

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

HOUSE BILL NO. 2391

By: Seikel

AS INTRODUCED

An Act relating to public health and safety; amending 63 O.S. 1991, Sections 1-872, 1-873 and 1-878, which relate to the Adult Day Care Act; modifying definitions; classifying certain codes; reducing certain administrative penalties; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 1991, Section 1-872, is amended to read as follows:

Section 1-872. As used in ~~this act~~ the Adult Day Care Act:

1. "Adult day care center" or "center" means a facility ~~except for retirement centers and senior citizens centers,~~ which provides basic day care services to four or more unrelated impaired adults for more than four (4) hours in a twenty-four-hour period. A center shall be a distinct entity, either freestanding or a separate program of a larger organization. A ~~licensed~~ center shall have a separately verifiable staff, space, budget and participant record system. The terms "adult day care center" or "center" shall not include retirement centers and senior citizen centers;

2. "Basic day care services" means supervised health, social supportive, and recreational services in a structured daytime

program which serves functionally impaired adults ~~who cannot take care of themselves~~ who continue to live in their own homes, usually with the aid of family care givers;

3. "Department" means the State Department of Health; and

4. "Participant" means any person attending an adult day care center.

SECTION 2. AMENDATORY 63 O.S. 1991, Section 1-873, is amended to read as follows:

Section 1-873. A. The State Department of Health, with the advice of the Long-Term Care Facility Advisory Board, created pursuant to Section 1-1923 of Title 63 of the Oklahoma Statutes, shall define minimum licensure requirements and regulations including standards for:

1. Health and social services which may be provided to participants;

2. The range of services to be provided by a center based on the type of participants to be served;

3. Staff to participant ratios;

4. Staff and volunteer qualifications;

5. Staff training;

6. Food services;

7. Participant records and care plans;

8. Antidiscrimination policies;

9. Sanitary and fire standards; and

10. Any other requirements necessary to ensure the safety and well-being of frail elderly and disabled adults.

B. Centers to be licensed shall include all adult day care centers, with the exception of sheltered workshops and senior recreational centers which do not receive participant fees for services. It shall be unlawful to operate a center without first obtaining a license for such operation as required by the Adult Day Care Act, regardless of other licenses held by the operator.

Organizations operating more than one center shall obtain a license for each site.

C. The license for operation of a center shall be issued by the Department, and shall be subject to annual renewal. A The current license issued pursuant to the provisions of the Adult Day Care Act shall be posted in a prominent place at the center.

D. A center ~~must~~ shall meet the safety, sanitation and food service standards of the State Department of Health, ~~and local health, fire and building codes.~~

E. Local health, fire and building codes relating to adult day care centers shall be classified as an education use group.

SECTION 3. AMENDATORY 63 O.S. 1991, Section 1-878, is amended to read as follows:

Section 1-878. A. It shall be unlawful to operate an adult day care center, without possessing a current, valid license issued pursuant to the Adult Day Care Act. It shall be unlawful for any holder of a license issued pursuant to the Adult Day Care Act to advertise or hold out to the public that it holds a license for a center other than that for which it actually holds a license.

B. Any person who has been determined by the Department to have violated any provision of the Adult Day Care Act or any rule, ~~regulation,~~ or order issued pursuant thereto may be liable for an administrative penalty of not more than ~~Five Hundred Dollars (\$500.00)~~ Fifty Dollars (\$50.00) for each day that said violation continues.

C. The amount of the penalty shall be assessed by the Department pursuant to the provisions of subsection B of this section, after notice and hearing. In determining the amount of the penalty, the Department shall include but not be limited to consideration of the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, the effect on ability of

the person to continue to do business, and any show of good faith in attempting to achieve compliance with the provisions of the Adult Day Care Act.

D. Any license holder may elect to surrender his license in lieu of said fine but shall be forever barred from obtaining a reissuance of said license.

E. Any person who violates any of the provisions of the Adult Day Care Act, upon conviction thereof, shall be guilty of a misdemeanor. Each day upon which such violation occurs shall constitute a separate violation.

F. 1. The Attorney General or the district attorney of the appropriate district court of Oklahoma may bring an action in a court of competent jurisdiction for the prosecution of a violation by any person of a provision of the Adult Day Care Act or any rule ~~regulation~~, or order issued pursuant thereto.

2. Enforcement of any action for equitable relief to redress or restrain a violation by any person of a provision of the Adult Day Care Act or for an injunction or recovery of any administrative or civil penalty assessed pursuant to the Adult Day Care Act may be brought by:

- a. the district attorney of the appropriate district court of the State of Oklahoma;
- b. the Attorney General on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma; or
- c. the Department on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma, or as otherwise authorized by law.

3. The court has jurisdiction to determine said action, and to grant the necessary or appropriate relief, including but not limited to mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

SECTION 4. This act shall become effective November 1, 1996.

45-2-8603

KSM