

SHORT TITLE: Public health and safety; group homes for adults with developmental disabilities; transfer of powers, duties and responsibilities; effective date.

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

SENATE BILL NO. 606

By: Robinson

AS INTRODUCED

An Act relating to public health and safety; amending 63 O.S. 1991, Sections 1-818.1, 1-818.2, as last amended by Section 3, Chapter 236, O.S.L. 1994, 1-818.3, as amended by Section 4, Chapter 236, O.S.L. 1994, 1-818.4, as last amended by Section 5, Chapter 236, O.S.L. 1994, 1-818.5, as amended by Section 6, Chapter 236, O.S.L. 1994, 1-818.6, 1-818.7, as amended by Section 7, Chapter 236, O.S.L. 1994, 1-818.8, 1-818.9, 1-818.10, as amended by Section 8, Chapter 236, O.S.L. 1994, 1-818.11, as amended by Section 9, Chapter 236, O.S.L. 1994, 1-818.12, 1-818.13, 1-818.15, 1-818.16, 1-818.17, as amended by Section 11, Chapter 236, O.S.L. 1994, 1-818.19, 1-818.20, as amended by Section 12, Chapter 236, O.S.L. 1994, 1-818.21, as amended by Section 13, Chapter 236, O.S.L. 1994, 1-818.22, 1-818.23, 1-818.24, 1-818.26, 1-818.27, as amended by Section 15, Chapter 236, O.S.L. 1994, 1-818.28, 1-818.29, as amended by Section 16, Chapter 236, O.S.L. 1994, 1-818.30, 1-818.31, 1-818.32, 1-818.33, 1-818.34, 1-818.35, as amended by Section 17, Chapter 236, O.S.L. 1994, and 1-818.36 (63 O.S. Supp. 1994, Sections 1-818.2, 1-818.3, 1-818.4, 1-818.5, 1-818.7, 1-818.10, 1-818.11, 1-818.17, 1-818.20, 1-818.21, 1-818.27, 1-818.29 and 1-818.35), which relate to wording; modifying short title; renaming

act; modifying definitions; deleting language relating to licensure of group homes; reallocating responsibility for the Group Homes for Developmentally Disabled or Physically Handicapped Persons Act from the State Department of Health to the Department of Human Services; reallocating powers and duties of the State Board of Health related to the Group Homes for Developmentally Disabled or Physically Handicapped Persons Act to the Commission for Human Services; deleting certain meeting requirement; reassigning responsibilities of the State Commissioner of Health related to the Group Homes for Developmentally Disabled or Physically Handicapped Persons Act to the Director of Human Services; modifying appointment power of the Group Homes for Developmentally Disabled or Physically Handicapped Persons Advisory Board; requiring Department of Human Services to provide clerical staff support for certain purpose; requiring State Commissioner of Health and the Director of the Oklahoma State Bureau of Investigation to assist the Director of Human Services in certain tasks; modifying language to reflect one of contracts instead of licensure; providing for refusal to renew, suspend or revoke contracts to certain providers; requiring program certification standards be comparable to certain other standards; stating size of group homes for which the State Fire Marshal shall conduct a fire safety inspection; clarifying statutory references; listing additional documents required to be retained for public inspection; providing for

exception to freedom from restraints; requiring receipt of certain statement; modifying notification of resident's next of kin requirement; modifying conditions which require the execution of a written contract; modifying conditions under which excess payments are refunded; requiring group home to assist residents in reserving portion of monthly income; modifying language relating to guests of or visitors to group home residents; modifying procedures relating to inspection of group homes; deleting language relating to certain reports and access to certain documents; deleting language relating to power and duties of a receiver; repealing 63 O.S. 1991, Section 1-818.18, which relates to display of certain documents; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 1991, Section 1-818.1, is amended to read as follows:

Section 1-818.1 ~~Sections 1 through 41 of this~~ This act shall be known and may be cited as the "Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act".

SECTION 2. AMENDATORY 63 O.S. 1991, Section 1-818.2, as last amended by Section 3, Chapter 236, O.S.L. 1994 (63 O.S. Supp. 1994, 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~~ Adults

with Developmental Disabilities 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~~ Adults with Developmental Disabilities Advisory Board established by Section 1-818.4 of this title;

4. "Advocate" means an adult designated in writing by the resident to assist the resident in exercising his or her rights;

5. "Applicant" means a person, corporation, partnership, association, or other entity which is being considered by the Department of Human Services to enter into a contract agreement with the Department to provide group home services;

6. "Commission" means the Commission for Human Services;

~~6.~~ 7. "Contract" means the binding legal agreement to provide group home services entered into between the provider and the Developmental Disabilities Services Division of the Department of Human Services;

8. "DDSD" means the Developmental Disabilities Services Division of the Department of Human Services;

9. "Department" means the Department of Human Services;

~~7.~~ 10. "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)~~ eighteen (18) years,
- 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.~~ 11. "Director" means the Director of Human Services;

~~9.~~ 12. "Group home for ~~developmentally disabled and physically handicapped~~ adults with developmental disabilities" 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.~~ 13. "Habilitation" means procedures and interventions designed to assist ~~a developmentally disabled~~ an individual with a developmental disability 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.~~ 14. "Home" or "group home" means a group home for ~~developmentally disabled and physically handicapped adults~~ with developmental and/or physical disabilities;

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

16. "Interdisciplinary team" means a group of people including, at a minimum, the resident and the resident's family or advocate, who develops a plan to encourage and enhance habilitation of the resident;

~~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.~~ 17. "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.~~ 18. "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.~~ 19. "~~Physically handicapped~~ Physical disability" means a condition which causes the restricted use of ~~his or her~~ the extremities by an individual or affects other bodily functions of an individual and which ~~require~~ requires the specialized training, habilitation or rehabilitation services provided by a group home;

~~19.~~ 20. "Program certification" means certification by the Department that a group home meets and is in compliance with the ~~rules adopted~~ current Department of Human Services contract approved by the Commission as ~~standards~~ guidelines for the training, habilitation or rehabilitation of residents of a group home;

~~20.~~ 21. "Provider" means a person, corporation, partnership, association, or other entity which operates a group home as defined in this act;

22. "Resident" means a person residing in a group home for ~~developmentally disabled or physically handicapped persons~~ adults with developmental and/or physical disabilities due to a developmental and/or physical 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.~~ 23. "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.~~ 24. "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~~ interdisciplinary team. Supervision includes, but is not limited to, training, 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 the person;

~~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 3. AMENDATORY 63 O.S. 1991, Section 1-818.3, as amended by Section 4, Chapter 236, O.S.L. 1994 (63 O.S. Supp. 1994, 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~~ Adults with Developmental Disabilities Act, Section 1-818.1 et seq. of this title;

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; 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;~~

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~~ Adults with Developmental Disabilities 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~~ Adults with Developmental Disabilities Act;

5. 3. 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~~ Adults with Developmental Disabilities Act to protect and safeguard the health, safety, and welfare of residents of homes;

~~6.~~ 4. 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;

~~7.~~ 5. 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~~ Adults with Developmental Disabilities Act;

~~8.~~ 6. 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~~ Adults with Developmental Disabilities Act;

~~9.~~ ~~Develop and enforce rules subject to the approval of the Commission to implement~~ 7. Enforce the provisions of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act. Such ~~rules shall include but not be limited to governing temperature limits, lighting, ventilation, and other~~ enforcement shall include monitoring 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~~ as outlined in this act;

~~10.~~ 8. Investigate, request or otherwise obtain the information necessary to determine the qualifications and background of an applicant ~~for licensure~~ to be a provider of group home services;

~~11.~~ 9. Establish civil penalties for violations of the provisions of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act as authorized by the Commission pursuant to the provisions of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act;

~~12.~~ ~~Institute and maintain or intervene~~ 10. 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;

~~13.~~ 11. Transfer or discharge a resident or otherwise protect the health, safety, and welfare of any resident of a group home; and

~~14.~~ 12. Exercise all incidental powers as necessary and proper for the administration of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities 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 4. AMENDATORY 63 O.S. 1991, Section 1-818.4, as last amended by Section 5, Chapter 236, O.S.L. 1994 (63 O.S. Supp. 1994, 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~~ Adults with Developmental Disabilities Advisory Board.

1. The Advisory Board shall be composed of nine (9) members as follows:

- a. eight members appointed by the Director of Human Services, one of whom shall be a representative of the Oklahoma ~~Community Based Providers~~ Association of Workshops and Community Residential Facilities, 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 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~~ disabled person confined to a wheelchair. These appointed members shall serve a three-year term and may be reappointed ~~+~~ and
- b. one member shall be the State Fire Marshal, or a designee, l who shall serve at the pleasure of the State Fire Marshal.

2. The Advisory Board shall annually elect a chair, a 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 Human Services shall appoint 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 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~~ Adults with Developmental Disabilities Act, Section 1-818.1 et seq. of this title;

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

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~~ Adults with Developmental Disabilities 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~~ disabled persons who receive services through the Department of Human Services.

C. The Department 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.

SECTION 5. AMENDATORY 63 O.S. 1991, Section 1-818.5, as amended by Section 6, Chapter 236, O.S.L. 1994 (63 O.S. Supp. 1994, Section 1-818.5), is amended to read as follows:

Section 1-818.5 It shall be the duty of the State Department of Health and the Director of the Oklahoma State Bureau of Investigation to assist the Director of Human Services in carrying out the provisions of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities 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 6. AMENDATORY 63 O.S. 1991, Section 1-818.6, is amended to read as follows:

Section 1-818.6 A. Enforcement of any action for an injunction or recovery of any administrative or civil penalty assessed pursuant to the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act may be brought by:

1. The district attorney of the appropriate district court of the State of Oklahoma;
2. The Attorney General on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma; or
3. The Department of Human Services on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma~~+~~, or as otherwise authorized by law.

B. The Department may bring an action in a court of competent jurisdiction for equitable relief to redress or restrain a violation

by any person of a provision of the Group Homes for ~~the~~
~~Developmentally Disabled or Physically Handicapped Persons~~ Adults
with Developmental Disabilities Act or any rule, ~~regulation,~~ or
order issued pursuant to the provisions of the Group Homes for ~~the~~
~~Developmentally Disabled or Physically Handicapped Persons~~ Adults
with Developmental Disabilities Act. ~~Said~~ Such court has
jurisdiction to determine ~~said~~ such 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 7. AMENDATORY 63 O.S. 1991, Section 1-818.7, as
amended by Section 7, Chapter 236, O.S.L. 1994 (63 O.S. Supp. 1994,
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 Section 1-818.1 et seq. of this title, or of
the rules promulgated by the Commission for Human Services, is
declared a public nuisance inimical to the public welfare. The
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~~ Adults with Developmental Disabilities 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
request shall be reduced to writing by the Department. Provided

that any person who willfully or recklessly makes a false request 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~~ provider, owner or administrator no earlier than at the commencement of the on-site inspection of the ~~facility~~ group home which takes place pursuant to the complaint.

3. The Commission shall promulgate rules 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~~ Adults with Developmental Disabilities 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 Director which shall serve as a final appealable order subject to trial de novo in the appropriate district court.

8. The Commission shall establish any additional rules 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 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 1-818.8, is amended to read as follows:

Section 1-818.8 A. The ~~owner and licensee are~~ provider is liable to a resident for any intentional or negligent act or omission of ~~their~~ its agents or employees which injures the resident. Also, any state employee ~~that~~ who aids, abets, assists, or conspires with ~~an owner or licensee~~ a provider to perform an act that causes injury to a resident shall be individually liable.

B. A resident may maintain an action under this act for any other type of relief, including injunctive and declaratory relief, permitted by law.

C. Any damages recoverable under this section, including minimum damages as provided by this section, may be recovered in any action which a court may authorize to be brought as a class action. The remedies provided in this section, are in addition to and cumulative with any other legal remedies available to a resident. Exhaustion of any available administrative remedies shall not be required prior to commencement of suit hereunder.

D. Any waiver by a resident or his ~~legal representative~~ or her guardian of the right to commence an action under this section,

whether oral or in writing, shall be null and void, and without legal force or effect.

E. Any party to an action brought under this section shall be entitled to a trial by jury and any waiver of the right to a trial by a jury, whether oral or in writing, prior to the commencement of an action, shall be null and void, and without legal force or effect.

F. A ~~licensee~~ provider or its agents or employees shall not transfer, discharge, evict, harass, dismiss or retaliate against a resident, a resident's ~~representative~~ guardian or an employee or agent who makes a report, brings, or testifies in, an action under this section, or files a complaint because of a report, testimony or complaint.

G. Any person, institution or agency, under this act, participating in good faith in the making of a report, or in the investigation of such a report shall not be deemed to have violated any privileged communication and shall have immunity from any liability, civil or criminal, or any other proceedings, civil or criminal, as a consequence of making such report. The good faith of any persons required, or permitted to report cases of suspected resident abuse or neglect under this act shall be presumed.

H. A group home employee or agent who becomes aware of abuse or neglect of a resident prohibited by this act shall immediately report the matter to the group home administrator. A group home administrator who becomes aware of abuse or neglect of a resident shall immediately act to rectify the problem and shall make a report of the incident and its correction to the Department.

SECTION 9. AMENDATORY 63 O.S. 1991, Section 1-818.9, is amended to read as follows:

Section 1-818.9 Any person who violates any of the provisions of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act or

any order or determination of the Department of Human Services promulgated pursuant to the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act, or who fails to perform any duty imposed upon such person by the provisions of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act, shall be subject to any of the following penalties and liabilities as authorized by the provisions of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act:

1. ~~License~~ Contract revocation, suspension, or nonrenewal; and
2. Conditional ~~license~~ contract; and
3. Transfer of residents; and
4. Receivership; and
5. Injunctive proceedings, including prohibiting the admission of new residents to the group home; and
6. Civil fines; and
7. Criminal penalties.

SECTION 10. AMENDATORY 63 O.S. 1991, Section 1-818.10, as amended by Section 8, Chapter 236, O.S.L. 1994 (63 O.S. Supp. 1994, Section 1-818.10), is amended to read as follows:

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

1. Deny or refuse to renew, suspend or revoke a license contract to an applicant a provider who does not meet the requirements for licensure and program certification pursuant to is not in compliance with the provisions of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act, Section 1-818.1 et seq. of this title;

~~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 of the Commission for Human Services promulgated pursuant to the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act;~~

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

- a. ~~which~~ who 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~~ Adults with Developmental Disabilities Act ~~or the standards or rules promulgated by the 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~~ provider 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;

~~4. 3. Deny, refuse to renew, suspend, or revoke a license contract to an applicant or licensee a provider who has insufficient financial or other resources to the extent that the applicant or licensee contractor is incapable of assuring or providing adequate care or treatment to the residents of the group home;~~

~~5. 4. Deny, refuse to renew, suspend, or revoke a license contract to an applicant or licensee a provider who 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 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 this title. If the ~~applicant or licensee~~ provider is a corporation, the provisions of this paragraph shall apply to individual corporate officers and members of the board of directors of the corporation;

~~6.~~ 5. Deny, refuse to renew, suspend, or revoke a license contract 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 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 this title;

~~7.~~ 6. Deny, refuse to renew, suspend, or revoke a license contract to ~~an applicant or licensee~~ a provider 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;

~~8.~~ 7. Refuse to renew a license contract if at the time application is made for the renewal of the license contract, the ~~licensee or home~~ provider is subject to a plan of correction. ~~Said license~~ The contract may be renewed at such time as the required corrections are completed in the manner and time specified in the plan of ~~corrections~~ correction; or

~~9.~~ 8. Revoke a license contract if the ~~licensee~~ provider has failed to correct conditions as required in a plan of ~~corrections~~ correction pursuant to the provisions of Section 1-818.30 of this title.

SECTION 11. AMENDATORY 63 O.S. 1991, Section 1-818.11, as amended by Section 9, Chapter 236, O.S.L. 1994 (63 O.S. Supp. 1994, 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 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;

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;

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 shall adopt rules 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.

C. 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 Commission shall adopt rules establishing minimum standards for 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 program certification standards 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, and the requirements for continued education and training 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~~ guardian;

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.

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

Advisory Board, and any necessary modifications shall be presented to the Commission for its approval~~r~~.

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~~ a person with developmental disability shall be deemed to meet the program certification standards adopted by the Commission.

SECTION 12. AMENDATORY 63 O.S. 1991, Section 1-818.12, is amended to read as follows:

Section 1-818.12 ~~The~~ For group homes that have more than six (6) resident beds, the State Fire Marshal or ~~his~~ a designee shall conduct fire safety inspections on a regular basis at group homes and report ~~his~~ the findings of ~~said~~ such inspections to the Department of Human Services. In addition, the State Fire Marshal shall develop, adopt, and promulgate the rules ~~and regulations,~~ or specifications consistent with nationally recognized standards or practices necessary for the safeguarding of life and property of residents of group homes from the hazards of fire and smoke.

SECTION 13. AMENDATORY 63 O.S. 1991, Section 1-818.13, is amended to read as follows:

Section 1-818.13 The following information is subject to disclosure to the public from the Department of Human Services:

1. Information submitted under Section ~~14~~ 1-818.14 of this ~~act~~ title except information concerning the remuneration of personnel licensed, registered or certified by the Department and monthly charges for an individual private resident;

2. Records of ~~license~~ contract, certification and program certification inspections, surveys and evaluations of group homes, other reports of inspections, surveys and evaluations of resident care, and reports concerning a group home prepared pursuant to Titles XVIII and XIX of the Social Security Act, 42 U.S.C.A.,

Section 1301 et seq., subject to the provisions of the Social Security Act, 42 U.S.C.A., Section 301 et seq.; and

3. Complaints filed against a group home and complaint investigation reports, except that a complaint or complaint investigation report shall not be disclosed to a person other than the complainant or complainant's representative before it is disclosed to a group home as provided in Section 7 1-818.7 of this title and, further, except that a complainant or resident's name shall not be disclosed except as provided in Section 7 1-818.7 of this ~~act~~ title.

SECTION 14. AMENDATORY 63 O.S. 1991, Section 1-818.15, is amended to read as follows:

Section 1-818.15 A. A license contract to operate a group home is not transferrable. Whenever ownership of a group home is transferred from the ~~person~~ provider named in the application to another ~~person~~ provider who does not have a current group home license contract for the home the transferee must obtain a probationary license contract as provided by the provisions of Section ~~16~~ 1-818.16 of this ~~act~~ title.

~~1.~~ B. The transferee shall notify the Department of Human Services of the transfer ~~and apply for a license~~ no less than thirty (30) days prior to final transfer.

~~2.~~ ~~The transferor shall notify the Department of the transfer no less than thirty (30) days prior to final transfer and shall remain responsible for the operation of the group home until such time as a probationary license contract is issued to the transferee. The transferor shall remain liable for all penalties assessed which are imposed for violations occurring prior to transfer of ownership.~~

SECTION 15. AMENDATORY 63 O.S. 1991, Section 1-818.16, is amended to read as follows:

Section 1-818.16 If the applicant has not been previously licensed contracted or if the group home is not in operation at the

time application is made, the Department of Human Services shall issue a probationary license contract. A probationary license contract shall be valid for one hundred twenty (120) days unless sooner suspended or revoked pursuant to the provisions of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act, Section 1-818.1 et seq. of this title.

1. Prior to the issuance of a probationary license contract, the Department shall:

- a. ascertain whether or not the applicant is qualified to be ~~licensed~~ contracted pursuant to the provisions of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act; and
- b. inspect the group home and inform the applicant of any conditions which require correction prior to the issuance of a license contract. If the group home is a new home the Department shall also inform the applicant of any condition which requires correction prior to the acceptance of residents into the home. If the home is an existing group home whose ownership is being transferred, the probationary license contract issued to the transferee, in addition to any corrections required as a result of the inspection, shall be subject to any plan of correction submitted by the previous ~~owner~~ provider and approved by the Department.

2. Within thirty (30) days prior to the termination of a probationary license contract, the Department shall completely inspect the group home and, if the home meets the applicable requirements for ~~licensure~~ contract and program certification, shall issue a license contract pursuant to the provisions of the Group

Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act. If the home is not in substantial compliance with the provisions of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act ~~and with the standards and requirements established by the Department pursuant to the provisions of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act,~~ the ~~license~~ contract shall be denied and the Department shall take such action as necessary and as authorized pursuant to the provisions of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act for the protection of the health, safety, and welfare of the residents of the group home.

SECTION 16. AMENDATORY 63 O.S. 1991, Section 1-818.17, as amended by Section 11, Chapter 236, O.S.L. 1994 (63 O.S. Supp. 1994, 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~~ contract for any group home if the Department finds that a violation exists in such group home. The issuance of a conditional ~~license~~ contract shall revoke any ~~license~~ contract held by the group home.

B. Prior to the issuance of a conditional ~~license~~ contract, the Department shall review and approve a written plan of correction. The Department shall specify the violations which prevent ~~full licensure~~ issuance of a contract and shall ~~establish~~ include a time schedule for correction of the deficiencies. Retention of the ~~license~~ contract shall be conditional on meeting the requirements of the plan of correction. In the alternative or in addition to a conditional ~~license~~ contract, the Director of Human Services may direct the Department 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 contract 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 contract 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 contract and plan of correction. The conditional license contract 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 contract, or the terms of the license contract or plan of correction, the facility provider shall send a written request for hearing to the Department within ten (10) days after issuance of the conditional license contract and the Department shall then hold the hearing.

F. A conditional license contract 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 contract. If the Department finds substantial failure by the group home to follow the plan of correction, the conditional license contract may be revoked.

G. If the Department determines that a conditional license contract shall expire without renewal or replacement of the

conditional license contract by a regular license contract, the Department shall so notify the licensee provider at least thirty (30) days prior to expiration of the license contract. The licensee provider is entitled to a hearing if requested prior to expiration of the conditional license contract.

SECTION 17. AMENDATORY 63 O.S. 1991, Section 1-818.19, is amended to read as follows:

Section 1-818.19 A group home shall retain the following for public inspection:

1. A complete copy of every inspection report of the group home received from the Department of Human Services during the past three (3) years;

2. A copy of every order pertaining to the group home issued by the Department or a court during the past three (3) years;

3. A description of the services provided by the group home and the rates charged for those services and items for which a resident may be separately charged;

4. A copy of the statement of ownership;

5. A record of personnel who are licensed, certified or registered and employed or retained by the group home who are responsible for resident care;

6. A complete copy of the most recent inspection report of the group home received from the Department; ~~and~~

7. A complete copy of any current contract or agreement between the group home and the Department of Human Services for the care, treatment, training, habilitation or rehabilitation of residents of the group home;

8. A copy of its current contract;

9. Residents' rights as listed in Section 1-818.20 of this title;

10. A description, provided by the Department, of complaint procedures established pursuant to the Group Homes for Adults with

Developmental Disabilities Act and the name, address and telephone number of a person authorized by the Department to receive complaints. A copy of the complaint procedure shall also be given to each resident and the resident's guardian, if any; and

11. A copy of any order pertaining to the provider issued by the Department or a court which is currently in effect.

SECTION 18. AMENDATORY 63 O.S. 1991, Section 1-818.20, as amended by Section 12, Chapter 236, O.S.L. 1994 (63 O.S. Supp. 1994, Section 1-818.20), is amended to read as follows:

Section 1-818.20 A. All principles enunciated in this section shall be ~~posted~~ available in a ~~conspicuous, easily accessible place~~ in each group home, and each resident and resident's ~~representative advocate or guardian,~~ if any, shall be provided a copy of these principles prior to or upon admission. The ~~group home~~ provider 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~~ provider 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 the resident's choice, and may send and promptly receive, unopened, the resident's personal mail;

3. Every resident shall have the right, without fear of reprisal, to present grievances on behalf of the resident or others to the ~~group home's~~ provider'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~~ provider agency 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 ~~a representative~~ the resident's guardian or advocate, if any, delegates the responsibility, in writing, to the ~~group home~~ provider pursuant to the program certification requirements as provided in Section 1-818.11 of this title. The resident and ~~a representative~~ the resident's guardian or advocate, if any, shall have at least a quarterly accounting of any personal financial transactions undertaken in the resident's behalf by the ~~group home~~ provider during any period of time the resident or the resident's guardian or advocate has delegated such responsibilities ~~have been delegated~~ to the ~~group home~~ provider;

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 the attending physician of 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 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~~ prohibited by law, 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~~ be treated courteously and ~~respectful care and treatment~~ respectfully 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 and related charges, including any costs for services not covered under medicare or medicaid, or not covered by the ~~group home's~~ provider'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~~ except those restraints authorized in writing by a physician and approved by the Human Rights Committee or necessitated by an emergency where the restraint may only be applied by the physician, qualified licensed nurse or other personnel under the supervision of such physician who shall set forth in writing the circumstances requiring the use of restraint;

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

11. Every resident shall receive a statement that should they be adjudicated incompetent and have no ability to be restored to legal capacity, the above rights and responsibilities shall be exercised by a court-appointed guardian;

12. 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~~ provider, except for normal shared household tasks;

~~12.~~ 13. Every resident shall have privacy for ~~spousal~~ conjugal visits. Every resident may share a room with ~~their~~ a spouse, if the spouse is residing in the same group home; and

~~13. When a physician indicates it is appropriate, a group home~~

14. A provider shall immediately notify the resident's next of kin, or ~~representative~~ the resident's guardian or advocate of the resident's death or when the resident's death appears to be imminent, unless the resident has left instructions to the contrary.

~~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~~ provider shall prepare a written plan and provide appropriate staff training to implement each resident's rights as stated in this section.

~~E.~~ D. 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.~~ E. 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, and a resident may maintain an action to prevent, restrain or enjoin a violation or threatened violation. If a violation or threatened violation of this ~~section~~ act 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. F.~~ Any employee of ~~a state agency that~~ DDSD who inspects any group home shall report any flagrant violations of this act or any other statute to the administrative head of the ~~state agency~~ DDSD, 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. G.~~ Upon the death of a resident who has no sources of payment for funeral services, the ~~group home~~ provider 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. ~~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 19. AMENDATORY 63 O.S. 1991, Section 1-818.21, as amended by Section 13, Chapter 236, O.S.L. 1994 (63 O.S. Supp. 1994, 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~~ the council.

B. The composition of the residents' advisory council shall be specified by Department of Human Services rule, but no employee of the Department 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~~ the council in preparing and disseminating a report of each

meeting as specified by the ~~regulations~~ rules 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 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 1-818.13 of this title on behalf of a resident to the Department.

SECTION 20. AMENDATORY 63 O.S. 1991, Section 1-818.22, is amended to read as follows:

Section 1-818.22 A. A written contract shall be executed between a person and ~~his representative~~ the person's guardian or advocate, if any, and a group home or its agent within one hundred twenty (120) days from the time a person is admitted to a group home, or at the expiration of the period of a previous contract, or when the resident's source of payment ~~for the resident's care changes from private to public funds or from public to private funds; if a person is a resident of a group home on the effective date of the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act and no legally enforceable~~

~~contract exists, then a contract as described in this section shall be executed within sixty (60) days after the effective date of this act.~~

~~A resident shall not be discharged or transferred at the expiration of the term of a contract, except as provided in Section 25 of this act.~~

B. The contract shall be executed between the group home and the resident and ~~his representative~~ the resident's guardian or advocate, if any.

C. A copy of the contract shall be given to the resident and to the resident's ~~representative~~ guardian or advocate, if any, at the time of the resident's admission to the group home.

D. A copy of the contract for a resident who is supported by nonpublic funds other than the resident's own funds shall be made available to the person providing the funds for the resident's support.

E. The contract shall be written in clear and unambiguous language and shall be printed in type no smaller than ~~standard typewriter pica or elite~~ ten- or twelve-point type. ~~The general form of the contract shall be prescribed by the Department.~~

F. The contract shall specify:

1. The term of the contract;
2. The services to be provided under the contract and the charges for the services;
3. The services that may be provided to supplement the contract and the charges for the services;
4. The sources liable for payments due under the contract;
5. The amount of deposit paid; and
6. The rights, duties and obligations of the resident, except that the specification of a resident's rights may be furnished on a separate document which complies with the requirements of Section 20 1-818.20 of the Group Homes for ~~the Developmentally Disabled or~~

~~Physically Handicapped Persons~~ Adults with Developmental Disabilities Act.

G. The contract shall designate the name of the resident's ~~representative~~ guardian or advocate, if any.

H. The contract shall provide that if the resident dies or is compelled by a change in physical or mental health to leave the group home, the contract and all obligations under it shall terminate immediately. All charges shall be prorated as of the date on which the contract terminates, and, if any payments have been made in advance, the excess shall be refunded to the resident, or to the resident's guardian or advocate.

SECTION 21. AMENDATORY 63 O.S. 1991, Section 1-818.23, is amended to read as follows:

Section 1-818.23 To protect each resident's funds, the group home:

1. Shall ~~reserve~~ assist the resident in reserving a portion of each the resident's monthly income ~~as provided by the program certification requirements as a personal needs allowance~~ for use by the resident;

2. Shall at the time of admission, provide each resident and ~~his representative~~ the resident's guardian or advocate, if any, with a written statement explaining the resident's rights regarding personal funds and listing the services for which the resident will be charged, and obtain a signed acknowledgment from each resident and ~~his representative~~ the resident's guardian or advocate, if any, that ~~he~~ the resident has received the statement;

3. May ~~accept funds from a~~ assist the resident in accordance with program certification requirements for the safekeeping and managing management of the resident's funds, if the group home receives written authorization from the resident and ~~his representative~~ the resident's guardian or advocate, if any;

4. Shall maintain and allow each resident and ~~his representative~~ the resident's guardian or advocate access to a written record of all financial arrangements and transactions involving the individual resident's funds;

5. Shall provide each resident and ~~his representative~~ the resident's guardian or advocate, if any, with a written itemized statement on request, of all financial transactions involving the resident's funds;

6. Shall keep any funds received from a resident for safekeeping in an account separate from the group home's funds and shall maintain such funds as required by the program certification requirements;

7. Shall return to the resident, upon written request by the resident and ~~his representative~~ the resident's guardian or advocate, if any, all or any part of the resident's funds given to the ~~group home provider~~ for safekeeping, including the interest accrued from deposits;

~~8. Shall place any monthly allowance to which a resident is entitled in that resident's personal account, or give it to the resident, unless the group home has written authorization from the resident and the resident's representative, if any, to handle it differently;~~

~~9.~~ Unless otherwise provided by state law, upon the death of a resident, shall provide the administrator or executor of the resident's estate with a complete accounting of all the resident's personal property, including any funds of the resident being held by the ~~group home provider~~; and

~~10.~~ 9. If the ~~group home is sold~~ operation of a provider agency changes, shall provide the buyer with a written verification by a public accountant of all residents' monies and properties ~~being transferred~~ for which the provider is responsible, and obtain a signed receipt from the new ~~owner~~ provider.

is amended to read as follows:

~~Section 1-818.24 A. Any employee or agent of a public agency or any representative of a community legal services program or any member of a nonprofit community supported agency which provides health or social services to the developmentally disabled or physically handicapped, or any member of a church group, association of older persons or community service club which provides volunteers for service to group home residents shall be permitted access at reasonable hours, which shall be, as a minimum, set between the hours 8:00 a.m. and 8:00 p.m. at times when the residents are in the home, to any individual resident of any group home, if the purpose of such agency, program or organization includes rendering assistance to residents without charge, but only if there is neither a commercial purpose nor affect to such access and if the purpose is to do any of the following:~~

~~1. Visit, talk with and make personal, social and legal services available to all residents;~~

~~2. Inform residents of their rights and entitlements and their corresponding obligations, under federal and state laws, by means of educational materials and discussions in groups and with individual residents;~~

~~3. Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance and Social Security benefits, as well as in all other matters in which residents are aggrieved. Assistance may include counseling and litigation; or~~

~~4. Engage in other methods of asserting, advising and representing residents so as to extend to them full enjoyment of their rights.~~

B. All persons Residents may receive any guests or visitors in the group home during reasonable hours as long as the visit does not infringe upon the rights of any other group home residents. All

guests or visitors entering a group home ~~under this section~~ shall promptly notify ~~appropriate group home personnel~~ staff on duty of their presence. They shall, upon request, produce identification to establish their identity. No such person shall enter the immediate living area of any resident without first ~~identifying himself~~ producing identification to establish their identity and then receiving permission from the resident to enter. The rights of other residents present in the room shall be respected. A resident may terminate at any time a visit by a person having access to the resident's living area ~~under this section~~.

~~C.~~ B. This section shall not limit the power of the Department of Human Services or other public agency otherwise permitted or required by law to enter and inspect a facility.

~~D.~~ C. Notwithstanding the provisions of subsection A of this section, the administrator of a group home may refuse access to the group home to any person if the presence of that person in the group home would be injurious to the health and safety of a resident or would threaten the security of the property of a resident or the facility, or if the person seeks access to the group home for commercial purposes. Any person refused access to a group home may within ten (10) days request a hearing. In that proceeding, the burden of proof as to the right of the group home to refuse access under this section shall be on the ~~facility~~ provider.

SECTION 23. AMENDATORY 63 O.S. 1991, Section 1-818.26, is amended to read as follows:

Section 1-818.26 A. No ~~owner~~ provider, including a corporate officer or member of the board of directors when the ~~owner~~ provider is a corporation, administrator, or employee of a group home shall have an insurable interest in the life of a resident ~~of the home~~ unless ~~said owner~~ the provider, administrator, or employee is related to the resident of the home by blood or marriage.

B. No ~~owner~~ provider, including a corporate officer or member of the board of directors when the ~~owner~~ provider is a corporation, administrator, or employee of a group home shall be entitled or assigned to any benefits of a life insurance policy on the resident unless ~~said owner~~ the provider, administrator, or employee is related to the resident of the home by blood or marriage.

C. No ~~owner~~ provider, including a corporate officer or member of the Board of Directors when the ~~owner~~ provider is a corporation, administrator, or employee of a group home shall be appointed guardian or conservator of a resident of the home unless ~~said owner~~ the provider, administrator or employee is a relative of the resident and is otherwise eligible for appointment by a court as the guardian or conservator of the resident.

SECTION 24. AMENDATORY 63 O.S. 1991, Section 1-818.27, as amended by Section 15, Chapter 236, O.S.L. 1994 (63 O.S. Supp. 1994, Section 1-818.27), is amended to read as follows:

Section 1-818.27 A. Every ~~group home for which~~ provider who ~~has a license has been issued~~ current contract shall be ~~periodically~~ annually inspected by a duly appointed representative of the Department of Human Services pursuant to ~~rules adopted by the 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 1-818.4 of this title~~ the provisions of the contract. 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.~~ Any provider with a current contract 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 Adults with Developmental Disabilities 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 contract.

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;
2. Any deficiencies, lack of compliance, or violation noted at the inspection, investigation, survey, or evaluation;
3. The date a notice of violation, license denial, nonrenewal, suspension, or revocation was issued or other enforcement action occurred;
4. The date a plan of correction was submitted and the date ~~said~~ the plan was approved;
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~~ were 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 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, or a representative of the Office of Client Advocacy, or a case manager assigned monitoring responsibilities for ~~clients residing in~~ residents of group homes is authorized to accompany and shall be notified by the Department of any survey or inspection conducted of any group home ~~licensed~~ contracted pursuant to the provisions of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act. Any state or local ombudsman having proper identification is authorized to enter any group home ~~licensed~~ contracted pursuant to the provisions of ~~the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act~~ this act, to 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.~~ E. Following any survey or inspection 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

Developmental Disabilities Services Division of the Department of Human Services.

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

SECTION 25. AMENDATORY 63 O.S. 1991, Section 1-818.28, is amended to read as follows:

Section 1-818.28 A. If upon inspection or investigation, or whenever the Department of Human Services determines that there are reasonable grounds to believe that a group home is in violation of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act, Section 1-818.1 et seq. of this title, or of any standard, ~~or rule,~~ ~~or regulation~~ promulgated pursuant to the provisions of ~~the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act~~ this act which would have a direct impact upon one or more residents of the group home or of any order of the Department, the Department shall give written notice to the alleged violator specifying the violation or violations. Such notice shall require that the violation or violations be corrected immediately or that the alleged violator appear before the Department at a time and place specified in the notice and answer the charges. The notice shall be delivered to the alleged violator in accordance with the provisions of subsection E of this section.

B. The Department shall give the notice specified by the provisions of subsection A of this section within ten (10) days of an inspection or investigation of the group home if the Department determines that the home is in violation of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act or the rules ~~and regulations~~ promulgated ~~by the Board~~ pursuant to the provisions of the Group

Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act.

C. The Department shall afford the alleged violator an opportunity for a fair hearing within fifteen (15) days of receipt of notice provided by subsection A of this section in accordance with the provisions of subsection F of this section. On the basis of the evidence produced at the hearing, the Department shall make findings of fact and conclusions of law and enter an order thereon. The Department shall give written notice of such order to the alleged violator and to such other persons as shall have appeared at the hearing and made written request for notice of the order. If the hearing is held before any person other than the Department, such person shall transmit the record of the hearing together with recommendations for findings of fact and conclusions of law to the Department which shall thereupon enter its order. The Department may enter its order on the basis of such record or, before issuing its order, require additional hearings or further evidence to be presented. The order of the Department shall become final and binding on all parties unless appealed to the district court as provided in Sections 317 through 325 of Title 75 of the Oklahoma Statutes within thirty (30) days after notice has been sent to the parties.

D. Whenever the Department finds that an emergency exists requiring immediate action to protect the public health or welfare of any resident of a group home ~~licensed~~ contracted pursuant to the provisions of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act, the Department may without notice or hearing issue an order stating the existence of such an emergency and requiring that such action be taken as it deems necessary to meet the emergency. Such order shall be effective immediately. Any person to whom such an order is directed shall comply with said order

immediately but on application to the Department shall be afforded a hearing within ten (10) days of receipt of ~~said~~ the notice. On the basis of such hearing, the Department shall continue such order in effect, revoke it, or modify it. Any person aggrieved by such order continued after the hearing provided for in this subsection may appeal to the district court of the area affected within thirty (30) days. Such appeal when docketed shall have priority over all cases pending on ~~said~~ the docket, except criminal cases. For the purposes of this subsection, the term emergency shall mean a life threatening situation.

E. Except as otherwise expressly provided by law, any notice, order, or other instrument issued by or pursuant to authority of the Department may be served on any person affected thereby personally, by publication, or by mailing a copy of the notice, order, or other instrument by registered mail directed to the person affected at ~~his~~ the person's last-known post office address as shown by the files or records of the Department. Proof of service shall be made as in the case of service of a summons or by publication in a civil action or may be made by the affidavit of the person who did the mailing. Such proof of service shall be filed in the office of the Department.

Every certificate or affidavit of service made and filed as provided by this section shall be prima facie evidence of the facts therein stated. A certified copy thereof shall have like force and effect.

F. The hearings authorized by this section may be conducted by the Department. The Department may designate hearing officers who shall have the power and authority to conduct such hearings in the name of the Department at any time and place. Such hearings shall be conducted in conformity with and records made thereof as provided by the provisions of Sections 309 through 326 of Title 75 of the Oklahoma Statutes.

SECTION 26. AMENDATORY 63 O.S. 1991, Section 1-818.29, as amended by Section 16, Chapter 236, O.S.L. 1994 (63 O.S. Supp. 1994, 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~~ contract the effective date shall be the expiration date of the ~~license~~ contract. 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~~ contract the effective date shall be the date set by the Department of Human Services 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~~ contract 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~~ provider whose ~~license~~ contract 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~~ contract may be granted after a full and complete inspection or investigation and the ~~applicant or licensee~~ provider and the home are in full compliance with the provisions of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act, Section 1-818.1 et seq. of this title, and the standards and rules promulgated by the Commission for Human Services pursuant to the provisions of the Group Homes for ~~the~~

~~Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act.

SECTION 27. AMENDATORY 63 O.S. 1991, Section 1-818.30, is amended to read as follows:

Section 1-818.30 A. If the violation specified in the notice required by Section ~~28~~ 1-818.28 of this act ~~have~~ title has been corrected prior to the hearing, the ~~group home~~ provider may submit a report of correction in place of a plan of correction as specified in subsection B of this section. Such report shall be signed by the ~~administrator or house manager~~ authorized agent of the provider under oath.

B. A ~~group home~~ provider shall have ten (10) days after receipt of notice of violation in which to prepare and submit a plan of correction. The plan shall include a fixed time period not in excess of thirty (30) days within which violations are to be corrected. The Department of Human Services may extend this period up to thirty (30) days where correction involves substantial capital improvement. If the Department rejects a plan of correction, it shall send notice of the rejection and the reason for the rejection within ten (10) days of receipt of the plan of correction to the ~~group home~~ provider. The ~~home~~ provider shall have ten (10) days after receipt of the notice of rejection in which to submit a modified plan. If the modified plan is not timely submitted, or if the modified plan is rejected, the ~~home~~ provider shall follow an approved plan of correction imposed by the Department which shall be submitted to the ~~group home~~ provider within thirty (30) days.

C. Upon a ~~licensee's~~ provider's petition, the Department shall determine whether to grant a ~~licensee's~~ request for an extended correction time. Such petition shall be served on the Department prior to expiration of the correction time originally approved. The burden of proof is on the ~~petitioning licensee~~ petitioner to show good cause for not being able to comply with the original correction

time approved. The extended correction time may be granted for a period of time not to exceed thirty (30) days.

D. If a ~~group home~~ provider desires to contest any Department action pursuant to this section, it shall send a written request for a hearing to the Department within ten (10) days of receipt of notice of the contested action and the Department shall commence the hearing pursuant to Section ~~28~~ 1-818.28 of this ~~act~~ title. Whenever possible, all action of the Department pursuant to the provisions of this section arising out of a violation shall be determined at a single hearing. Issues decided after a hearing may not be reheard at subsequent hearings pursuant to the provisions of this section.

SECTION 28. AMENDATORY 63 O.S. 1991, Section 1-818.31, is amended to read as follows:

Section 1-818.31 A. No person shall willfully:

1. Fail to correct or interfere with the correction of a violation within the time specified on the notice or approved plan of correction pursuant to the provisions of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act, Section 1-818.1 et seq. of this title, as the maximum period given for correction, unless an extension is granted and the corrections are made before expiration of extension; ~~or~~

2. Prevent, interfere with, or attempt to impede in any way the work of any duly authorized representative of the Department of Human Services in the investigation and enforcement of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act; ~~or~~

3. Prevent or attempt to prevent any such representative from examining any relevant books or records in the conduct of official duties pursuant to the provisions of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act; ~~or~~

4. Prevent or interfere with any such representative in the preserving of evidence of any violation of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act or the rules promulgated pursuant to the provisions of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act; ~~or~~

5. Retaliate or discriminate against any resident or employee for contacting or providing information to any state official, or for initiating, participating in, or testifying in an action for any remedy authorized pursuant to the provisions of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act; or

6. File any false, incomplete, or intentionally misleading information required to be filed pursuant to the provisions of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act, or willfully fail or refuse to file any information required by the Department pursuant to the provisions of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act; ~~or~~

~~7. Open a group home without a license or operate a group home without a license and program certification.~~

B. No employee of a state or unit of a local government agency shall aid, abet, assist, conceal, or conspire with ~~an administrator, house manager or other employee of a home~~ any employee of a provider in a violation of any provision of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act or any rule, ~~regulation,~~ or standard promulgated ~~by the Board~~ pursuant to the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act.

C. Any person who violates any of the provisions of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act, upon conviction, shall be guilty of a misdemeanor. Each day upon which such violation occurs shall constitute a separate violation.

SECTION 29. AMENDATORY 63 O.S. 1991, Section 1-818.32, is amended to read as follows:

Section 1-818.32 A. Any person who has been determined by the Department of Human Services to have violated any provision of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act, Section 1-818.1 et seq. of this title, or any rule, ~~regulation,~~ or order issued pursuant to the provisions of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act may: ~~Be~~ be liable for a civil penalty of not more than One Hundred Dollars (\$100.00) for each day that said violation continues. The maximum civil penalty shall not exceed Ten Thousand Dollars (\$10,000.00) for any related series of violations.

B. The amount of the penalty shall be assessed by the Department pursuant to the provisions of subsection A 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 Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act.

C. ~~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.~~

D. In addition to or in lieu of a fine as provided in this section, the Department may issue an administrative order prohibiting a group home which has a history of incomplete or partial compliance with the provisions of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act or which has a history of failure to fully implement a plan of correction in a timely manner from admitting new or additional residents to the group home.

SECTION 30. AMENDATORY 63 O.S. 1991, Section 1-818.33, is amended to read as follows:

Section 1-818.33 Any ~~owner of a facility licensed~~ provider operating under the provisions of the Group Homes for ~~the Developmentally Disabled or Physically Handicapped Persons~~ Adults with Developmental Disabilities Act, Section 1-818.1 et seq. of this title, shall give ~~ninety (90)~~ thirty (30) days' notice prior to voluntarily closing a ~~group home~~ provider agency or closing any part of a ~~group home~~ provider agency, or prior to closing any part of a ~~group home~~ provider agency if closing such part will require the transfer or discharge of more than ten percent (10%) of the residents. Such notice shall be given to the Department of Human Services, to any resident who must be transferred or discharged, to the resident's ~~representative~~ guardian or advocate, and to a member of the resident's family, where practicable. Notice shall state the proposed date of closing and the reason for closing. The ~~group home~~ provider shall offer to assist the resident in securing an alternative placement and shall advise the resident on available alternatives. Where the resident is unable to choose an alternative placement and is not under guardianship, the Department shall be notified of the need for relocation assistance. The ~~group home~~

provider shall comply with all applicable laws and ~~regulations~~ rules until the date of closing, including those related to transfer or discharge of residents. The Department may place a relocation team in the group home if needed. Also, the ~~Department~~ Commission may promulgate rules ~~and regulations~~ that establish criteria for the acceleration of the notice requirement if extraordinary circumstances warrant it.

SECTION 31. AMENDATORY 63 O.S. 1991, Section 1-818.34, is amended to read as follows:

Section 1-818.34 A. The Department of Human Services may place an employee or agent to serve as a monitor ~~in a group home~~ at the provider agency or may petition the district court for appointment of a receiver for a ~~group home~~ provider, or both, when any of the following conditions exist:

1. ~~The group home is operating without a license;~~
2. The Department has suspended, revoked or refused to renew the existing ~~license~~ contract of the ~~group home~~ provider;
3. The ~~group home~~ provider has closed 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; or
4. The Department determines that an emergency exists, whether or not it has initiated revocation or nonrenewal procedures, if because of the unwillingness or inability of the ~~licensee~~ provider to remedy the emergency the Department believes a monitor or receiver is necessary.

B. In any situation described in subsection A of this section, the Department may place a qualified person to act as monitor ~~in~~ at the ~~group home~~ provider agency. The monitor shall observe the operation of the ~~group home~~ provider agency, assist the ~~group home~~ provider by advising it on how to comply with the state ~~regulations~~

laws and shall report periodically to the Department on the operation of the ~~group home~~ provider agency.

SECTION 32. AMENDATORY 63 O.S. 1991, Section 1-818.35, as amended by Section 17, Chapter 236, O.S.L. 1994 (63 O.S. Supp. 1994, Section 1-818.35), is amended to read as follows:

Section 1-818.35 A. Where a resident, a resident's ~~representative~~ guardian or advocate 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 Director of Human Services who shall immediately investigate. If the Director determines that proper cause exists, 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~~ group home 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~~ contract;
2. The Department of Human Services has suspended, revoked or refused to renew the existing ~~license~~ contract 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~~ provider 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~~ provider, administrator of the group home or registered agent of the ~~licensee~~ provider 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 Director of Human Services, under oath, has provided a statement that ~~said~~ the 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 Director.

SECTION 33. AMENDATORY 63 O.S. 1991, Section 1-818.36, is amended to read as follows:

Section 1-818.36 A. The court may appoint any qualified person as a receiver, except it shall not appoint any ~~owner or affiliate~~ employee of the ~~facility~~ provider which is in receivership as its receiver. The Department of Human Services shall maintain a list of such persons to operate ~~facilities~~ group homes which the court may consider.

B. The receiver shall make provisions for the continued health, safety and welfare of all residents of the group home.

~~C. A receiver appointed under this act shall exercise those powers and shall perform those duties set out by the court. These powers and duties may include those generally ascribed to receivers and receiverships and may also include the powers and duties of trustees under the 1978 Bankruptcy Code. The court shall provide for the receiver to have sufficient power and duties to ensure that the residents receive adequate care.~~

SECTION 34. REPEALER 63 O.S. 1991, Section 1-818.18, is hereby repealed.

SECTION 35. This act shall become effective November 1, 1995.

45-1-0142 CJ