

ENROLLED HOUSE
BILL NO. 2591

By: Widener and Hager of the
House

and

Kerr of the Senate

An Act relating to public health and safety; amending 63 O.S. 1991, Section 1-2511, which relates to the Oklahoma Emergency Medical Services Improvement Program and powers and duties of the State Commissioner of Health; clarifying language and statutory reference; clarifying administration and staffing of certain programs; deleting authority to appoint certain advisory council; creating the Oklahoma EMS Advisory Council; providing for membership and appointment of the Oklahoma EMS Advisory Council; providing for powers and duties of Oklahoma EMS Advisory Council; amending 63 O.S. 1991, Sections 1-818.2, as amended by Section 14, Chapter 159, O.S.L. 1993, 1-818.3, 1-818.4, as amended by Section 1, Chapter 161, O.S.L. 1992, 1-818.5, 1-818.7, 1-818.10, 1-818.11, 1-818.14, 1-818.17, 1-818.20, 1-818.21, 1-818.25, 1-818.27, 1-818.29 and 1-818.35 (63 O.S. Supp. 1993, Sections 1-818.2 and 1-818.4), which relate to the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act; deleting, adding and modifying definitions; transferring powers and duties under the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act from State Department of Health to Department of Human Services and modifying references thereto; modifying certain duties; modifying references; modifying appointing authority of certain advisory board; updating statutory references; providing for appointment of certain employee; modifying requirement for certain clerical assistance; modifying requirement that Oklahoma State Bureau of Investigation assist in enforcement; modifying establishment of certain system of classification; modifying certain certification standards; modifying certain exception regarding funeral and burial procedures; deleting certain reference of defined term and reference to Department of Human Services; providing for notice of certain survey; clarifying authority to enter group home; modifying recipient of certain survey; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 63 O.S. 1991, Section 1-2511, is amended to read as follows:

Section 1-2511. The State Commissioner of Health shall have the following powers and duties for the creation and implementation of an Oklahoma Emergency Medical Services Improvement Program:

1. Administer and coordinate all federal and state programs, not specifically assigned by state law to other state agencies, which include provisions of the Federal Emergency Medical Services Systems Act and other federal laws and programs relating to the development of emergency medical services in this state. The administration and coordination of federal and state laws and programs relating to the development, planning, prevention, improvement and management of emergency medical services, including the staffing of the Oklahoma EMS Advisory Council, shall be conducted by the Division of Emergency Medical Services, as prescribed by Section 1-2510 of this title;

2. Assist private and public organizations, emergency medical and health care providers, ambulance authorities, district boards and other interested persons or groups in improving emergency medical services (EMS) at the local, municipal, district or state levels. This assistance shall be through professional advice and technical assistance;

3. Coordinate the efforts of local units of government to establish service districts and set up boards of trustees or other authorities to operate and finance emergency medical services in the state as provided under Section 9C of Article X of the Oklahoma Constitution or under Sections 1201 through 1221 of Title 19 of the Oklahoma Statutes. The Commissioner shall evaluate all proposed district areas and operational systems to determine the feasibility of their economic and health services delivery;

4. Prepare, maintain and utilize a comprehensive plan and program for emergency medical services development throughout the state to be adopted by the State Board of Health and incorporated within the State Health Plan. The plan shall establish goals, objectives and standards for a statewide integrated system and a timetable for accomplishing and implementing different elements of the system. The plan shall also include, but not be limited to, all components of an emergency medical services system; regional and statewide planning; the establishment of standards and the appropriate criteria for the designation of facilities; data collection and quality assurance; and funding;

5. Maintain a comprehensive registry of all ambulance services operating within the state, to be published annually. All ambulance service providers shall register annually with the Commissioner on forms supplied by the State Department of Health, containing such requests for information as may be deemed necessary by the Commissioner;

6. Develop a standard report form which may be used by local, regional and statewide emergency medical services and EMS systems to facilitate the collection of data related to the provision of emergency medical and trauma care. The Commissioner shall also develop a standardized EMS data set and an electronic submission standard which may, at the option of each ambulance service, be utilized in lieu of the standard report for the submission of required data. Each ambulance service shall submit the information required in this section through either the standard form or electronic data set at such intervals as may be prescribed by rules ~~and regulations~~ promulgated by the State Board;

7. Evaluate and certify all emergency medical services training programs and emergency medical technician training courses and

operational services in accordance with specifications and procedures approved by the State Board;

8. Provide an emergency medical technicians' and ambulance service licensure program;

~~9. Appoint an Oklahoma EMS Advisory Council to be created until July 1, 1996, in accordance with the Oklahoma Sunset Law, to be composed of physicians, health service providers, consumers of health care, other health care professionals and persons involved in the education and training of emergency medical personnel. The Commissioner shall appoint the members of the Council to serve at his pleasure. The Council shall consist of not more than fifteen (15) persons. Persons on the Council shall at all times serve without compensation, but shall be reimbursed for their actual and necessary travel expenses from funds available for the operation of the Department. The Council shall advise the Commissioner or his designee on the following:~~

- ~~a. training program specifications for emergency medical personnel, the types of medical care procedures which may be performed by emergency medical personnel, qualifications for licensure and certification of emergency medical personnel,~~
- ~~b. patient care equipment for ambulances, ambulance specifications, criteria and standards for the classification of emergency medical services rendered by providers, including communications and reporting requirements, and operational procedures for providers of ambulance services,~~
- ~~c. design of the statewide communications system, including procedures for summoning and dispatching emergency medical service, including 911,~~
- ~~d. projects, programs, and legislation needed to improve emergency medical services in the state, and~~
- ~~e. such other matters and activities as directed by the Commissioner or his designee;~~

~~10. Appoint~~ Create a standing Medical Direction Subcommittee of the Council to be composed entirely of physicians who are or who have been medical directors or regional medical directors. ~~The Commissioner shall appoint the members~~ Members of the Subcommittee ~~to shall be appointed by and shall~~ serve at his the pleasure of the Commissioner. The Subcommittee shall advise the Commissioner or ~~his~~ the Commissioner's designee on the following:

- a. the design of all medical aspects and components of emergency medical services systems,
- b. the appropriateness of all standards for medical and patient care operations or services, treatment procedures and protocols,
- c. the implementation and facilitation of regional EMS Systems, and
- d. such other matters and activities as directed by the Commissioner or ~~his~~ the Commissioner's designee;

~~11. 10.~~ Employ and prescribe the duties of employees as may be necessary to administer the provisions of this act; and

~~12. 11.~~ Apply for and accept public and private gifts, grants, donations and other forms of financial assistance designed for the support of emergency medical services.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2516 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. There shall be created the Oklahoma EMS Advisory Council until July 1, 1996, in accordance with the provisions of the

Oklahoma Sunset Law, Section 3901 et seq. of Title 74 of the Oklahoma Statutes, to be composed of physicians, health service providers, consumers of health care, other health care professionals and persons involved in the education and training of emergency medical personnel. The Council shall consist of nineteen (19) persons, eight of whom shall be persons representing rural areas of this state and counties with populations under fifty thousand (50,000). Members of the Council shall be appointed as follows:

1. Six members shall be appointed by the Governor;
2. Five members shall be appointed by the Commissioner;
3. Four members shall be appointed by the Speaker of the House of Representatives; and
4. Four members shall be appointed by the President Pro Tempore of the Senate.

Two of the appointees of each appointing authority shall represent rural areas of this state and counties with populations under fifty thousand (50,000). Initially, three of the appointees of the Governor, two appointees of the Commissioner, and one appointee each of the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall be appointed for a term of one (1) year. The remaining appointees of the Council shall be appointed for a term of two (2) years. Thereafter, all appointees shall be appointed for a term of two (2) years. All appointees shall be eligible for reappointment, but in no case shall any appointee serve for more than six (6) years on the Council. The current members of the Council shall continue to serve as members of the Council until a majority of the appointments are made under this section and such current members shall be eligible for reappointment.

B. Persons on the Council shall at all times serve without compensation, but shall be reimbursed for their actual and necessary travel expenses from funds available for the operation of the Department and in accordance with the provisions of the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes. The Council shall advise the Commissioner or the Commissioner's designee on the following:

1. Training program specifications for emergency medical personnel, the types of medical care procedures which may be performed by emergency medical personnel, and qualifications for licensure and certification of emergency medical personnel;
2. Patient care equipment for ambulances, ambulance specifications, criteria and standards for the classification of emergency medical services rendered by providers, including communications and reporting requirements, and operational procedures for providers of ambulance services;
3. Design of the statewide communications system, including procedures for summoning and dispatching emergency medical service, including 911;
4. Projects, programs, and legislation needed to improve emergency medical services in the state; and
5. Such other matters and activities as directed by the Commissioner or the Commissioner's designee.

SECTION 3. AMENDATORY 63 O.S. 1991, Section 1-818.2, as amended by Section 14, Chapter 159, O.S.L. 1993 (63 O.S. Supp. 1993, Section 1-818.2), is amended to read as follows:

Section 1-818.2 As used in the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act, Section 1-818.1 et seq. of this title:

1. "Abuse" means any intentional abuse, neglect, and exploitation, as those terms are defined by the Protective Services for the Elderly and for Incapacitated Persons Act, Section 10-101 et

seq. of Title 43A of the Oklahoma Statutes, and any sexual assault inflicted on a resident of a group home;

2. "Access" means the right of a person to enter a group home to communicate privately and without unreasonable restriction;

3. "Administrator" means the person designated by the owner who has authority and responsibility for the programs and operation of a group home for developmentally disabled and physically handicapped adults;

4. "Advisory Board" means the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Advisory Board established by Section 1-818.4 of this title;

5. ~~"Board" means the State Board of Health;~~

~~6. "Commissioner" means the State Commissioner of Health;~~

~~7. "Commission" means the Commission for Human Services;~~

6. "Department" means the State Department of Health Human Services;

~~8. 7. "Developmental disability" means a severely chronic disability of a person which:~~

- a. is attributable to a physical or mental impairment or a combination of physical and mental impairments,
- b. is manifested before the person attains the age of twenty-two (22),
- c. is likely to continue indefinitely,
- d. results in substantial functional limitations in three or more of the following areas of major life activity:
 - (1) self-care,
 - (2) receptive and expressive language,
 - (3) learning,
 - (4) mobility,
 - (5) self-direction,
 - (6) capacity for independent living, or
 - (7) economic self-sufficiency, and
- e. reflects the person's need for a combination and sequence of special interdisciplinary or generic care, treatment or other services which are lifelong or of extended duration and are individually planned and coordinated;

8. "Director" means the Director of Human Services;

9. "Group home for developmentally disabled and physically handicapped adults" means any establishment or institution, other than a hotel, motel, fraternity or sorority house, college or university dormitory, for not more than twelve (12) residents who are eighteen (18) years of age or older and who are developmentally disabled or physically handicapped, and which offers or provides supervision, residential accommodations, food service, and training and skill development opportunities designed to lead to increased independence of the residents and supportive assistance to any of its residents requiring supportive assistance. Said residents shall not require intermediate care facility services;

10. "Habilitation" means procedures and interventions designed to assist a developmentally disabled individual achieve greater physical, mental and social development by enhancing the well-being of the person and teaching skills which increase the possibility that a resident of a group home will make progressively independent and responsible decisions about social behavior, quality of life, job satisfaction and personal relationships;

11. "Home" or "group home" means a group home for developmentally disabled and physically handicapped adults;

12. "Adult companion home" means any home or establishment, funded and certified by the Department of Human Services, which

provides homelike residential accommodations and supportive assistance to three or fewer mentally retarded or developmentally disabled adults;

13. "Licensee" means a person, corporation, partnership, or association who is the owner of a home which is licensed pursuant to the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act, Section 1-818.1 et seq. of this title;

14. "Neglect" means a failure to provide adequate personal care or maintenance, or access to medical care which results or may result in physical or mental injury to a resident;

15. "House manager" means the person who is not the administrator but who manages the group home;

16. "Owner" means a person, corporation, partnership, association, or other entity which owns a home or leases a home. The person or entity that stands to profit or lose as a result of the financial success or failure of the operation shall be presumed to be the owner of the home;

17. "Personal care" means assistance with meals, dressing, movement, bathing or other personal needs, or general supervision of the physical and mental well-being of a person, who is currently unable to maintain a private, independent residence, or who has limited abilities in the managing of his or her person, whether or not a guardian has been appointed for such person;

18. "Physically handicapped" means a condition which causes the restricted use of his or her extremities by an individual or affects other bodily functions of an individual and which require the specialized training, habilitation or rehabilitation services provided by a group home;

19. "Program certification" means certification by the Department that a group home meets and is in compliance with the rules ~~and regulations~~ adopted by the ~~Board~~ Commission as standards for the training, habilitation or rehabilitation of residents of a group home;

20. "Resident" means a person residing in a group home for developmentally disabled or physically handicapped persons due to a developmental disability or physical handicap;

21. "Representative of a resident" means a court-appointed guardian or conservator, or if there is no court-appointed guardian or conservator, an adult designated in writing by the resident to be his or her representative;

22. "Sexual assault" means rape, incest, lewd and indecent acts or proposals, as defined by law, by a person responsible for the resident's welfare and includes the allowing, permitting, or encouraging a resident to engage in prostitution or the lewd, obscene, or pornographic photographing, filming or depiction of a resident;

23. "Supervision" means the provision of on-site staffing in the group home or on the premises of the group home when residents are present who require on-site staffing, as determined by an assessment by a qualified professional;

24. "Supportive assistance" means the service rendered to any person which is sufficient to enable the person to meet an adequate level of daily living. Supportive assistance includes but is not limited to training, supervision, assistance in housekeeping, assistance in the preparation of meals, assistance in the safe storage, distribution and administration of medications, and assistance in personal care as necessary for the health and comfort of such person; and

25. "Transfer" means a change in location of living arrangements of a resident from one group home to another group home.

SECTION 4. AMENDATORY 63 O.S. 1991, Section 1-818.3, is amended to read as follows:

Section 1-818.3 A. The Department of Human Services shall have the power and duty to:

1. Enforce any provision and prosecute any violation of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act, Section 1-818.1 et seq. of this title; ~~and~~

2. Issue, renew, deny, modify, suspend, and revoke licenses for group homes pursuant to the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act; ~~and~~ provided, however, providers of group home services that have a current contract with the Developmental Disabilities Services Division shall be deemed to be in compliance with standards promulgated by the Commission for Human Services and as such shall be exempt from licensure by the Department;

3. Establish and enforce standards and requirements for licensure and program certification of group homes which are subject to the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act and require the submission of, and to review, reports from any person establishing or operating a group home; ~~and~~

4. Enter upon any public or private property for the purpose of inspecting and investigating conditions of the residents in the group home or for the purpose of inspecting and investigating the home for compliance with the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act, or the standards or requirements for licensure and program certification developed by the Department pursuant to the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act; ~~and~~

5. Employ or designate personnel to conduct investigations and inspections, to make reports of the condition of group homes and the residents of such homes, and to take necessary action pursuant to the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act to protect and safeguard the health, safety, and welfare of residents of homes; ~~and~~

6. Establish a procedure for receipt and investigation of complaints regarding a group home or concerning the condition, care, and treatment of a resident of a home; ~~and~~

7. Report to the district attorney having jurisdiction or the Attorney General any act committed by an owner, administrator, operator, or employee of a group home which may constitute a misdemeanor pursuant to the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act; ~~and~~

8. Advise, consult, and cooperate with other agencies of this state, the federal government, other states and interstate agencies, and with affected groups and political subdivisions to further the purposes of the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act; ~~and~~

9. Develop and enforce rules ~~and regulations~~ subject to the approval of the ~~Board~~ Commission to implement the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act. Such rules ~~and regulations~~ shall include but not be limited to governing temperature limits, lighting, ventilation, and other physical conditions which shall protect the health, safety, and welfare of the residents in a group home and program certification standards for training, habilitation and

rehabilitation appropriate for the condition and level of functioning of the residents of a group home; ~~and~~

10. Investigate, request or otherwise obtain the information necessary to determine the qualifications and background of an applicant for licensure; ~~and~~

11. Establish civil penalties for violations of the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act as authorized by the ~~Board~~ Commission pursuant to the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act; ~~and~~

12. Institute and maintain or intervene in any action or proceeding where deemed necessary by the Department to protect the health, safety, and welfare of any resident of a group home; ~~and~~

13. Transfer or discharge a resident or otherwise protect the health, safety, and welfare of any resident of a group home; and

14. Exercise all incidental powers as necessary and proper for the administration of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act.

B. To improve resident care, the Department shall hold a public meeting at least once every four (4) years in each of the licensed group homes to advise and to facilitate communication and cooperation between personnel of the home and the residents. Administrators, employees of the home, residents, friends and relatives of the residents, representatives of the residents, and employees from appropriate state and federal agencies shall be invited and encouraged to attend such meetings.

SECTION 5. AMENDATORY 63 O.S. 1991, Section 1-818.4, as amended by Section 1, Chapter 161, O.S.L. 1992 (63 O.S. Supp. 1993, Section 1-818.4), is amended to read as follows:

Section 1-818.4 A. There is hereby re-created to continue until July 1, 1998, in accordance with the provisions of the Oklahoma Sunset Law, Section 3901 et seq. of Title 74 of the Oklahoma Statutes, the Group Homes for Developmentally Disabled or Physically Handicapped Persons Advisory Board.

1. The Advisory Board shall be ~~a nine-member board and shall be composed~~ of nine (9) members as follows:

a. ~~eight members appointed by the Commissioner~~ Director of Human Services, one of whom shall be a representative of the Oklahoma Community Based Providers Association, one a representative of United Cerebral Palsy of Oklahoma, and one a representative of the State Council on Developmental Disabilities who is not a state employee, two shall be group home administrators having a minimum of two (2) ~~years~~ years of experience as a group home administrator, and three shall be consumers or consumer advocates, one of whom is the parent of a person having a developmental disability and one of whom is a physically handicapped person confined to a wheelchair. These appointed members shall serve a three-year term and may be reappointed;

b. one member shall be the State Fire Marshal, or ~~his~~ designee who shall serve at the pleasure of ~~his designator~~ the State Fire Marshal.

2. The Advisory Board shall annually elect a ~~chairman~~ chair, a ~~vice-chairman~~ vice-chair and a secretary and shall meet at least quarterly and at such other times as may be necessary. All meetings of the Advisory Board shall be subject to the provisions of the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes. Members of the Advisory Board shall not receive

compensation for their services but shall be reimbursed pursuant to the provisions of the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

3. The Department of ~~Health and the Department of~~ Human Services shall ~~each~~ appoint ~~a person~~ an employee to serve as a resource person and provide assistance to the Advisory Board.

B. The Advisory Board shall have the power and duty to:

1. Serve as an advisory body to the Department ~~and the Department of Human Services~~ for the development and improvement of services to and care and treatment of residents of group homes subject to the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act, Section 1-818.1 et seq. of this title; ~~and~~

2. Review, make recommendations regarding, and approve in its advisory capacity the system of standards developed by the Department; ~~and~~

3. Evaluate and review the standards, practices, and procedures of the Department regarding the administration and enforcement of the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act and the quality of services and care and treatment provided to residents of group homes and may make recommendations to the Department as necessary and appropriate; and

4. Serve as an advisory body to the Department ~~of Human Services~~ regarding the implementation of any nationally recognized accreditation standards, as they apply to community-based facilities and services adopted by the Commission for Human Services as standards for the provision of services to developmentally disabled or physically handicapped persons who receive services through the Department of Human Services.

C. The State Department ~~of Health~~ shall, ~~with regard to the meetings and duties of the Advisory Board which pertain to the Department,~~ provide clerical staff support to assist the Advisory Board and space for meetings. ~~The Department of Human Services shall, with regard to the meetings and duties of the Advisory Board as they pertain to the Department of Human Services, provide clerical assistance and space for meetings.~~

SECTION 6. AMENDATORY 63 O.S. 1991, Section 1-818.5, is amended to read as follows:

Section 1-818.5 It shall be the duty of the ~~Department of Human Services and the~~ Director of the Oklahoma State Bureau of Investigation to assist ~~the Commissioner~~ in carrying out the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act, Section 1-818.1 et seq. of this title, insofar as the Bureau's ~~functions of these respective offices and departments~~ are concerned with the health, welfare and safety of any person or persons cared for in group homes as defined herein.

SECTION 7. AMENDATORY 63 O.S. 1991, Section 1-818.7, is amended to read as follows:

Section 1-818.7 A. The operation or maintenance of a group home in violation of ~~this act~~ Section 1-818.1 et seq. of this title, or of the rules ~~and regulations~~ promulgated by the ~~Department~~ Commission for Human Services, is declared a public nuisance inimical to the public welfare. The ~~Commissioner~~ Director of Human Services, in the name of the people of the state, or through the Attorney General or the district attorney of the county in which the group home is located may, in addition to other remedies herein provided, bring action for an injunction to restrain such violation or to enjoin the future operation or maintenance of any such group home.

B. 1. Any person with personal knowledge or substantial specific information who believes that this act, a rule promulgated under the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act, Section 1-818.1 et seq. of this title, or a federal certification rule applying to a group home may have been violated may request an investigation. The request may be submitted to the Department of Human Services in writing, by telephone, or personally. An oral ~~complaint request~~ shall be reduced to writing by the Department. Provided that any person who willfully or recklessly makes a false request ~~or a report~~ without a reasonable basis in fact for such a request under the provisions of this act shall be liable in a civil suit for any actual damages suffered by a group home so requested to be investigated and for any punitive damages set by the court or jury which may be allowed in the discretion of the court or jury when deemed proper by the court or jury.

2. The substance of the complaint shall be provided to the licensee, owner or administrator no earlier than at the commencement of the on-site inspection of the facility which takes place pursuant to the complaint.

3. The ~~Department~~ Commission shall promulgate rules ~~and regulations~~ to protect the identity of the complainant, provided that said person is a present resident or resident's representative or a present employee.

4. Upon receipt of a complaint, the Department shall determine whether the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act, a rule promulgated under this act, or a federal certification rule for facilities has been or is being violated. A determination about a complaint which alleges a violation shall be made in writing, within thirty (30) days after the complaint's receipt. The determination shall state the reasons therefor.

5. In all cases, the Department shall inform the group home and the complainant, unless otherwise indicated by the complainant, of its findings within ten (10) days of its determination. The complainant may direct the Department to send a copy of such findings to one other person. The notice of such findings shall include a copy of the written determination, the correction order, if any, the warning notice, if any, and the state licensure of federal certification for, or both, on which the violation is listed.

6. A written determination, correction order or warning notice concerning a complaint shall be available for public inspection.

7. The Department shall issue a written determination signed by the ~~Commissioner~~ Director which shall serve as a final appealable order subject to trial de novo in the appropriate district court.

8. The ~~Department~~ Commission shall establish any additional rules ~~and regulations~~ necessary for the investigation and hearing of complaints as provided herein, and is authorized to employ hearing officers, and hire attorneys to represent the Department and ~~Commissioner~~ the Director to ensure that this and other laws pertaining to the Department are being properly executed.

SECTION 8. AMENDATORY 63 O.S. 1991, Section 1-818.10, is amended to read as follows:

Section 1-818.10 After notice and hearing pursuant to the provisions of Section ~~28~~ 1-818.28 of this ~~act~~ title, the Department of Human Services may:

1. Deny a license to an applicant who does not meet the requirements for licensure and program certification pursuant to the provisions of the Group Homes for the Developmentally Disabled or

Physically Handicapped Persons Act, Section 1-818.1 et seq. of this title; ~~or~~

2. Refuse to renew, suspend, or revoke a license to a licensee or group home which is not in compliance with the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act or with the standards, or rules, ~~or regulations~~ of the Board Commission for Human Services promulgated pursuant to the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act; ~~or~~

3. Deny, refuse to renew, suspend, or revoke a license to an applicant, licensee, or group home:

a. which has a history of noncompliance or incomplete or partial compliance with the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act or the standards, or rules, ~~or regulations~~ of promulgated by the Board issued Commission pursuant to the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act, or

b. based on other satisfactory evidence which demonstrates that the applicant or licensee is unlikely to manage or operate a group home or to provide care or treatment to the residents of a group home in a manner which warrants public trust; ~~or~~

4. Deny, refuse to renew, suspend, or revoke a license to an applicant or licensee who has insufficient financial or other resources to the extent that the applicant or licensee is incapable of assuring or providing adequate care or treatment to the residents of the group home; ~~or~~

5. Deny, refuse to renew, suspend, or revoke a license to an applicant or licensee who has been convicted of a misdemeanor or felony ~~or~~ in connection with the management or operation of a group home or a home or facility as defined in Section 1-1902 of Title 63 of the Oklahoma Statutes this title or the care or treatment of a resident of a group home or a home or facility as defined in Section 1-1902 of Title 63 of the Oklahoma Statutes this title. If the applicant or licensee is a corporation, the provisions of this paragraph shall apply to individual corporate officers and members of the board of directors of the corporation; ~~or~~

6. Deny, refuse to renew, suspend, or revoke a license if an administrator or house manager of a group home has been convicted of a misdemeanor or felony in connection with the management or operation of a group home or a home or facility as defined in Section 1-1902 of Title 63 of the Oklahoma Statutes this title or care or treatment of a resident of a group home or a home or facility as defined in Section 1-1902 of Title 63 of the Oklahoma Statutes this title; ~~or~~

7. Deny, refuse to renew, suspend, or revoke a license to an applicant or licensee who has permitted, aided, or abetted the commission of any illegal act in connection with the management or operation of a group home or the care or treatment of a resident of a group home; ~~or~~

8. Refuse to renew a license if at the time application is made for the renewal of the license, the licensee or home is subject to a plan of correction. Said license may be renewed at such time the required corrections are completed in the manner and time specified in the plan of corrections; or

9. Revoke a license if the licensee has failed to correct conditions as required in a plan of corrections pursuant to the provisions of Section ~~30~~ 1-818.30 of this ~~act~~ title.

SECTION 9. AMENDATORY 63 O.S. 1991, Section 1-818.11, is amended to read as follows:

Section 1-818.11 A. The Department of Human Services shall develop minimum standards for group homes. These standards shall be promulgated by the ~~Board~~ Commission for Human Services and submitted to the Legislature no later than January of each year. These standards shall regulate:

1. Location and construction of the home, including plumbing, heating, lighting, ventilation, and other physical conditions which shall ensure the health, safety, and comfort of residents and protection from fire hazards; ~~and~~

2. All sanitary conditions within the group home and its surroundings, including water supply, sewage disposal, food handling, and general hygiene, which shall ensure the health and comfort of residents; ~~and~~

3. Diet related to the needs of each resident based on sound nutritional practice and on recommendations which may be made by the physicians attending the resident; and

4. Equipment essential to the health and welfare of the residents.

B. The Department may, as necessary and appropriate, establish a system of classification for group homes based upon the level of care or treatment, training, habilitation or rehabilitation services required by residents of the group home and establish minimum program certification standards for each classification.

~~C. The Department Commission shall adopt rules and regulations establishing minimum standards for the program certification of the programs and services of a group home provided to or obtained on behalf of the residents for the specialized care, treatment, training, habilitation or rehabilitation of the residents. The Department may, as necessary and appropriate, establish a system of classification for group homes based upon the level of care or treatment, training, habilitation or rehabilitation services required by residents of the group home and establish minimum program certification standards for each classification. The program certification standards established by the Department shall provide for:~~

1. Number and qualifications of all personnel, including management and supervisory, direct care, specialized professional or para-professional and other personnel, having responsibility for any part of the care given to residents. The Department shall establish staffing requirements for homes which shall specify the number of staff hours of care per resident of care, and the requirements for continued education and training ~~requirements that are needed for related to~~ care for various types of group homes or areas within group homes;

2. An individualized written plan for the training, habilitation or rehabilitation for each resident of the group home specifying the training, habilitation or rehabilitation objectives and activities for the resident. The plan shall be prepared by a team of professional, para-professional and direct care personnel of the group home and, to the maximum extent possible, with the participation of the resident and the resident's representative;

3. Training for the safe administration of medication to a resident;

4. Accountability for the management and safekeeping of any resident's funds which the group home manages; and

5. Conditions and procedures for the involuntary transfer or discharge of a resident from a facility.

~~C. D.~~ 1. The certification standards for program certification programs and services shall be ~~comparable to the standards established by the Department of Human Services for eligibility for a group home to enter into a contract or agreement with the Department of Human Services to provide care and treatment and other services to a developmentally disabled or physically handicapped person and shall be~~ developed jointly by the Department, ~~the Department of Human Services~~ and the Advisory Board for presentation to the ~~Board~~ Commission for Human Services for its approval. The standards shall be reviewed at least annually for any necessary modifications by the Department, ~~the Department of Human Services~~ and the Advisory Board, and any necessary modifications shall be presented to the ~~Board~~ Commission for its approval;

2. Any group home having a current valid contract with the Department of Human Services for the care, treatment and training, habilitation or rehabilitation of developmentally disabled or physically handicapped persons shall be deemed to meet the program certification standards adopted by the ~~Board~~ Commission.

SECTION 10. AMENDATORY 63 O.S. 1991, Section 1-818.14, is amended to read as follows:

Section 1-818.14 A. An application for a license, or renewal thereof, to establish or operate a group home shall be accompanied by a fee of Twenty-five Dollars (\$25.00). Said fee shall not be refunded. Except as provided for in Section ~~1-818.16~~ 1-818.16 of this ~~act~~ title, a license shall expire twelve (12) months from the date of issuance, unless sooner revoked, and may be renewed annually by the Department of Human Services pursuant to the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act, Section 1-818.1 et seq. of this title. All licenses shall be on a form prescribed by the ~~Commissioner~~ Director of Human Services, and shall include but not be limited to the maximum bed capacity for which the license is granted, the kind of program the licensee is certified to operate, the date the license was issued, and the expiration date of the license. The provisions of the license shall require that the license shall:

1. Not be transferable or assignable except as authorized by the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act; ~~and~~

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

3. Be issued only for the premises named in the application, and may be renewed for twelve-month periods upon application, inspection, and payment of the license fee, as required by the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act.

B. An application shall be under oath and shall contain the following information:

1. The name and address of the owner of the group home. If the owner is a firm or partnership, the name and address of each member thereof shall be included in the application. If the owner is a corporation, the name and address of the corporation and the name and address of each officer and registered agent of the corporation shall be included in the application; ~~and~~

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

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

4. The name of the administrator of the home; ~~and~~

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

6. A description of the program and the staffing pattern for providing resident care. In the case of an application for an initial license, such description may be shown as the projected program and staffing pattern; and

7. Information or records required by the Department pursuant to the rules ~~and regulations~~ adopted by the ~~Board~~ Commission for Human Services for program certification.

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

D. 1. An applicant shall be twenty-one (21) years of age or older and of reputable and responsible character. In addition, the applicant shall have appropriate business or professional experience.

2. No person who has been convicted of a felony in connection with the management or operation of a home or facility as defined in Section 1-1902 of ~~Title 63 of the Oklahoma Statutes~~ this title, or in the care and treatment of the residents of a group home pursuant to the provisions of Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act, or a home or facility as defined in Section 1-1902 of ~~Title 63 of the Oklahoma Statutes~~ this title shall be eligible to be licensed. If the applicant is a firm, partnership, or corporation, the applicant shall not be eligible to be licensed if any member of the firm or partnership or any officer or major stockholder of the corporation has been convicted of a felony in connection with the operation or management of a group home pursuant to the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act or a home or facility as defined in Section 1-1902 of ~~Title 63 of the Oklahoma Statutes~~ this title or the care and treatment of the residents of a home or facility as defined in Section 1-1902 of ~~Title 63 of the Oklahoma Statutes~~ this title.

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

- a. The name, address, telephone number, occupation or business activity, business address, and business telephone number of the owner of the group home and of every person who owns the building in which the group home is located. If the owner is a partnership or corporation, the name and address of each partner and stockholder with an ownership interest of five percent (5%) or more shall be included in the statement; and
- b. The name and address of any other group home in which the owner has a full or partial financial interest or, if the owner is a partnership or corporation, any other group home or home or facility as defined in Section 1-1902 of ~~Title 63 of the Oklahoma Statutes~~ this title in which the partnership or corporation has a full or partial financial interest. The statement shall indicate whether or not any other group home wherein a full or partial financial interest is held would, if located in this state, be required to be licensed.

2. The applicant shall agree in writing, prior to the issuance of a license, to notify the Department if there is any change in the information required to be included in the statement of ownership within six (6) months of such change. The information contained in

the statement of ownership shall be public information and shall be available upon request from the Department.

F. Upon application of a licensee, a license may be modified in accordance with the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act. Such application for modification of a license shall be accompanied by a fee of Twenty Dollars (\$20.00) and shall be submitted in such form and manner as required by the Department.

G. Upon payment of the required application fees, the ~~Commissioner~~ Director shall issue and renew licenses for group homes which comply with the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act and the standards and rules ~~and regulations of the Board~~ promulgated by the Commission pursuant to the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act.

SECTION 11. AMENDATORY 63 O.S. 1991, Section 1-818.17, is amended to read as follows:

Section 1-818.17 A. The Department of Human Services may issue a conditional license to any group home if the Department finds that a violation exists in such group home. The issuance of a conditional license shall revoke any license held by the group home.

B. 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 deficiencies. Retention of the license shall be conditional on meeting the requirements of the plan of correction. In the alternative or in addition to a conditional license, the ~~Commissioner~~ Director of Human Services may ~~direct the Department of Human Services to~~ withhold vendor payments due to a group home under its programs until such time as the corrections are made or a plan of correction for all deficiencies is approved by the Department.

C. Written notice of the decision to issue a conditional license shall be sent to the group home together with the proposed plan of correction. The notice shall inform the group home of its right to an informal conference prior to issuance of the conditional license and its right to a full hearing.

D. If the group home desires to have an informal conference it shall, within four (4) working days of receipt of notice, send a written request for an informal conference to the Department. The Department shall, within four (4) working days from the receipt of the request, hold an informal conference. Following the conference, the Department may affirm or overrule its previous decision, or modify the terms of the conditional license and plan of correction. The conditional license may be issued after the informal conference or after the time for requesting an informal conference has expired, prior to any further hearing.

E. If after the informal conference the group home desires to contest the basis for issuance of a conditional license, or the terms of the license or plan of correction, the facility shall send a written request for hearing to the Department within ten (10) days after issuance of the conditional license and the Department shall then hold the hearing.

F. A conditional license shall be issued for a period specified by the Department, but in no event for more than one (1) year. The Department shall periodically, but not less than semiannually, inspect any group home operating under a conditional license. If the Department finds substantial failure by the group home to follow the plan of correction, the conditional license may be revoked.

G. 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 so 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.

SECTION 12. AMENDATORY 63 O.S. 1991, Section 1-818.20, is amended to read as follows:

Section 1-818.20 A. All principles enunciated in this section shall be posted in a conspicuous, easily accessible place in each group home and each resident and resident's representative, if any, shall be provided a copy of these principles prior to or upon admission. The group home shall ensure that its staff is familiar with and observes the rights and responsibilities enumerated in this section.

B. A statement of rights and responsibilities shall include, but not be limited to, the following:

1. Every resident's civil and religious liberties, including the right to independent personal decisions and knowledge of available choices, shall not be infringed and the group home shall encourage and assist in the exercise of these rights;

2. Every resident shall have the right to have private communications and consultations with the physician, attorney or any other person of ~~his~~ the resident's choice, and may send and promptly receive, unopened, ~~his~~ the resident's personal mail;

3. Every resident shall have the right, without fear of reprisal, to present grievances on behalf of ~~himself~~ the resident or others to the group home's staff or administrator, to governmental officials or to any other person and to join with other residents or individuals within or outside of the facility to work for improvements in resident care;

4. Every resident shall have the right to manage his or her own financial affairs, unless the resident or ~~his~~ a representative, if any, delegates the responsibility, in writing to the group home pursuant to the program certification requirements as provided in Section ~~11~~ 1-818.11 of this ~~act~~ title. The resident and ~~his~~ a representative, if any, shall have at least a quarterly accounting of any personal financial transactions undertaken in ~~his~~ the resident's behalf by the group home during any period of time such responsibilities have been delegated to the group home;

5. Every resident shall have the right to receive adequate and appropriate medical care consistent with established and recognized medical practice standards within the community. Every resident shall be fully informed by ~~his~~ the attending physician of ~~his~~ the resident's own medical condition and proposed treatment in terms and language that the resident can understand, unless medically contraindicated, and to refuse medication and treatment after being fully informed of and understanding the consequences of such actions;

6. Every resident shall receive respect and privacy in ~~his~~ the resident's medical care program. Case discussion, consultation, examination and treatment shall remain confidential and shall be conducted discreetly. Personal and medical records shall be confidential;

7. Every resident shall have the right to retain and use his or her personal clothing and possessions, unless medically contraindicated, and shall have the right to security in the storage and use of such clothing and possessions;

8. Every resident shall have the right to receive courteous and respectful care and treatment and a written statement of the

services provided by the group home, including those required to be offered on an as-needed basis, and a statement of related charges, including any costs for services not covered under medicare or medicaid, or not covered by the group home's basic per diem rate;

9. Every resident shall be free from mental and physical abuse, and from physical and chemical restraints as provided by the program certification standards;

10. Every resident shall receive a statement of the facility's regulations and an explanation of the resident's responsibility to obey all reasonable regulations of the facility and to respect the personal rights and private property of the other residents;

11. No resident shall be required to perform services for a group home. Regular participation in shared household tasks shall not be construed to mean "services for a group home" when said tasks are included as part of a training, habilitation or rehabilitation plan for the resident pursuant to the program certification requirements for the group home and are performed as a part of normal shared household tasks;

12. Every resident shall have privacy for spousal visits. Every resident may share a room with their spouse, if the spouse is residing in the same group home; and

13. When a physician indicates it is appropriate, a group home shall immediately notify the resident's next of kin, or representative of the resident's death or when the resident's death appears to be imminent.

C. No licensed facility shall deny appropriate care on the basis of the resident's source of payment as defined in the regulations.

D. Each group home shall prepare a written plan and provide appropriate staff training to implement each resident's rights as stated in this section.

E. Any person convicted of violating any provision of this section shall be guilty of a misdemeanor, punishable by a fine of not less than One Hundred Dollars (\$100.00) nor more than Three Hundred Dollars (\$300.00) or imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

F. In addition to the penalties provided in this section, an action may be brought against an individual by any resident who is injured by any violation of this section, or who shall suffer injury from any person whose threats would cause a violation of this section if carried through, may maintain an action to prevent, restrain or enjoin a violation or threatened violation. If a violation or threatened violation of this section shall be established in any action, the court shall enjoin and restrain or otherwise prohibit the violation or threatened violation and assess in favor of the plaintiff and against the defendant the cost of the suit, and the reasonable attorney fees incurred by the plaintiff. If damages are alleged and proved in the action, the plaintiff shall be entitled to recover from the defendant the actual damages sustained by the plaintiff. If it is proved in an action that the defendant's conduct was willful or in reckless disregard of the rights provided by this section, punitive damages may be assessed.

G. Any employee of a state agency that inspects any group home shall report any flagrant violations of this act or any other statute to the administrative head of the state agency, who shall immediately take whatever steps are necessary to correct the situation including, when appropriate, reporting the violation to the district attorney of the county in which the violation occurred.

H. Upon the death of a resident who has no sources of payment for funeral services, the group home shall immediately notify

appropriate county officials who shall be responsible for funeral and burial procedures of the deceased in the same manner as with any indigent resident of the county, ~~unless the resident is a client of the Department of Human Services. If.~~ However, if the resident is a client of the Department of Human Services, the Department of Human Services shall be responsible for the burial of the resident as provided by law.

SECTION 13. AMENDATORY 63 O.S. 1991, Section 1-818.21, is amended to read as follows:

Section 1-818.21 A. Each group home shall establish a residents' advisory council. The administrator shall designate a member of the group home staff to coordinate the establishment of, and render assistance to, said council.

B. The composition of the residents' advisory council shall be specified by Department ~~regulation of Human Services rule,~~ but no employee of the Department or ~~the Department of Human Services or~~ employee or affiliate of a group home shall be a member of any such council.

C. The residents' advisory council shall meet at least once each month with the staff coordinator who shall provide assistance to said council in preparing and disseminating a report of each meeting as specified by the regulations to all residents, the administrator, and the staff.

D. Records of the residents' advisory council meetings shall be maintained in the office of the administrator.

E. The residents' advisory council shall communicate to the administrator the opinions and concerns of the residents. The council shall review procedures for implementing residents' rights, group home responsibilities and make recommendations for changes or additions which will strengthen the group home's policies and procedures as they affect residents' rights and group home responsibilities.

F. The residents' advisory council shall be a forum for:

1. Obtaining and disseminating information;
2. Soliciting and adopting recommendations for group home ~~programming programming~~ and improvements; and
3. Early identification and recommendation of orderly resolution of problems.

G. The residents' advisory council may present complaints as provided in Section ~~13~~ 1-818.13 of this title on behalf of a resident to the Department.

SECTION 14. AMENDATORY 63 O.S. 1991, Section 1-818.25, is amended to read as follows:

Section 1-818.25 A group home shall not involuntarily transfer or discharge a resident except for medical reasons, for the resident's safety or for the safety of other residents, for violations of the contract between the resident and the group home or for nonpayment for the resident's stay, unless limited by the Federal Social Security Act, 42 U.S.C., Section 301 et seq. Involuntary transfer or discharge of a resident for violations of the contract shall be subject to the conditions and procedures established by the rules ~~and regulations~~ adopted by the ~~Board~~ Commission for Human Services for program certification. Involuntary transfer or discharge of a resident from a group home shall be preceded by a minimum written notice of ten (10) days. The ten-day requirement shall not apply in any of the following instances:

1. When an emergency transfer or discharge is mandated by the resident's health care needs and is in accordance with the written orders and medical justification of the attending physician; or

2. When the transfer or discharge is necessary for the physical safety of other residents as documented in the clinical record.

SECTION 15. AMENDATORY 63 O.S. 1991, Section 1-818.27, is amended to read as follows:

Section 1-818.27 A. Every group home for which a license has been issued shall be periodically inspected by a duly appointed representative of the Department of Human Services pursuant to rules ~~and regulations~~ adopted by the Board Commission for Human Services with the advice and counsel of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Advisory Board established by Section 4 1-818.4 of this ~~act~~ title. Inspection reports shall be prepared on forms prescribed by the Department with the advice and counsel of the Advisory Board.

B. The Department shall at least three times a year and whenever it deems necessary inspect, survey, and evaluate each group home to determine compliance with applicable licensure and program certification requirements and standards.

1. An inspection shall occur within one hundred twenty (120) days prior to license renewal.

2. Any inspection, investigation, survey, or evaluation may be conducted without prior notice to the home. At least one inspection per group home shall be unannounced. Any licensee or applicant for a license shall be deemed to have given consent to any duly authorized employee or agent of the Department to enter and inspect the group home in accordance with the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act, Section 1-818.1 et seq. of this title. Refusal to permit such entry or inspection may constitute grounds for the denial, nonrenewal, suspension, or revocation of a license.

C. The Department shall maintain a log, updated at least monthly and available for public inspection, which shall at a minimum detail:

1. The name of the group home and date of inspection, investigation, survey, or evaluation; ~~and~~

2. Any deficiencies, lack of compliance, or violation noted at the inspection, investigation, survey, or evaluation; ~~and~~

3. The date a notice of violation, license denial, nonrenewal, suspension, or revocation was issued or other enforcement action occurred; ~~and~~

4. The date a plan of correction was submitted and the date said plan was approved; ~~and~~

5. The date corrections were completed, as verified by an inspection; and

6. If the inspection or investigation was made pursuant to the receipt of a complaint, the date such complaint was received and the date the complainant and the group home was notified of the results of the inspection or investigation.

D. The Department shall require periodic reports and shall have access to books, records and other documents maintained by the group home to the extent necessary to implement the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act and the rules promulgated by the Board Commission for Human Services pursuant to the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act.

E. A state or local ombudsman, ~~as that term is defined by the Department of Human Services~~, or a representative of the Office of Client Advocacy ~~of the Department of Human Services and~~, or a case manager ~~employed by the Department of Human Services and~~ assigned monitoring responsibilities for ~~Department of Human Services~~ clients

residing in group homes is authorized to accompany and shall be notified ~~by the Department~~ of any survey or inspection conducted of any group home licensed pursuant to the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act. Any state or local ombudsman having proper identification is authorized to enter any group home licensed pursuant to the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act, communicate privately and without unreasonable restriction with any resident of a group home who consents to such communication, to seek consent to communicate privately and without restriction with any resident of a group home, and to observe all areas of a group home that directly pertain to the care of a resident of a group home.

F. Following any survey or inspection ~~by the Department,~~ pursuant to the provisions of this section, all reports relating to the survey or inspection shall be filed in the county office of the Department of Human Services in which the group home is located and with the ~~state office of the Developmental Disabilities Services Division of Services to the Mentally Retarded and Developmentally Disabled of~~ the Department of Human Services.

G. All state agencies receiving complaints on, or conducting surveys or inspections of group homes shall forward complete copies of complaints or ~~of~~ inspection or survey results to the Office of Client Advocacy of the Department of Human Services.

SECTION 16. AMENDATORY 63 O.S. 1991, Section 1-818.29, is amended to read as follows:

Section 1-818.29 A. If a hearing is not requested, the effective date of the nonrenewal, suspension, or revocation shall be as follows:

1. In cases of nonrenewal of a license the effective date shall be the expiration date of the license. Said date may be extended no longer than necessary to permit the orderly removal of the residents; or

2. In cases of revocation or suspension of the license the effective date shall be the date set by the Department in the notice of revocation. Said date shall be no later than necessary to permit the orderly removal of the residents.

B. If a hearing is requested, unless otherwise ordered by a district court, the effective date of the nonrenewal, suspension, or revocation of a license shall be set upon final action after the hearing and shall be no later than necessary to permit the orderly removal of the residents.

C. A new application of the applicant or licensee whose license was denied, not renewed, suspended, or revoked may be considered upon receipt of satisfactory evidence that the conditions upon which such denial, nonrenewal, suspension, or revocation was based have been corrected. A new license may be granted after a full and complete inspection or investigation and the applicant or licensee and the home are in full compliance with the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act, Section 1-818.1 et seq. of this title, and the ~~standards, and rules, and regulations~~ promulgated by the ~~Board~~ Commission for Human Services pursuant to the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act.

SECTION 17. AMENDATORY 63 O.S. 1991, Section 1-818.35, is amended to read as follows:

Section 1-818.35 A. Where a resident, a resident's representative or a resident's next of kin believes that an emergency exists, each of them, collectively or separately, may file

a verified statement with the ~~Commissioner~~ Director of Human Services who shall immediately investigate. If the ~~Commissioner~~ Director determines that proper cause exists, ~~he~~ said Director shall take whatever steps are necessary to protect the health, welfare and safety of the residents including, if necessary, petitioning the court to place the group home under the control of a receiver to ensure that the residents receive adequate care.

B. The court shall hold a hearing within five (5) days of the filing of the petition. The petition and notice of the hearing shall be served on the owner, administrator or designated agent of the group home and the petition and notice of hearing shall be posted in a conspicuous place in the facility not later than three (3) days before the time specified for the hearing, unless a different time limit is fixed by order of the court. The court shall appoint a receiver for a limited time period, not to exceed one hundred eighty (180) days, which shall automatically terminate the receivership unless extended by the court, if it finds that:

1. The group home is operating without a license;
2. The Department has suspended, revoked or refused to renew the existing license of the group home;
3. The group home is closing or has informed the Department that it intends to close and adequate arrangements for relocation of residents have not been made at least thirty (30) days prior to closure;
4. An emergency exists, whether or not the Department has initiated revocation or nonrenewal procedures, if because of the unwillingness or inability of the licensee to remedy the emergency, the appointment of a receiver is necessary; or
5. It is necessary to ensure that the residents get adequate care in a situation in which the residents' health, welfare and safety are threatened.

C. If a petition filed under this section alleges that the conditions listed in subsection B of this section exist within a group home, the court may set the matter for hearing at the earliest possible time. The petitioner shall notify the licensee, administrator of the group home or registered agent of the licensee more than five (5) days prior to the hearing. Any form of written notice may be used. A receivership shall not be established ex parte by the court unless the ~~Commissioner~~ Director of Human Services, under oath, has provided a statement that ~~he~~ said Director has personally determined that there is a life endangering situation. A waiver of the five-day notice requirement may be approved by the court in life endangering situations as determined and confirmed under oath, by the ~~Commissioner~~ Director.

SECTION 18. This act shall become effective September 1, 1994.

Passed the House of Representatives the 11th day of May, 1994.

Speaker of the House of
Representatives

Passed the Senate the 19th day of May, 1994.

President of the Senate