**South Carolina General Assembly**

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**H. 3186**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Chalk

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Introduced in the House on January 13, 2009

Currently residing in the House Committee on **Medical, Military, Public and Municipal Affairs**

Summary: Licensure of In-Home Care Provider Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/16/2008 House Prefiled

12/16/2008 House Referred to Committee on **Medical, Military, Public and Municipal Affairs**

1/13/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\01-13-09.docx)‑82

1/13/2009 House Referred to Committee on **Medical, Military, Public and Municipal Affairs** [HJ](file:///h:\HJ%20Archive\2009\01-13-09.docx)‑82

**VERSIONS OF THIS BILL**

[12/16/2008](file:///p:\pprever\2009-10\3186_20081216.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 70 TO TITLE 44 SO AS TO CREATE THE LICENSURE OF IN‑HOME CARE PROVIDER ACT, TO PROVIDE CERTAIN DEFINITIONS; TO PROVIDE AN IN‑HOME CARE PROVIDER MUST APPLY FOR AND OBTAIN A LICENSE ISSUED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL; TO PROVIDE THE DEPARTMENT SHALL PROMULGATE REGULATIONS FOR THE LICENSURE OF AN IN‑HOME CARE PROVIDER, INCLUDING SPECIFIC REGULATIONS; TO PROVIDE SPECIFIC FEATURES OF AN IN‑HOME CARE PROVIDER LICENSE; AND TO PROVIDE A FEE ESTABLISHED BY THIS CHAPTER MUST BE REMITTED TO THE DEPARTMENT IN A SEPARATE AND DISTINCT ACCOUNT AND EXCLUSIVELY MUST BE USED TO SUPPORT ACTIVITIES PURSUANT TO THIS CHAPTER.

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

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

“CHAPTER 70

Licensure of In‑Home Care Provider Act

Section 44‑70‑10. This chapter may be cited as the ‘Licensure of In‑Home Care Provider 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 person, 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. The service is provided for individuals who are elderly, convalescing, or who have a disability. An in‑home care provider does not include:

(a) a home health agency, hospice, or another person licensed under Section 44‑7‑260;

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

(c) an individual who provides in‑home care at no more than four locations if the care recipients at each location are related family members within the third degree of consanguinity.

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 an in‑home care provider. These regulations must include a:

(1) process a provider must follow to apply for a license or renew a license;

(2) list of responsibilities and duties of a licensee, including requirements for bonding, record keeping, and reporting;

(3) fee the department may charge to process an application for a license, the issuance of a license, the renewal of a license, or the reinstatement of revoked or suspended license;

(4) list of criteria that a licensee’s employee, agent, independent contractor, or referral must satisfy before they may provide an in‑home care service. These criteria must include personal information, completion of a minimum education requirement, screening for communicable diseases, and a criminal background check. Prior to becoming licensed as an in‑home care provider or employed as a caregiver by a licensed in‑home care provider, a person who can provide verification of residency in South Carolina for at least one year prior to application shall undergo a state criminal records check, supported by fingerprints, by the South Carolina Law Enforcement Division (SLED). Verification of residency may be provided through:

(a) rent, mortgage, or utility receipts in the applicant’s name for a home within South Carolina;

(b) pay stubs in the applicant’s name from a business located in South Carolina;

(c) bank records in the applicant’s name showing a deposit or checking account held in a South Carolina branch office of a bank; or

(d) a driver’s license or identification card issued by the State of South Carolina;

(5) sanction 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; and

(6) requirement that if a person seeking to become a licensed in‑home care provider or to be employed as a caregiver by a licensed in‑home care provider cannot verify residency in South Carolina for at least one year prior to his application, he must also undergo a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation (FBI). The results of these criminal records checks must be reported to the department. SLED is authorized to retain the fingerprints for certification purposes and for notification of the department regarding criminal charges. The cost of the state criminal records check must be paid to the department by the caregiver or the in‑home care provider upon application for the state check. The cost of the national records check must be paid to the department by the caregiver or the in‑home care provider upon application for the national check. A person may provide licensed in‑home care provider services on a provisional basis after the favorable completion of the state criminal background check and until such time as the national criminal background check is completed.

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 fee established by this chapter must be remitted to the department in a separate and distinct account and exclusively must be used to support activities pursuant to this chapter.”

SECTION 2. This act takes effect upon approval by the Governor, except the licensure requirements of Section 44‑70‑30 will become effective upon implementation of the department regulations.

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