

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 602

By: Robinson of the Senate

and

Leist of the House

COMMITTEE SUBSTITUTE

An Act relating to public health and safety; amending 63 O.S. 2001, Section 1-820, which relates to the Residential Care Act; modifying definition; exempting certain residential care facilities from act's provisions; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2001, Section 1-820, is amended to read as follows:

Section 1-820. As used in the Residential Care Act:

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 or her 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 any resident who is capable of self-movement, including in and out of wheelchairs, to all areas of the home;

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

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

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

10. "Habilitation" means procedures and interventions designed to assist a mentally ill, 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. "Home" means a residential care home;

12. "Residential care home":

a. means any establishment or institution ~~other than an adult companion home, a group home, a hotel, motel, fraternity or sorority house, college or university dormitory~~ which offers, provides or supports 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. A residential care home shall not include:

(1) an adult companion home,

(2) a group home,

(3) a hotel,

(4) a motel,

- (5) a residential mental health facility operated by the Department of Mental Health and Substance Abuse Services,
- (6) a fraternity or a sorority house, or
- (7) college or university dormitory.

The residents of a residential care home shall be ambulatory and essentially capable of participating in their own activities of daily living, but shall not routinely require nursing services, and

b. 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, and
- (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;

provided, however, the leasing of rooms directly or indirectly to residents of a home shall not void the

application of the provisions of the Residential Care Act or rules promulgated pursuant thereto.

The State Board of Health shall promulgate rules for such residential homes pursuant to the provisions of Section 1-836 of this title;

13. "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;

14. "Maintenance" means meals, shelter, and laundry services;

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

16. "Operator" means the person who is not the administrator but who manages the home;

17. "Owner" means a person, corporation, partnership, association, or other entity which owns or leases a home or part of a home, directly or indirectly, to residents. 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;

18. "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 unable to manage all activities of daily living without assistance, whether or not a guardian has been appointed for such person;

19. "Resident" means a person of legal age, residing in a home due to illness, physical or mental infirmity, or advanced age;

20. "Representative of a resident" means a court-appointed guardian, or if there is no court-appointed guardian, a relative or other person designated in writing by the resident. No owner, agent, 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;

21. "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, 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 a designee; and

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

SECTION 2. This act shall become effective November 1, 2003.

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