

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1540

By: Erwin

COMMITTEE SUBSTITUTE

An Act relating to public health and safety; amending 63 O.S. 1991, Section 1-820, as last amended by Section 4, Chapter 230, O.S.L. 1995, and 1-836 (63 O.S. Supp. 1996, Section 1-820), which relates to the Residential Care Act; adding and modifying definitions; clarifying and updating language; providing for inactive status; providing for additional credits; providing for procedures; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 1991, Section 1-820, as last amended by Section 4, Chapter 230, O.S.L. 1995 (63 O.S. Supp. 1996, Section 1-820), is amended to read as follows:

Section 1-820. As used in the Residential Care Act, ~~Section 1-819 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 home to communicate privately and without unreasonable restriction;
3. "Administrator" means the person who is in charge of a home and who devotes at least one-third (1/3) of his full working time to on-the-job supervision of such home;
4. "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;

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

6. "Ambulatory" means a resident who has the ability to move from place to place by walking, either unaided or aided by prosthesis, brace, cane, crutches, walker, handrails, the assistance of not more than one other person or by propelling a wheelchair, or able to transfer independently or with the assistance of one (1) other person and escape with the assistance of not more than one other person or guiding a resident to an exit, using the normal means of egress;

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

~~7.~~ 8. "Commissioner" means the State Commissioner of Health;

~~8.~~ 9. "Department" means the State Department of Health;

~~9.~~ 10. "Habilitation" means procedures and interventions designed to assist an elderly person, a mentally ill person, or drug-dependent or alcohol-dependent person eighteen (18) years of age or older to achieve greater physical, mental and social development by enhancing the well-being of the person and teaching skills which increase the possibility that the resident will make progressively independent and responsible decisions about social behavior, quality of life, job satisfaction and personal relationships;

11. "Health care services" includes, but is not limited to, residents choosing and maintaining their own physicians, laboratory work, dentistry, physical therapy, routine skilled nursing services, podiatry, and social work;

~~10.~~ 12. "Home" means a residential care home;

~~11.~~ 13. "Residential care home" means:

- a. any establishment ~~or institution~~ other than an adult companion home, a hotel, motel, fraternity or sorority house, college or university dormitory which offers or provides residential accommodations, food service, and supportive assistance to any of its residents or houses any residents requiring supportive assistance who are not related to the owner or administrator of the home by blood or

marriage. ~~Said~~ The residents shall be ambulatory and essentially capable of managing their own affairs, but do not routinely require skilled nursing care or intermediate care. Routine nursing services to manage medically predictable recurring needs of residents may be arranged or provided. Residents cannot require twenty-four-hour continuous skilled nursing care,

- b. a residential care home may consist of a series of units or buildings which are not connected or part of the same structure if:
- (1) such buildings or units are owned by the same owner or operator,
 - (2) all residents of the units or buildings are fully capable of ambulation to and from the buildings or units,
 - (3) the location and construction of the buildings or units ensure the health, safety, and protection from fire hazards and other hazards and provide for the convenience and accessibility of the residents to each residential building or unit,
 - (4) any out-of-doors premise or thoroughfare is adequately maintained to ensure the health and safety of the residents,
 - (5) the buildings or units are within one hundred seventy-five (175) feet of the building housing the main kitchen and dining room. The units or buildings must be located in the most convenient and accessible location for residents, and
- c. residential care home shall not mean a hotel, motel, fraternity or sorority house, college or university dormitory providing such facility operates in a manner customary to its description and does not house any person who requires supportive assistance

from said facility in order to meet an adequate level of daily living.

The Board shall develop minimum standards for such residential homes pursuant to Section 1-836 of this title;

~~12.~~ 14. "Licensee" means a person, corporation, partnership, or association who is the owner of a home which is licensed pursuant to the provisions of the Residential Care Act, ~~Section 1-819 et seq. of this title;~~

~~13.~~ 15. "Maintenance" means meals, shelter, and laundry services;

~~14.~~ 16. "Neglect" means failure to provide goods and/or services necessary to avoid physical harm, mental anguish, or mental illness;

~~15.~~ 17. "Operator" means the person who is not the administrator but who manages the home;

~~16.~~ 18. "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.~~ 19. "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.~~ 20. "Resident" means a person residing in a home due to illness, physical or mental infirmity, or advanced age;

~~19.~~ 21. "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. No owner, agent, or employee or person with a pecuniary interest in the residential facility or relative thereof shall be a representative of a resident unless such person is appointed by the court; and

~~20.~~ 22. "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 health care services, 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. The term "supportive assistance" shall not be interpreted or applied so as to prohibit the participation of residents in housekeeping or meal preparation tasks as a part of the written treatment plan for the training, habilitation or rehabilitation of the resident prepared with the participation of the resident, the mental health or drug or alcohol services case-manager assigned to the resident, and the administrator of the facility or his designee. ~~Supportive assistance shall not include medical service; and~~

~~21. "Transfer" means a change in location of living arrangements of a resident from one home to another home.~~

SECTION 2. AMENDATORY 63 O.S. 1991, Section 1-836, is amended to read as follows:

Section 1-836. A. The Department shall develop minimum standards for homes. These standards shall be promulgated by the Board 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; and

2. Number of all personnel, including management and supervisory personnel, having responsibility for any part of the care given to residents. The Department shall establish staffing ratios for homes which shall specify the number of staff hours per resident of care that are needed for care for various types of homes or areas within homes. Minimum personnel ratio requirements for all homes shall be based only on average daily census; and

3. All sanitary conditions within the home and its surroundings, including water supply, sewage disposal, food handling, and general hygiene, which shall ensure the health and comfort of residents; and

4. 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

5. Equipment essential to the health and welfare of the residents; and

6. A program of rehabilitation for those residents who would benefit from such programs.

B. 1. In order to further ensure minimum standards for homes, a certificate of training as specified shall be required of all:

a. administrators who shall obtain a residential care administrator certificate of training, and

b. all direct care staff who have the responsibility for administration of medication to residents who shall obtain a residential care certificate of training.

2. The certificate will be developed and administered by an institution of higher learning with advice of the Commissioner of Health and of the Long Term Care Advisory Board.

a. (1) For residential care home administrators the training shall consist of a minimum of fifty (50) hours which shall include at least fifteen (15) hours in the administration of medication and shall also include, but not be limited to, training in administration, supervision, reporting, record keeping, independent or daily living skills, leisure skills and recreation, and public relations concerning the issues associated with the operation of residential care homes and programs. Any person employed as an administrator after the effective date of

this act shall have completed the training specified by this division.

- (2) Thereafter, annually, at least sixteen (16) hours of training in the subjects specified by this subparagraph shall be required for such administrator.
- (3) At any time, an individual applying for administrator certification may make the institution of higher learning aware of past educational courses taken and work experience. The institution of higher learning can then make a determination of possible credit hours towards certification for that individual.
- (4) An existing certified administrator may request that the Department place the administrator's certification on inactive status for up to five (5) subsequent calendar years. This request must be made in writing to the Department. An administrator on inactive status is not required to meet the continuing education requirements specified by this subsection as long as the administrator is on inactive status. An administrator whose certification is on inactive status shall not be employed as a residential care administrator in Oklahoma until the license is reactivated. Any request for reactivation of the certificate shall be made in writing to the Department. At least sixteen (16) hours of continuing education in the areas specified in this subparagraph prior to any such reactivation shall be required.
- (5) All existing certified administrators who have taken the fifty-hour course shall be eligible to take sixteen (16) hours of continuing education to become active or ask the Department to place their certificate on inactive status.

b. All direct care staff who have the responsibility for administration of medication to residents shall be required to begin training in the administration of medication within ninety (90) days of employment with the home and to satisfactorily complete at least fifteen (15) hours of training in the administration of medication, within the first year of employment with the home.

3. All other direct care staff who are employed by a residential care home within ninety (90) days of employment with the home shall be required to begin eight (8) hours of in-service training by the administrator of the home or other person designated by the administrator of the home and completed within twelve (12) months from date of employment and annually thereafter. Thereafter such direct care staff and the direct care staff who have the responsibility for administering medication to residents shall, annually, be required to receive at least eight (8) hours of training by the administrator of the home in patient reporting and observation, record keeping, independent or daily living skills, leisure skills and recreation, human relations and such other training relevant to residential care programs and operations.

4. The requirement of certification and the training specified pursuant to the provisions of this subsection shall be included in the rules and regulations promulgated by the Board.

5. Failure of the owner or administrator to ensure the training required pursuant to this subsection is received shall constitute a violation of the Residential Care Act and shall be grounds for revocation of licensure. Proof of successful completion of such training for the residential care home administrator and direct care staff shall be required prior to issuance or renewal of a license issued pursuant to the provisions of the Residential Care Act. The Department shall not renew any license for any residential care home, if the training required by this subsection has not been completed.

SECTION 3. This act shall become effective November 1, 1997.

46-1-6652

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