

SHORT TITLE: Public health and safety; Nursing Home Care Act;
modifying definitions; effective date.

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

SENATE BILL NO. 932

By: Wright

AS INTRODUCED

An Act relating to public health and safety; amending 63 O.S. 1991, Sections 1-1902, as last amended by Section 8, Chapter 230, O.S.L. 1995, and 330.51, as amended by Section 1, Chapter 289, O.S.L. 1995 (63 O.S. Supp. 1995, Sections 1-1902 and 330.51), which relate to definitions; modifying certain definitions; and providing an effective date.

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

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

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

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

2. "Access" means the right of a person to enter a facility to communicate privately and without unreasonable restriction when invited to do so by a resident. The state or local "ombudsman", as that term is defined by the Aging Services Division of the Department of Human Services pursuant to the Older Americans' Act,

42 U.S.C.A., Section 3001 et seq., as amended, and a case manager employed by the Department of Mental Health and Substance Abuse Services or one of its contract agencies shall have right of access to enter a facility, communicate privately and without unreasonable restriction with any resident who consents to the communication, to seek consent to communicate privately and without restriction with any resident, and to observe all areas of the facility that directly pertain to the patient care of the resident without infringing upon the privacy of the other residents without first obtaining their consent;

3. "Administrator" means the person licensed by the State of Oklahoma who is in charge of a facility and who devotes at least one-third (1/3) of his or her full working time to on-the-job supervision of the facility. ~~This; provided that this~~ requirement shall not apply to an administrator of an intermediate care facility for the mentally retarded with sixteen or less beds (ICF-MR/16), ~~provided in which case the person licensed by the state may be in charge of more than one ICF-MR/16 facility or; provided that such facilities are physically located on one campus that is owned and operated by an organization or institution that has a qualified administrator,~~ within a twenty-mile radius of each other and the total number of beds does not exceed twenty-four (24) beds, and each ICF-MR/16 facility is supervised by a qualified mental retardation professional. Such facilities may be free-standing in a community or may be on campus with a parent institution. The ICF-MR/16 may be independently owned and operated or may be part of a larger institutional ownership and operation;

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

5. "Adult Companion Home" means any home or establishment, funded and certified by the Department of Human Services, which provides homelike residential accommodations and supportive

assistance to three or fewer mentally retarded or developmentally disabled adults;

6. "Board" means State Board of Health;

7. "Commissioner" means State Commissioner of Health;

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

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

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

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

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

12. "Residential care home" means any home, establishment, or institution licensed pursuant to the provisions of the Residential Care Act other than a hotel, motel, fraternity or sorority house, or college or university dormitory, which offers or provides residential accommodations, food service, and supportive assistance

to any of its residents or houses any resident requiring supportive assistance. The residents shall be persons who are ambulatory and essentially capable of managing their own affairs, but who do not routinely require nursing care; provided, the term "residential care home" shall not mean a hotel, motel, fraternity or sorority house, or college or university dormitory, if the facility operates in a manner customary to its description and does not house any person who requires supportive assistance from the facility in order to meet an adequate level of daily living;

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

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

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

16. "Owner" means a person, corporation, partnership, association, or other entity which owns a facility or leases a facility. The person or entity that stands to profit or lose as a result of the financial success or failure of the operation shall be presumed to be the owner of the facility;

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

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

19. "Representative of a resident" means a court-appointed guardian or, if there is no court-appointed guardian, the parent of a minor, a relative, or other person, designated in writing by the

resident; provided, that any owner, operator, administrator or employee of a facility subject to the provisions of the Nursing Home Care Act, the Residential Home Care Act, or the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act, shall not be appointed guardian or limited guardian of a resident of the facility unless the owner, operator, administrator or employee is the spouse of the resident, or a relative of the resident within the second degree of consanguinity and is otherwise eligible for appointment; and

20. "Supportive assistance" means the service rendered to any person which is less than the service provided by a nursing facility but which is sufficient to enable the person to meet an adequate level of daily living. Supportive assistance includes but is not limited to housekeeping, assistance in the preparation of meals, assistance in the safe storage, distribution, and administration of medications, and assistance in personal care as is necessary for the health and comfort of such person. Supportive assistance shall not include medical service.

SECTION 2. AMENDATORY 63 O.S. 1991, Section 330.51, as amended by Section 1, Chapter 289, O.S.L. 1995 (63 O.S. Supp. 1995, Section 330.51), is amended to read as follows:

Section 330.51 For the purposes of this act, and as used herein:

1. The term "Board" means the Oklahoma State Board of Examiners for Nursing Home Administrators hereinafter created;

2. The term "nursing home administrator" means a person licensed by the State of Oklahoma who operates, or manages, or supervises, or is in charge of a nursing home, or specialized home facility and who devotes at least one-third (1/3) of his or her full working time to on-the-job supervision of such facility; provided that this requirement shall not apply to an administrator of an intermediate care facility for the mentally retarded with sixteen or

less beds (ICF-MR/16), in which case the person licensed by the state may be in charge of more than one ICF-MR/16; provided that such facilities are located within a twenty-mile radius of each other and the total number of beds in each facility does not exceed twenty-four (24) beds. Such facilities may be free-standing in a community or may be on campus with a parent institution. The ICF-MR/16 may be independently owned and operated or may be part of larger institutional ownership and operation;

3. The terms "nursing home", "rest home" and "specialized home" shall have the same meaning as the term "nursing facility" as such term is defined in the Nursing Home Care Act, Section 1-1901 et seq. of this title. The terms "administrator" and "owner" shall have the same meanings as such terms are defined in the Nursing Home Care Act; and

4. The term "qualified mental retardation professional" shall be an individual determined by the State Department of Health, pursuant to Section 483.430, 42 C.F.R., to:

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

SECTION 3. This act shall become effective November 1, 1996.