marshal or the State Fire Marshal's representative has inspected and approved the home. Each application for renewal of a license for a residential care home with more than six beds shall include documentation of annual inspection and approval by the State Fire Marshal or the State Fire Marshal's representative.
- (e) The following items must be renewed annually:
 - (1) An agreement with a physician, physician assistant or advanced practice registered nurse to provide clinical consultation.
 - (2) Agreements with registered nurse, registered dietitian, and registered pharmacist, as required based on the needs of the residents.
 - (3) Licensed plumber or building inspector's report.
 - (4) Licensed electrician or municipal inspector's report.
- (f) *Each initial application shall be accompanied by a statement from the unit of local government having zoning jurisdiction over the location of the home stating that the location is not in violation of a zoning ordinance. [63:1-822(C)]*
- (g) Each application shall be accompanied by an attested statement from the applicant assuring that the applicant complies with 63 O.S. Section 1-822(D). If the applicant is a firm, partnership or corporation, the application shall include an attested statement from each member of the firm or partnership and from each officer and major stockholder of the corporation.