

ENGROSSED HOUSE  
BILL NO. 2338

By: Hastings of the House  
and  
Smith of the Senate

( Nursing Home Care Act - amending 63 O.S., Section 1-  
1921 - nursing home contracts - mediation award -  
statute of limitations - codification -  
effective date )

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

SECTION 1. AMENDATORY 63 O.S. 2001, Section 1-1921, is  
amended to read as follows:

Section 1-1921. A. A written contract shall be executed between  
a person or ~~his~~ the guardian of or responsible party for a person, or  
if the resident is a minor, ~~his~~ a parent of the minor, and a facility  
or its agent within one hundred twenty (120) days from the time a  
person is admitted to a facility, or at the expiration of the period  
of previous contract, or when the source of payment for the  
resident's care changes from private to public funds or from public  
to private funds; ~~if~~ if. If a person is a resident of a facility on the  
effective date of this act and no legally enforceable contract exists,  
then a contract as described in this section shall be executed within  
sixty (60) days after the effective date of this act. If the  
facility receives or is to receive payment by the state or federal  
government, an individual contract with the nursing home is not  
required.

A resident shall not be discharged or transferred at the  
expiration of the term of a contract, except as provided in Sections  
1-1926 through ~~1-1937~~ 1-1930 of this title.

B. The contract shall be executed between the resident or the resident's guardian or, if the resident is a minor, ~~his~~ the parent or guardian of the minor and the licensee.

C. A copy of the contract shall be given to the resident or to the resident's representative at the time of the resident's admission to the facility.

D. A copy of the contract for a resident who is supported by nonpublic funds other than the resident's own funds shall be made available to the person providing the funds for the resident's support.

E. The contract shall be written in clear and unambiguous language and shall be printed in type no smaller than standard typewriter pica or elite type. The general form of the contract shall be prescribed by the Department.

F. The contract shall specify:

1. The term of the contract;
2. The services to be provided under the contract and the charges for the services;
3. The services that may be provided to supplement the contract and the charges for the services;
4. The sources liable for payments due under the contract;
5. The amount of deposit paid; and
6. The rights, duties and obligations of the resident, except that the specification of a resident's rights may be furnished on a separate document which complies with the requirements of Section 1-1918 of this title.

G. The contract shall designate the name of the resident's representative, if any.

H. The contract may provide that upon the written demand of any party to the contract, all parties shall submit their differences to a mediator for nonbinding mediation. If the contract provides for nonbinding mediation, the contract shall also include the rights and

duties of all parties with respect to the mediation. The mediator shall be mutually agreed upon by the parties. If the parties cannot agree to a single mediator, each party shall select one mediator. The two mediators selected by the parties shall select a third mediator. Any decision issued by the three mediators must be agreed to by at least two of the mediators. Any award reached by the mediators shall be advisory only, unless all parties reach an agreement, within thirty (30) days after the date of the award, to be bound by the award. If an award by mediation is not reached by the mediators within one hundred eighty (180) days from the date of the written demand for mediation or agreed to by the parties within thirty (30) days after the date of the award, the party demanding mediation may file a civil cause of action against the responding party. The statute of limitations shall be tolled during the period of mediation. Such tolling shall commence on the date of the filing of a written request for mediation by either party and shall end on the date that a mediation award is reached by the mediators or, if the mediators are unable to reach an agreement, the date mediation is officially terminated by the mediators.

I. The contract shall provide that if the resident dies or is compelled by a change in physical or mental health to leave the facility, the contract and all obligations under it shall terminate immediately. All charges shall be prorated as of the date on which the contract terminates, and, if any payments have been made in advance, the excess shall be refunded to the resident. This provision shall not apply to life-care contracts through which a facility agrees to provide maintenance and care for a resident throughout the remainder of ~~his~~ the life of a resident or to continuing-care contract through which a facility agrees to supplement all available forms of financial support in providing maintenance and care for a resident throughout the remainder of ~~his~~ the life of the resident.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1921.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

If a contract for any type of services covered under the Nursing Home Care Act provides for mediation or arbitration, the mediation or arbitration shall be held within this state in the county in which a cause of action could be brought based upon the matter that is to be mediated or arbitrated.

SECTION 3. This act shall become effective November 1, 2002.

Passed the House of Representatives the 20th day of March, 2002.

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Presiding Officer of the House of  
Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2002.

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Presiding Officer of the Senate