

ENGROSSED HOUSE
BILL NO. 1293

By: Fields of the House
and
Cain of the Senate

An Act relating to public health and safety; amending 63 O.S. 1991, Section 1-1923, as amended by Section 1, Chapter 109, O.S.L. 1992 (63 O.S. Supp. 1994, Section 1-1923), which relates to the Long-Term Care Facility Advisory Board; adding to powers and duties; requiring certain accounting; requiring certain conditions of licensure; authorizing certain inspections; providing for "representatives of the resident" individuals; providing for duties; providing for consent and resignation; prohibiting certain actions; providing for duties of certain owners and operators; providing for notifications; making certain guardians "volunteer representatives of the resident"; 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 1-1923, as amended by Section 1, Chapter 109, O.S.L. 1992 (63 O.S. Supp. 1994, Section 1-1923), is amended to read as follows:

Section 1-1923. 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,~~ a Long-Term Care Facility Advisory Board which shall be composed as follows:

The Governor shall appoint a twenty-three-member Long-Term Care Facility Advisory Board which shall advise the Commissioner of Health. The Advisory Board shall be comprised of the following persons: One representative from the Office of the State Fire Marshal, designated by the Fire Marshal; one representative from the State Department of Health, designated by the Commissioner; one representative from the Department of Mental Health and Substance Abuse Services, designated by the Director; one representative from the Department of Human Services, designated by the Director; one member who shall be a licensed general practitioner of the medical profession; one member who shall be a general practitioner of the osteopathic profession; one member who shall be a registered pharmacist; one member who shall be a licensed registered nurse; one member who shall be a licensed practical nurse; three members who shall be of reputable and responsible character and sound physical and mental health and shall be operator-administrators of nursing homes which have current licenses issued pursuant to the Nursing Home Care Act, ~~Section 1-1901 et seq. of this title~~ and shall have had five (5) years' experience in the nursing home profession as operator-administrators; three members who shall be residential care home operator-administrators licensed pursuant to the provisions of the Residential Care Act, ~~Section 1-820 et seq. of this title,~~ three members who shall be adult day care facility owner-operators licensed pursuant to the provisions of the Adult Day Care Act, ~~Section 1-871 et seq. of this title;~~ and five members who shall be over the age of sixty-five (65) who shall represent the general public.

1. The designated representative from the Office of the State Fire Marshal, the designated representative from the Department of Mental Health and Substance Abuse Services, the designated

representative from the Department of Human Services, and the designated representative from the State Health Department shall serve at the pleasure of their designator. The initial appointments of the Governor shall be for the following terms: The initial term of the member of the medical profession shall be for a three-year term; the initial term of the member of the osteopathic profession shall be for a three-year term; the initial term of the registered pharmacist shall be for a two-year term; the initial term of the licensed registered nurse shall be for a two-year term; the initial term of the licensed practical nurse shall be for a one-year term; of the initial terms for the nine members who are licensed operator-administrators for facilities pursuant to the Nursing Home Care Act, residential care homes pursuant to the Residential Care Act and adult day care facilities pursuant to the Adult Day Care Act, three shall be for one-year terms, three shall be for two-year terms, and three shall be for three-year terms; representatives for each of the terms shall include one individual representing facilities subject to the provisions of the Nursing Home Care Act, one individual representing residential care homes subject to the Residential Care Act and one individual representing facilities subject to the provisions of the Adult Day Care Act; and the initial terms for the five members of the general public over the age of sixty-five (65) shall be for one-, two-, three-, four- and five-year terms respectively.

2. After the initial designations or appointments, the designated representative from the Office of the State Fire Marshal, the designated representative of the Oklahoma State Health Department, the designated representative of the Department of Human Services and the designated representative of the Department of Mental Health and Substance Abuse Services shall serve at the pleasure of their designator. All other terms shall be for a

three-year period. In case of a vacancy, the Governor shall appoint individuals to fill the rest of the term.

3. The State Department of Health shall provide a clerical staff worker to perform designated duties of the Advisory Board. Also, the Department shall provide space for meetings of the Advisory Board.

B. The Advisory Board shall annually elect a chairman, vice-chairman, and secretary-treasurer, shall meet at least quarterly, and may hold such special meetings as may be necessary. The members of the Advisory Board shall be reimbursed as provided for by the State Travel Reimbursement Act, ~~Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.~~

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

1. Serve as an advisory body to the Department for the development and improvement of services to and care and treatment of residents of facilities subject to the provisions of the Nursing Home Care Act, homes subject to the provisions of the Residential Care Act and facilities subject to the provisions of the Adult Day Care Act; 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 Nursing Home Care Act, the Residential Care Act and the Adult Day Care Act, and the quality of services and care and treatment provided to residents of facilities and residential care homes and participants in adult day care centers. The Board may make recommendations to the Department as necessary and appropriate; and

4. Evaluate and review financial accountability standards, policies and practices of residential care facilities regarding

residents' funds that the facility is the payee of and expenditures made on behalf of the resident by the facility to ensure that such funds are managed appropriately and for the residents' best interests; and

5. Publish and distribute an annual report of its activities and any recommendations for the improvement of services and care and treatment to residents of facilities and residential care homes and participants in adult day care centers on or before January 1 of each year to the Governor, the Commissioner, the Board, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the chief administrative officer of each agency affected by the report.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-842 of Title 63, unless there is created a duplication in numbering, reads as follows:

The Department shall require as a condition of licensure that an accounting be made of financial records of each client that the facility is the payee of in each residential facility. Such records may be inspected by any employee of the Department during any regular inspection or at any time a complaint is received by the Department regarding a client's finances.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-843 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Any contract or application for admission to a residential care facility shall include provisions for the applicant to designate an individual to be the "volunteer representative of the resident". Such representative shall have a fiduciary duty to the resident to act at all times in the resident's best interest. Any resident of a residential care facility may change his or her designation of a representative at any time and for any reason. No such designated representative shall be required to serve in the

capacity as representative if such person objects to serving, and may resign as representative upon written notice to the resident and facility.

B. Upon admission or the signing of the contract for admission to a residential care facility or any modifications thereto, the person designated as the representative of the resident shall be notified of such admission, contract or modification thereof.

C. No owner, administrator, employee or person with a pecuniary interest in the residential care facility, or relative thereof, shall be eligible to serve as the representative of the resident.

D. If a resident is subject to a special, limited or full guardianship pursuant to proceedings held pursuant to the Oklahoma Guardianship and Conservatorship Act or the Protective Services for the Elderly and for Incapacitated Adults Act, the representative of the resident shall be the court-appointed guardian.

SECTION 4. This act shall become effective November 1, 1995.

Passed the House of Representatives the 7th day of March, 1995.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1995.

President of the Senate