STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL 1461 By: Morgan

COMMITTEE SUBSTITUTE

[Public health and safety - the Oklahoma Continuum of Care Task Force - codification - effective date - emergency]

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

SECTION 1. AMENDATORY Section 1, Chapter 418, O.S.L. 1999, is amended to read as follows:

A. There is hereby established until ~~June 1, 2000~~ February 1, 2001, the Oklahoma Continuum of Care Task Force. The Task Force shall be composed of twenty-one (21) members, seven of whom shall be appointed by each the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives; provided, however, no member of the Oklahoma Legislature may be appointed to the Task Force.

B. 1. Members shall serve at the pleasure of the appointing authority. A vacancy on the Task Force shall be filled by the original appointing authority.

2. A majority of the members appointed to the Task Force shall constitute a quorum. A majority of the members present at a meeting may act for the Task Force.

3. The President Pro Tempore shall designate the chair and the Speaker shall designate the vice-chair of the Task Force from among the members of the Task Force.

4. The chair of the Task Force or a designee shall convene the ~~first meeting~~ meetings of the Task Force ~~on or before October 1, 1999~~.

5. The members of the Task Force shall determine meeting dates. Members shall not be compensated for their service but shall be reimbursed by their appointing authorities for necessary expenses incurred in the performance of their duties, pursuant to the provisions of the State Travel Reimbursement Act.

C. 1. The Task Force:

a. shall study the various long-term care programs currently being provided in this state and shall make recommendations concerning a comprehensive state policy regarding long-term care,

b. may divide into subcommittees in furtherance of its purpose,

c. shall examine staffing patterns in long-term care facilities and may recommend staffing changes,

d. shall compare the state Medicaid program funding system for long-term care facilities with systems used in other states and may recommend changes to such system,

e. shall examine and make recommendations regarding the feasibility of establishing an acuity-based reimbursement system, utilizing a Minimum Data Set (MDS) Assessment, for long-term care residents~~, and shall report its findings and recommendations to the Senate and the House of Representatives on or before February 1, 2000~~. As used in this subparagraph:

(1) "Acuity-based reimbursement system" means a system of funding that mandates the implementation of a per diem payment for long-term care facilities. The system shall cover all

routine, ancillary and capital costs related to services furnished to long-term care residents and shall be based on a resident classification system that includes, but is not limited to, data from resident assessments and relative weights developed from staff time data, and

(2) "Minimum Data Set (MDS)" means a core set of screening, clinical and functional status elements, including common definitions and coding categories, that forms the foundation of a comprehensive assessment for all residents of Medicare or Medicaid certified long-term care facilities,

f. shall develop criteria for an "Ideal Nursing Home" demonstration project that may be used to test various innovations in nursing home care. The demonstration project may further be used to estimate the cost of implementing the innovations on a statewide basis,

g. shall work with the Office of the State Long-Term Care Ombudsman, the State Department of Health, the Oklahoma Health Care Authority, the Department of Human Services and all other related agencies and long-term care providers in developing a proposed policy for the state,

h. shall actively seek and consider input from the public, the business community, long-term care organizations, organizations for elderly or retired persons, public interest organizations, professional organizations, or any other groups or persons with an interest in the long-term care programs of this state and the work of the Task Force, and

i. shall solicit and accept written comments, recommendations and proposals, and shall hold public hearings to obtain comments from the public.

2. a. The Task Force shall be equally staffed by personnel from the Department of Human Services, the State Department of Health and the Oklahoma Health Care Authority; provided, however, the Department of Human Services shall act as the lead agency for staffing purposes.

b. All departments, officers, agencies and employees of the state shall cooperate with the Task Force in carrying out its duties and responsibilities, including, but not limited to, providing any information, records and reports as may be requested by the Task Force.

D. 1. The Task Force shall submit a final report of its recommendations to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives on or before ~~January 1, 2000, regarding the findings and recommendations of the Task Force~~ February 1, 2001.

2. The recommendations shall include, but not be limited to:

a. the results of a review and evaluation of all long-term care services provided in this state. The Task Force shall identify areas of fragmentation and duplication of services and shall make recommendations that emphasize the needs of consumers,

b. the results of a review and evaluation of agencies providing long-term care services in this state including, but not limited to, recommendations for consolidation or reorganization that the Task Force deems necessary to simplify service delivery. The areas of review and evaluation shall include all state

contracting and funding, surveying and quality assurance, and single point of entry for case management,

c. specifications for the development of a case mix payment system for all licensed providers. Such system shall be developed first for nursing facilities, and then for other long-term care services and providers including assisted living, adult day care, residential care, hospice and other home and community-based services, and

d. specifications for the development of a single assessment tool for all state regulated long-term care programs.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1925.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. There is hereby established a system of direct care staffing for all nursing facilities subject to the provisions of the Nursing Home Care Act. The system shall consist of two tiers.

B. 1. The Tier One Voluntary Staffing Incentive Program shall provide that facilities that voluntarily choose to meet the direct care staff to resident ratios as provided in subsection D of this section shall be eligible to receive funds from a special fund established within the Oklahoma Health Care Authority; provided, however, prior to implementation of such program the Oklahoma Health Care Authority shall fully recalculate and reimburse beginning July 1, 2000, the average actual, audited costs reflected in previously submitted cost reports for the cost reporting period that began July 1, 1998, and ended June 30, 1999, inflated by the federally published inflationary factors for the two years appropriate to reflect present day costs at the midpoint of the July 1, 2000 through June 30, 2001, rate year.

2. The recalculations provided for in subparagraph a of paragraph 1 of this subsection shall be consistent for both nursing facilities and intermediate care facilities for the mentally retarded, and shall be calculated in the same manner as has been mutually understood by the long-term care industry and the Oklahoma Health Care Authority.

3. The recalculated reimbursement rate shall be implemented July 1, 2000, or prior to the imposition of any additional staffing requirements or the initiation of the Tier One Voluntary Staffing Incentive Program.

4. Once the reimbursement rate has been adjusted in the manner provided for in paragraph 1 of this subsection, nursing facilities may participate in the Tier One Voluntary Staffing Incentive Program and may qualify for additional funding from the Oklahoma Health Care Authority for meeting or exceeding the staffing requirements as provided in subsection D of this section.

C. 1. The Tier Two Mandated Staffing Program shall consist of mandated direct care staff to resident ratios as provided in subsection D of this section for all nursing facilities in this state; provided, however, no direct care staff to resident ratios shall be mandated until such time as the state Medicaid Program reimbursement rate for nursing facilities meets or exceeds the average Medicaid reimbursement rate of the seven states contiguous to this state.

2. Once the state Medicaid program reimbursement rate for nursing facilities equals the average Medicaid reimbursement rate of the seven states contiguous to this state, all nursing facilities subject to the provisions of the Nursing Home Care Act shall be subject to the staffing requirements provided for in subsection D in this section.

D. 1. All nursing facilities subject to the Nursing Home Care Act, in addition to other state and federal requirements related to

the staffing of nursing facilities, shall maintain the following minimum direct care staff to resident ratios:

a. from 7:00 a.m. to 3:00 p.m., one direct care staff to every six residents,

b. from 3:00 p.m. to 11:00 p.m., one direct care staff to every eight residents, and

c. from 11:00 p.m. to 7:00 a.m., one direct care staff to every fifteen residents.

2. For purposes of this section:

a. "direct care staff" means any nursing or therapy staff who provides direct, hands-on care to residents in a nursing facility, and

b. activity and social services staff who are not providing direct, hands-on care to residents shall not be included in the direct care staff to resident ratio in any shift.

E. The Oklahoma Health Care Authority shall require all nursing facilities subject to the provisions of the Nursing Home Care Act to submit a monthly report on staffing ratios on a form that the Authority shall develop. The report shall document the extent to which such nursing facilities are meeting or are failing to meet the minimum direct care staff to resident ratios specified by this section. Such report shall be available to the public upon request.

F. 1. On or before July 1, 2001, all entities regulated by this state that provide long-term care services shall utilize a single assessment tool.

2. The Oklahoma Health Care Authority shall:

a. implement a case mix Medicaid reimbursement system for all state regulated providers effective July 1, 2001, and

b. establish a statewide Long-Term Care Consumer Information and Help Line to provide assistance to

consumers needing assistance with or information on long-term care services in this state. The Authority shall develop a database of Medicaid recipients to support the Help Line.

SECTION 3. This act shall become effective May 31, 2000.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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