

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

HOUSE BILL NO. 2438

By: Eddins

AS INTRODUCED

An Act relating to public health and safety; amending 63 O.S. 1991, Section 1-1902, as last amended by Section 8, Chapter 230, O.S.L. 1995 (63 O.S. Supp. 1995, Section 1-1902), which relates to the Nursing Home Care Act; modifying and adding terms; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 1991, Section 1-1902, as last amended by Section 8, Chapter 230, O.S.L. 1995 (63 O.S. Supp. 1995, Section 1-1902), is amended to read as follows:

Section 1-1902. As used in the Nursing Home Care Act:

1. "Abuse" means the willful infliction of injury, unreasonable confinement, intimidation or punishment, with resulting physical harm, impairment or mental anguish;

2. "Access" means the right of a person to enter a facility to communicate privately and without unreasonable restriction when invited to do so by a resident. The state or local "ombudsman", as that term is defined by the Aging Services Division of the Department of Human Services pursuant to the Older Americans' Act, 42 U.S.C.A., Section 3001 et seq., as amended, and a case manager

employed by the Department of Mental Health and Substance Abuse Services or one of its contract agencies shall have right of access to enter a facility, communicate privately and without unreasonable restriction with any resident who consents to the communication, to seek consent to communicate privately and without restriction with any resident, and to observe all areas of the facility that directly pertain to the patient care of the resident without infringing upon the privacy of the other residents without first obtaining their consent;

3. "Administrator" means the person licensed by the State of Oklahoma who is in charge of a facility ~~and who devotes at least one-third (1/3) of his full working time to on-the-job supervision of the facility. This requirement shall not apply to an administrator of an intermediate care facility for the mentally retarded with sixteen or less beds (ICF-MR/16), provided the ICF-MR/16 facility or facilities are physically located on one campus that is.~~ Provided that an administrator of an ICF-MR/16 facility may be in charge of one to four facilities located on the same campus or on separate campuses within this state provided that:

- a. the facilities are owned and operated by an the same organization or institution that has a qualified administrator, and
- b. each of the ICF-MR/16 facility facilities is supervised by a qualified mental retardation professional;
- c. the number of facilities and the distances between the facilities is approved by the Oklahoma State Department of Health pursuant to rules to ensure proper control and supervision of each facility under the charge of the administrator and the health, safety and welfare of the residents of each facility are protected. The distance between such facilities shall

not exceed five (5) miles. In addition, the facilities shall each comply with the Certificate of Need for long-term care facilities required by the State Department of Health pursuant to law, and

d. the qualified administrator devotes the time required by rules promulgated by the Department at each facility and the facility complies with the limit on the number of beds required for each facility. The limit on the number of beds for each facility shall be promulgated by the Department by rules based upon the number and distance;

4. "Advisory Board" means the Long-Term Care Facility Advisory Board;

5. "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;

6. "Board" means State Board of Health;

7. "Commissioner" means Commissioner of Health;

8. "Department" means the State Department of Health;

9. "Facility" means a nursing facility and a specialized home; provided this term shall not include a residential care home or an adult companion home;

10. "Nursing facility" means a home, an establishment or an institution, a distinct part of which is primarily engaged in providing:

- a. skilled nursing care and related services for residents who require medical or nursing care,
- b. rehabilitation services for the rehabilitation of injured, disabled, or sick persons, or

c. on a regular basis, health-related care and services to individuals who because of their mental or physical condition require care and services beyond the level of care provided by a residential care home and which can be made available to them only through a nursing facility;

11. "Specialized facility" means any home, establishment, or institution which offers or provides inpatient long-term care services on a twenty-four-hour basis to a limited category of persons requiring such services, including but not limited to a facility providing health or habilitation services for mentally retarded or developmentally disabled persons;

12. "Residential care home" means any home, establishment, or institution licensed pursuant to the provisions of the Residential Care Act other than a hotel, motel, fraternity or sorority house, or college or university dormitory, which offers or provides residential accommodations, food service, and supportive assistance to any of its residents or houses any resident requiring supportive assistance. The residents shall be persons who are ambulatory and essentially capable of managing their own affairs, but who do not routinely require nursing care; provided, the term "residential care home" shall not mean a hotel, motel, fraternity or sorority house, or college or university dormitory, if the facility operates in a manner customary to its description and does not house any person who requires supportive assistance from the facility in order to meet an adequate level of daily living;

13. "Licensee" means the person, a corporation, partnership, or association who is the owner of the facility which is licensed by the Department pursuant to the provisions of the Nursing Home Care Act;

14. "Maintenance" means meals, shelter, and laundry services;

15. "Neglect" means failure to provide goods and/or services necessary to avoid physical harm, mental anguish, or mental illness;

16. "Owner" means a person, corporation, partnership, association, or other entity which owns a facility or leases a facility. 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 facility;

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

18. "Resident" means a person residing in a facility due to illness, physical or mental infirmity, or advanced age;

19. "Representative of a resident" means a court-appointed guardian or, if there is no court-appointed guardian, the parent of a minor, a relative, or other person, designated in writing by the resident; provided, that any owner, operator, administrator or employee of a facility subject to the provisions of the Nursing Home Care Act, the Residential Home Care Act, or the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act, shall not be appointed guardian or limited guardian of a resident of the facility unless the owner, operator, administrator or employee is the spouse of the resident, or a relative of the resident within the second degree of consanguinity and is otherwise eligible for appointment; and

20. "Supportive assistance" means the service rendered to any person which is less than the service provided by a nursing facility but which is sufficient to enable the person to meet an adequate level of daily living. Supportive assistance includes but is not limited to housekeeping, assistance in the preparation of meals,

assistance in the safe storage, distribution, and administration of medications, and assistance in personal care as is necessary for the health and comfort of such person. Supportive assistance shall not include medical service.

SECTION 2. This act shall become effective November 1, 1996.

45-2-7792

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