

CS for SB 1461

1 THE STATE SENATE
2 Monday, February 28, 2000

3 Committee Substitute for
4 Senate Bill No. 1461

5 COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1461 - By: MORGAN of the
6 Senate and ADKINS of the House.

7 [Public health and safety - the Oklahoma Continuum of Care
8 Task Force - codification - effective date - emergency]
9

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

11 SECTION 1. AMENDATORY Section 1, Chapter 418, O.S.L.

12 1999, is amended to read as follows:

13 A. There is hereby established until ~~June 1, 2000~~ February 1,
14 2001, the Oklahoma Continuum of Care Task Force. The Task Force
15 shall be composed of twenty-one (21) members, seven of whom shall be
16 appointed by each the Governor, the President Pro Tempore of the
17 Senate, and the Speaker of the House of Representatives; provided,
18 however, no member of the Oklahoma Legislature may be appointed to
19 the Task Force.

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

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

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

4 4. The chair of the Task Force or a designee shall convene the
5 ~~first meeting~~ meetings of the Task Force ~~on or before October 1,~~
6 ~~1999.~~

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

12 C. 1. The Task Force:

- 13 a. shall study the various long-term care programs
14 currently being provided in this state and shall make
15 recommendations concerning a comprehensive state
16 policy regarding long-term care,
17 b. may divide into subcommittees in furtherance of its
18 purpose,
19 c. shall examine staffing patterns in long-term care
20 facilities and may recommend staffing changes,
21 d. shall compare the state Medicaid program funding
22 system for long-term care facilities with systems used

1 in other states and may recommend changes to such
2 system,

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

10 (1) "Acuity-based reimbursement system" means a
11 system of funding that mandates the
12 implementation of a per diem payment for long-
13 term care facilities. The system shall cover all
14 routine, ancillary and capital costs related to
15 services furnished to long-term care residents
16 and shall be based on a resident classification
17 system that includes, but is not limited to, data
18 from resident assessments and relative weights
19 developed from staff time data, and

20 (2) "Minimum Data Set (MDS)" means a core set of
21 screening, clinical and functional status
22 elements, including common definitions and coding
23 categories, that forms the foundation of a

1 comprehensive assessment for all residents of
2 Medicare or Medicaid certified long-term care
3 facilities,

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

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

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

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

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

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

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

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

22 a. the results of a review and evaluation of all long-
23 term care services provided in this state. The Task

1 Force shall identify areas of fragmentation and
2 duplication of services and shall make recommendations
3 that emphasize the needs of consumers,
4 b. the results of a review and evaluation of agencies
5 providing long-term care services in this state
6 including, but not limited to, recommendations for
7 consolidation or reorganization that the Task Force
8 deems necessary to simplify service delivery. The
9 areas of review and evaluation shall include all state
10 contracting and funding, surveying and quality
11 assurance, and single point of entry for case
12 management,
13 c. specifications for the development of a case mix
14 payment system for all licensed providers. Such
15 system shall be developed first for nursing
16 facilities, and then for other long-term care services
17 and providers including assisted living, adult day
18 care, residential care, hospice and other home and
19 community-based services, and
20 d. specifications for the development of a single
21 assessment tool for all state regulated long-term care
22 programs.

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

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

7 B. 1. The Tier One Voluntary Staffing Incentive Program shall
8 provide that facilities that voluntarily choose to meet the direct
9 care staff to resident ratios as provided in subsection D of this
10 section shall be eligible to receive funds from a special fund
11 established within the Oklahoma Health Care Authority; provided,
12 however, prior to implementation of such program the Oklahoma Health
13 Care Authority shall fully recalculate and reimburse beginning July
14 1, 2000, the average actual, audited costs reflected in previously
15 submitted cost reports for the cost reporting period that began July
16 1, 1998, and ended June 30, 1999, inflated by the federally
17 published inflationary factors for the two years appropriate to
18 reflect present day costs at the midpoint of the July 1, 2000
19 through June 30, 2001, rate year.

20 2. The recalculations provided for in subparagraph a of
21 paragraph 1 of this subsection shall be consistent for both nursing
22 facilities and intermediate care facilities for the mentally
23 retarded, and shall be calculated in the same manner as has been

1 mutually understood by the long-term care industry and the Oklahoma
2 Health Care Authority.

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

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

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

21 2. Once the state Medicaid program reimbursement rate for
22 nursing facilities equals the average Medicaid reimbursement rate of
23 the seven states contiguous to this state, all nursing facilities

1 subject to the provisions of the Nursing Home Care Act shall be
2 subject to the staffing requirements provided for in subsection D in
3 this section.

4 D. 1. All nursing facilities subject to the Nursing Home Care
5 Act, in addition to other state and federal requirements related to
6 the staffing of nursing facilities, shall maintain the following
7 minimum direct care staff to resident ratios:

- 8 a. from 7:00 a.m. to 3:00 p.m., one direct care staff to
9 every six residents,
- 10 b. from 3:00 p.m. to 11:00 p.m., one direct care staff to
11 every eight residents, and
- 12 c. from 11:00 p.m. to 7:00 a.m., one direct care staff to
13 every fifteen residents.

14 2. For purposes of this section:

- 15 a. "direct care staff" means any nursing or therapy staff
16 who provides direct, hands-on care to residents in a
17 nursing facility, and
- 18 b. activity and social services staff who are not
19 providing direct, hands-on care to residents shall not
20 be included in the direct care staff to resident ratio
21 in any shift.

22 E. The Oklahoma Health Care Authority shall require all nursing
23 facilities subject to the provisions of the Nursing Home Care Act to

1 submit a monthly report on staffing ratios on a form that the
2 Authority shall develop. The report shall document the extent to
3 which such nursing facilities are meeting or are failing to meet the
4 minimum direct care staff to resident ratios specified by this
5 section. Such report shall be available to the public upon request.

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

9 2. The Oklahoma Health Care Authority shall:

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

13 b. establish a statewide Long-Term Care Consumer
14 Information and Help Line to provide assistance to
15 consumers needing assistance with or information on
16 long-term care services in this state. The Authority
17 shall develop a database of Medicaid recipients to
18 support the Help Line.

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

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

1 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-23-00 - DO
2 PASS, As Amended and Coauthored.