

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)
CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 1095

By: Cain of the Senate

and

Seikel of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to public health and safety; amending 63 O.S. 1991, Section 1-872, as amended by Section 1, Chapter 104, O.S.L. 1996 and 1-878 (63 O.S. Supp. 1997, Section 1-872), which relate to the Adult Day Care Act and the Home Care Act; modifying definition; making specified acts unlawful under certain conditions; deleting obsolete language; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 1991, Section 1-872, as amended by Section 1, Chapter 104, O.S.L. 1996 (63 O.S. Supp. 1997, Section 1-872), is amended to read as follows:

Section 1-872. As used in the Adult Day Care Act:

1. "Adult day care center" or "center" means a facility which provides basic day care services to ~~four or more~~ unrelated impaired adults for more than four (4) hours in a twenty-four-hour period. A center shall be a distinct entity, either freestanding or a separate program of a larger organization. A center shall have a separately verifiable staff, space, budget and participant record system. The terms "adult day care center" or "center" shall not include retirement centers and senior citizen centers;

2. "Basic day care services" means supervised health, social supportive, and recreational services in a structured daytime program which serves functionally impaired adults who continue to

live in their own homes, usually with the aid of family care givers;

3. "Department" means the State Department of Health; and

4. "Participant" means any person attending an adult day care center.

SECTION 2. AMENDATORY 63 O.S. 1991, Section 1-878, is amended to read as follows:

Section 1-878. A. It shall be unlawful to operate an adult day care center, without possessing a current, valid license issued pursuant to the provisions of the Adult Day Care Act. It shall be unlawful for any holder of a license issued pursuant to the provisions of the Adult Day Care Act to advertise or hold out to the public that it holds a license for a center other than that for which it actually holds a license. It shall be unlawful for any individual or entity to advertise or hold out to the public that it provides adult day care services without first possessing a current, valid license issued pursuant to the provisions of the Adult Day Care Act or the Continuum of Care and Assisted Living Act.

B. Any person who has been determined by the State Department of Health to have violated any provision of the Adult Day Care Act or any rule, ~~regulation,~~ or order issued pursuant thereto may be liable for an administrative penalty of not more than Five Hundred Dollars (\$500.00) for each day that ~~said~~ such violation continues.

C. The amount of the penalty shall be assessed by the Department pursuant to the provisions of subsection B 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 the 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 Adult Day Care Act.

D. Any license holder may elect to surrender ~~his~~ such license in lieu of ~~said~~ such fine, but shall be forever barred from obtaining a reissuance of ~~said~~ such license.

E. Any person who violates any of the provisions of the Adult Day Care Act, upon conviction, shall be guilty of a misdemeanor. Each day upon which such violation occurs shall constitute a separate violation.

F. 1. The Attorney General or the district attorney of the appropriate district court of Oklahoma may bring an action in a court of competent jurisdiction for the prosecution of a violation by any person of a provision of the Adult Day Care Act or any rule, ~~regulation,~~ or order issued pursuant thereto.

2. Enforcement of any action for equitable relief to redress or restrain a violation by any person of a provision of the Adult Day Care Act or for an injunction or recovery of any administrative or civil penalty assessed pursuant to the provisions of the Adult Day Care Act may be brought by:

- a. the district attorney of the appropriate district court of the State of Oklahoma~~+~~+
- b. the Attorney General on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma~~+~~+ or
- c. the Department on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma, or as otherwise authorized by law.

3. The 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 3. This act shall become effective November 1, 1998.

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