CHAPTER 70

Licensure of In‑Home Care Providers Act

**SECTION 44‑70‑10.** Short title.

 This chapter may be cited as the “Licensure of In‑Home Care Providers Act”.

HISTORY: 2011 Act No. 18, Section 1, eff May 11, 2011.

CROSS REFERENCES

Standards for licensing in‑home care providers, see S.C. Code of Regulations R. 61‑122.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Medical and Health Professionals Section 5, Medical License or Certification.

**SECTION 44‑70‑20.** Definitions.

 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.

HISTORY: 2011 Act No. 18, Section 1, eff May 11, 2011.

**SECTION 44‑70‑30.** License required.

 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.

HISTORY: 2011 Act No. 18, Section 1, eff May 11, 2011.

Editor’s Note

2011 Act No. 18, Section 3, provides as follows:

“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.”

Library References

Health 236.

Westlaw Topic No. 198H.

C.J.S. Hospitals Sections 7 to 11.

**SECTION 44‑70‑40.** Regulations.

 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.

HISTORY: 2011 Act No. 18, Section 1, eff May 11, 2011.

Editor’s Note

2011 Act No. 18, Section 3, provides as follows:

“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.”

Library References

Health 256.

Westlaw Topic No. 198H.

C.J.S. Hospitals Section 2.

**SECTION 44‑70‑50.** Prohibition on transfer or assignment of license; suspension or revocation.

 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.

HISTORY: 2011 Act No. 18, Section 1, eff May 11, 2011.

Library References

Health 256.

Westlaw Topic No. 198H.

C.J.S. Hospitals Section 2.

**SECTION 44‑70‑60.** Criminal record check; drug test.

 (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.

HISTORY: 2011 Act No. 18, Section 1, eff May 11, 2011.

CROSS REFERENCES

Standards for licensing in‑home care providers, see S.C. Code of Regulations R. 61‑122.

Library References

Health 256.

Westlaw Topic No. 198H.

C.J.S. Hospitals Section 2.

**SECTION 44‑70‑70.** Random drug testing.

 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.

HISTORY: 2011 Act No. 18, Section 1, eff May 11, 2011.

CROSS REFERENCES

Standards for licensing in‑home care providers, see S.C. Code of Regulations R. 61‑122.

Library References

Health 256.

Westlaw Topic No. 198H.

C.J.S. Hospitals Section 2.

**SECTION 44‑70‑80.** Use of fees collected.

 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.

HISTORY: 2011 Act No. 18, Section 1, eff May 11, 2011.

Library References

Health 256.

Westlaw Topic No. 198H.

C.J.S. Hospitals Section 2.