

SHORT TITLE: Intermediate care facilities for the mentally retarded with sixteen or less beds (ICF-MR/16); Nursing Home Care Act; definitions; effective date.

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

SENATE BILL NO. 469

By: Wright of the Senate

and

Ferguson of the House

AS INTRODUCED

An Act relating to intermediate care facilities for the mentally retarded with sixteen or less beds (ICF-MR/16); amending 63 O.S. 1991, Section 1-1902, as amended by Section 16, Chapter 159, O.S.L. 1993 (63 O.S. Supp. 1994, Section 1-1902), which relates to the Nursing Home Care Act; adding or modifying definitions; 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 amended by Section 16, Chapter 159, O.S.L. 1993 (63 O.S. Supp. 1994, Section 1-1902), is amended to read as follows:

Section 1-1902. As used in the Nursing Home Care Act, Section 1-1901 et seq. of this title:

1. "Abuse" means any intentional physical or mental injury or sexual assault inflicted on a resident of a facility by any person;

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, as amended, 42 U.S.C., Section 3001 et seq., 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~~ this state who is in charge of a facility and who devotes at least one-third (1/3) of his or her full working time to on-the-job supervision of such facility, provided that 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 said~~ when the ICF-MR/16 facility or facilities are physically located on one campus, are owned and operated by an organization or institution ~~that has a qualified administrator,~~ and are each ~~ICF-MR/16 facility shall be~~ supervised by a qualified mental retardation professional. For purposes of this section, "qualified mental retardation professional" shall be defined pursuant to Section 483.430, 42 C.F.R. and shall mean a person who:

- a. has at least one (1) year of experience working directly with persons with mental retardation or other developmental disabilities, and
- b. is one of the following:
 - (1) a doctor of medicine or osteopathy licensed to practice in this state,
 - (2) a registered nurse, or
 - (3) an individual who holds at least a bachelor's degree in a related field;

4. "Advisory Board" means the Long-Term Care 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 the State Board of Health;

7. "Commissioner" means the State Commissioner of Health;

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

9. "Facility" means a nursing facility and a specialized home. The 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 thereof 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 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, Section 1-819 et seq. of this title, 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. Said residents shall be ambulatory and essentially capable of managing their own affairs, but do not routinely require nursing care; provided, residential care home shall not mean a hotel, motel, fraternity or sorority house, or college or university dormitory, providing such facility operates in a manner customary to its description and does not house three or more persons who require supportive assistance from said 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 a failure to provide adequate medical or personal care or maintenance, which results in physical or mental injury to a resident;

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~~ self management, 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, Section 1-1901 et seq. of this title, the Residential Home Care Act, Section 1-819 et seq. of this title, or the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act, Section 1-818.1 et seq. of this title, shall not be appointed guardian or limited guardian of a resident of such facility unless ~~said the~~ owner, operator, administrator or employee is the spouse of ~~said the~~ resident, or a relative of ~~said 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, 1995.

45-1-0487

CJ