

CS for EHB 2592

THE STATE SENATE  
Monday, April 10, 2006

Committee Substitute for  
ENGROSSED  
House Bill No. 2592

COMMITTEE SUBSTITUTE FOR ENGROSSED HOUSE BILL NO. 2592 - By: PETERS  
of the House and CAIN of the Senate.

[ developmental disabilities services - Group Homes for  
Persons with Developmental or Physical Disabilities Act -  
repealing seven sections - codification - effective date ]

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

SECTION 1. AMENDATORY 10 O.S. 2001, Section 1430.1, is  
amended to read as follows:

Section 1430.1 Sections ~~±~~ 1430.1 through ~~40~~ 1430.41 of this ~~act~~  
title shall be known and may be cited as the "Group Homes for  
Persons with Developmental or Physical Disabilities Act".

SECTION 2. AMENDATORY 10 O.S. 2001, Section 1430.2, is  
amended to read as follows:

Section 1430.2 As used in the Group Homes for Persons with  
Developmental or Physical Disabilities Act:

1. "Abuse" ~~means any intentional infliction of physical pain,~~  
~~injury or mental anguish, or the deprivation of food, clothing,~~  
~~shelter or medical care by a person responsible for providing these~~  
~~services,~~ as defined by the Protective Services for ~~the Elderly and~~

1 ~~for Incapacitated Vulnerable Adults Act, and any sexual assault~~  
2 ~~inflicted on a resident of a group home~~ means causing or permitting:

3 a. the infliction of physical pain, injury, sexual abuse,  
4 sexual exploitation, unreasonable restraint or  
5 confinement, or mental anguish, or

6 b. the deprivation of nutrition, clothing, shelter,  
7 health care, or other care or services without which  
8 serious physical or mental injury is likely to occur  
9 to a vulnerable adult by a caretaker or other person  
10 providing services to a vulnerable adult;

11 2. "Access" means the right of a person to enter a group home  
12 to communicate privately and without unreasonable restriction;

13 3. ~~"Administrator" means the person designated by the provider~~  
14 ~~who has authority and responsibility for the programs and operation~~  
15 ~~of a group home;~~

16 4. "Advisory Board" means the Group Homes for Persons with  
17 Developmental or Physical Disabilities Advisory Board established by  
18 Section 4 1430.4 of this ~~act~~ title;

19 5. ~~4.~~ "Advocate" means an adult designated in writing selected  
20 by the resident to assist the resident in exercising the rights of  
21 such resident;

22 6. ~~5.~~ "Applicant" means a person, corporation, limited  
23 liability company, partnership, association, or other entity which

1 is being considered by the Department of Human Services for a  
2 license with the Department to provide group home services;

3 ~~7.~~ 6. "Case manager" means a staff member who is responsible  
4 for ensuring that services to a resident are planned and provided in  
5 a coordinated fashion;

6 7. "Commission" means the Commission for Human Services;

7 8. "Contract" means the binding legal agreement to provide  
8 group home services, entered into between the provider and the  
9 Developmental Disabilities Services Division of the Department of  
10 Human Services or the Oklahoma Health Care Authority (OHCA);

11 9. "DDSD" means the Developmental Disabilities Services  
12 Division of the Department of Human Services;

13 10. "Department" means the Department of Human Services;

14 11. "Developmental disability" means a severely chronic  
15 disability of a person, ~~five (5) years of age or older,~~ which:

- 16 a. is attributable to a physical or mental impairment or  
17 a combination of physical and mental impairments,  
18 b. is manifested before the person attains the age of  
19 twenty-two (22) years,  
20 c. is likely to continue indefinitely,  
21 d. results in substantial functional limitations in three  
22 or more of the following areas of major life activity:  
23 (1) self-care,

1 (2) receptive and expressive language,  
2 (3) learning,  
3 (4) mobility,  
4 (5) self-direction,  
5 (6) capacity for independent living, or  
6 (7) economic self-sufficiency, and  
7 e. reflects the ~~person's~~ need of the person for a  
8 combination and sequence of special interdisciplinary  
9 or generic care, treatment or other services which are  
10 of lifelong or ~~of~~ extended duration and are  
11 individually planned and coordinated;

12 12. "Director" means the Director of Human Services;

13 13. "Exploitation" means the unjust or improper use of the  
14 ~~personal~~ resources of a group home resident for the profit or  
15 advantage, pecuniary or otherwise, of ~~another~~ a person other than  
16 the group home resident through the use of undue influence,  
17 coercion, harassment, duress, deception, false representation, or  
18 false pretense, as defined by the Protective Services for ~~the~~  
19 ~~Elderly and for Incapacitated~~ Vulnerable Adults Act;

20 14. "Group home for persons with developmental or physical  
21 disabilities" means any establishment ~~or institution, other than a~~  
22 ~~hotel, motel, fraternity or sorority house, college or university~~  
23 ~~dormitory~~, for not more than twelve residents who are eighteen (18)

1 years of age or older and who have developmental or physical  
2 disabilities, which offers or provides supervision, residential  
3 accommodations, food service, and training and skill development  
4 opportunities designed to lead to increased independence of the  
5 residents and which offers or provides supportive assistance to any  
6 of its residents requiring supportive assistance.—~~Such residents~~  
7 ~~shall not require intermediate care facility services;~~

8 15. "Guardian" means a court-appointed representative or  
9 conservator;

10 16. "Habilitation" means ~~procedures and interventions designed~~  
11 ~~to assist an individual with developmental or physical disabilities~~  
12 ~~achieve greater physical, mental and social development by enhancing~~  
13 ~~the well-being of the person and teaching skills which increase the~~  
14 ~~possibility that such individual will make progressively independent~~  
15 ~~and responsible decisions about social behavior, quality of life,~~  
16 ~~job satisfaction and personal relationships~~ services designed to  
17 assist individuals in acquiring, retaining, and improving the self-  
18 help, socialization, and adaptive skills necessary to reside  
19 successfully in home and community-based settings;

20 17. "Home" or "group home" means a group home for persons with  
21 developmental or physical disabilities;

22 18. ~~"House manager" means the person who is not the~~  
23 ~~administrator of a group home but who manages the group home;~~

1       ~~19. "Interdisciplinary team" means a group of people,~~  
2 ~~including, at a minimum, the resident and the resident's family,~~  
3 ~~guardian or advocate, who develop a plan to encourage and enhance~~  
4 ~~habilitation of the resident~~ "Indecent exposure" means forcing or  
5 requiring a resident to:

6           a. look upon the body or private parts of another person  
7           or look upon sexual acts performed in the presence of  
8           the resident, or

9           b. touch or feel the body or private parts of another;

10       ~~20.~~ 19. "Licensee" means a person, corporation, partnership,  
11 limited liability company, or association who is the owner operator  
12 of a home which is licensed pursuant to the provisions of the Group  
13 Homes for Persons with Developmental or Physical Disabilities Act;

14       ~~21.~~ 20. "Neglect" as defined by the Protective Services for  
15 Vulnerable Adults Act means a:

16           a. the failure to provide protection for a group home  
17           resident who is unable to protect one's his or her own  
18           interests; or,

19           b. the failure to provide adequate shelter, nutrition,  
20           health care, or clothing; or the harming or  
21           threatening with harm through action or inaction by  
22           either another individual or through the person's own  
23           action or inaction because of such person's lack of

1                   ~~awareness, incompetence or incapacity, which has~~  
2                   ~~resulted or may result in physical or mental injury,~~  
3                   ~~as defined by the Protective Services for the Elderly~~  
4                   ~~and for Incapacitated Adults Act;~~

5           22. ~~"Personal care" means assistance with meals, dressing,~~  
6 ~~movement, bathing or other personal needs, or general supervision of~~  
7 ~~the physical and mental well-being of a person, who is currently~~  
8 ~~unable to maintain a private, independent residence, or who has~~  
9 ~~limited abilities in the managing of his or her person, whether or~~  
10 ~~not a guardian has been appointed for such person~~

11           c.   negligent acts or omissions that result in harm or the  
12           unreasonable risk of harm to a vulnerable adult  
13           through the action, inaction, or lack of supervision  
14           by a caretaker providing direct services;

15           ~~23.~~ 21. "Physical disability" means a condition which causes  
16 the restricted use of the extremities by an individual or affects  
17 other bodily functions of an individual and which requires the  
18 specialized training, habilitation or rehabilitation services  
19 provided by a group home;

20           ~~24.~~ ~~"Program certification" means certification by the~~  
21 ~~Department that a group home meets and is in compliance with the~~  
22 ~~rules adopted by the Commission for Human Services as standards for~~

1 ~~the training, habilitation or rehabilitation of residents of a group~~  
2 ~~home~~

3 22. "Program coordinator" means a person employed by a provider  
4 or a licensee who is responsible for the supervision, coordination,  
5 and monitoring of services to a resident receiving services provided  
6 by the provider or licensee;

7 ~~25.~~ 23. "Provider" means a person, corporation, partnership,  
8 limited liability company, association, or other entity ~~which~~  
9 ~~operates~~ that contracts with the Developmental Disabilities Services  
10 Division of the Department of Human Services or the Oklahoma Health  
11 Care Authority to operate a group home for persons with  
12 developmental or physical disabilities;

13 ~~26.~~ 24. "Resident" means a person ~~residing~~ receiving services  
14 in a group home for persons with developmental or physical  
15 disabilities ~~due to a developmental disability;~~

16 ~~27. "Sexual assault" means rape, incest, lewd and indecent acts~~  
17 ~~or proposals, as defined by law, by a person responsible for the~~  
18 ~~resident's welfare and includes the allowing, permitting, or~~  
19 ~~encouraging a resident to engage in prostitution or the lewd,~~  
20 ~~obscene, or pornographic photographing, filming or depiction of a~~  
21 ~~resident~~

22 25. "Sexual abuse" as defined in the Protective Services for  
23 Vulnerable Adults Act means:

- 1           a. oral, anal, or vaginal penetration of a resident by or  
2           through the union with the sexual organ of a caretaker  
3           or other person providing services to the resident, or  
4           the anal or vaginal penetration of a resident by a  
5           caretaker or other person providing services to the  
6           resident with any other object,  
7           b. for the purpose of sexual gratification, the touching,  
8           feeling, or observation of the body or private parts of  
9           a resident by a caretaker or other person providing  
10           services to the resident, or  
11           c. indecent exposure by a caretaker or other person  
12           providing services to the resident;

13           26. "Sexual exploitation" as defined in the Protective Services  
14           for Vulnerable Adults Act includes, but is not limited to, a  
15           caretaker causing, allowing, permitting, or encouraging a resident  
16           to engage in prostitution, or in the lewd, obscene, or pornographic  
17           photographing, filming, or depiction of the resident as those acts  
18           are defined by state law;

19           ~~28.~~ 27. "Supervision" means the provision of on-site staffing  
20           in the group home or on the premises of the group home when  
21           ~~residents are~~ a resident is present who ~~require~~ requires on-site  
22           staffing, as determined by ~~an assessment by an interdisciplinary~~ the  
23           team of the resident. Supervision also includes, ~~but is not limited~~

1 ~~to, training, assistance with housekeeping, assistance with~~  
2 ~~preparation of meals, assistance with safe storage, distribution and~~  
3 ~~administration of medications, and assistance with personal care as~~  
4 ~~necessary for the health and comfort of such person~~ provision of  
5 necessary staff support, as documented in the individual plan of  
6 each service recipient, when the service recipient is in the  
7 community, except when the service recipient is engaged in  
8 employment, vocational services, or adult day services;

9       ~~29.~~ 28. "Supportive assistance" means the service rendered to  
10 ~~any person~~ a service recipient which is sufficient to enable the  
11 ~~person~~ service recipient to meet an adequate level of daily living.  
12 Supportive assistance includes, but is not limited to, training and  
13 supervision of service recipients, assistance in housekeeping,  
14 assistance in the preparation of meals, and assistance in activities  
15 of daily living as necessary for the health and comfort of service  
16 recipients; and

17       ~~30.~~ 29. "Transfer" means a change in location of living  
18 arrangements of a resident from one group home to another group  
19 home;

20       30. "Team" means the group of people responsible for service  
21 planning, implementation, and monitoring of the individual plan.  
22 The team includes:

23           a. the person receiving services,

- 1           b. the case manager of the person receiving services, if  
2           applicable,  
3           c. the legal guardian of the person receiving services, if  
4           the service recipient has a legal guardian,  
5           d. the advocate(s) of the person receiving services, if  
6           there is an advocate, who may be a parent, family  
7           member, friend, or another who knows the service  
8           recipient well,  
9           e. the program coordinator or designee, and  
10          f. any other person whose participation is necessary to  
11          achieve the outcomes included in the individual plan;  
12          and

13          31. "Verbal abuse" as defined in the Protective Services for  
14          Vulnerable Adults Act means the use of words, sounds, or other  
15          communication including, but not limited to, gestures, actions or  
16          behaviors, by a caretaker or other person providing services to a  
17          resident that is likely to cause a reasonable person to experience  
18          humiliation, intimidation, fear, shame, or degradation.

19          SECTION 3.           AMENDATORY           10 O.S. 2001, Section 1430.3, is  
20          amended to read as follows:

21          Section 1430.3   The Department of Human Services shall have the  
22          power and duty to:

1           1. Enforce any provision ~~and prosecute any violation~~ of the  
2 Group Homes for Persons with Developmental or Physical Disabilities  
3 Act;

4           2. Issue, renew, deny, modify, suspend, and revoke licenses for  
5 group homes pursuant to the provisions of the Group Homes for  
6 Persons with Developmental or Physical Disabilities Act; provided,  
7 however, providers of group home services that have a current  
8 contract with the Developmental Disabilities Services Division or  
9 the Oklahoma Health Care Authority to provide group home services  
10 shall be deemed to be licensed;

11           3. Establish and enforce standards and requirements for  
12 licensure and ~~program certification~~ operation of group homes ~~which~~  
13 that are subject to the provisions of the Group Homes for Persons  
14 with Developmental or Physical Disabilities Act and require the  
15 submission of, and to review, reports from any person establishing  
16 or operating a group home;

17           4. Enter upon any public or private property for the purpose of  
18 inspecting and investigating conditions of the residents in the  
19 group home or for the purpose of inspecting and investigating the  
20 home for compliance with the provisions of the Group Homes for  
21 Persons with Developmental or Physical Disabilities Act, or the  
22 standards or requirements for licensure and ~~program certification~~  
23 operation of group homes developed by the Department pursuant to the

1 provisions of the Group Homes for Persons with Developmental or  
2 Physical Disabilities Act;

3 5. Employ or designate personnel to conduct investigations and  
4 inspections, to make reports of the condition of group homes and the  
5 residents of such homes, and to take necessary action pursuant to  
6 the provisions of the Group Homes for Persons with Developmental or  
7 Physical Disabilities Act to protect and safeguard the health,  
8 safety, and welfare of residents of homes;

9 6. Establish a procedure for receipt and, investigation, and  
10 resolution of complaints regarding a group home or concerning the  
11 condition, care, and treatment of a resident of a home, a copy of  
12 which procedure shall be distributed to all providers of group home  
13 services and licensees;

14 7. Report to the district attorney having jurisdiction or the  
15 Attorney General any act committed by a provider, licensee,  
16 administrator, operator, or employee of a group home which may  
17 constitute a misdemeanor pursuant to the provisions of the Group  
18 Homes for Persons with Developmental or Physical Disabilities Act;

19 8. Advise, consult, and cooperate with other agencies of this  
20 state, the federal government, other states and interstate agencies,  
21 and with affected groups and political subdivisions to further the  
22 purposes of the provisions of the Group Homes for Persons with  
23 Developmental or Physical Disabilities Act;

1           9. Develop and enforce rules subject to the approval of the  
2 Commission for Human Services to implement the provisions of the  
3 Group Homes for Persons with Developmental or Physical Disabilities  
4 Act. Such rules shall include, but not be limited to, physical  
5 conditions which shall protect the health, safety, and welfare of  
6 the residents in a group home as outlined in the Group Homes for  
7 Persons with Developmental or Physical Disabilities Act, safe  
8 storage and administration of medications, health-related services  
9 as defined in Section 1020 of Title 56 of the Oklahoma Statutes,  
10 rights of group home residents and competency-based training  
11 requirements for group home staff;

12           10. Investigate, request or otherwise obtain the information  
13 necessary to determine the qualifications and background of an  
14 applicant for licensure or contract;

15           11. Establish civil penalties for violations of the provisions  
16 of the Group Homes for Persons with Developmental or Physical  
17 Disabilities Act as authorized by the Commission pursuant to the  
18 provisions of the Group Homes for Persons with Developmental or  
19 Physical Disabilities Act;

20           12. Institute and maintain or intervene in any action or  
21 proceeding where deemed necessary by the Department to protect the  
22 health, safety, and welfare of any resident of a group home;

1       13. Transfer or discharge a resident or otherwise protect the  
2 health, safety, and welfare of any resident of a group home; and

3       14. Exercise all incidental powers as necessary and proper for  
4 the administration of the Group Homes for Persons with Developmental  
5 or Physical Disabilities Act.

6       SECTION 4.       AMENDATORY       10 O.S. 2001, Section 1430.7, is  
7 amended to read as follows:

8       Section 1430.7 A. The operation or maintenance of a group home  
9 in violation of the Group Homes for Persons with Developmental or  
10 Physical Disabilities Act, or of the rules promulgated by the  
11 Commission for Human Services, is declared a public nuisance  
12 inimical to the public welfare. The Director of Human Services, in  
13 the name of the people of the state, or through the Attorney General  
14 or the district attorney of the county in which the group home is  
15 located may, in addition to other remedies herein provided, bring  
16 action for an injunction to restrain such violation or to enjoin the  
17 future operation or maintenance of any such group home.

18       B. 1. Any person with personal knowledge or substantial  
19 specific information who believes that the Group Homes for Persons  
20 with Developmental or Physical Disabilities Act, or a rule  
21 promulgated pursuant thereto, ~~or a federal certification rule~~  
22 ~~applying to a group home~~ may have been violated, may request an  
23 investigation. The request may be submitted to the Department of

1 Human Services in writing, by telephone, or personally. An oral  
2 complaint shall be reduced to writing by the Department. Provided  
3 that any person who willfully or recklessly makes a false complaint  
4 without a reasonable basis in fact for such a complaint under the  
5 provisions of the Group Homes for Persons with Developmental or  
6 Physical Disabilities Act shall be liable in a civil suit for any  
7 actual damages, including attorneys' fees and costs, suffered by a  
8 group home so requested to be investigated, and for any punitive  
9 damages set by the court or jury which may be allowed in the  
10 discretion of the court or jury when deemed proper by the court or  
11 jury.

12 2. The substance of the complaint shall be provided to the  
13 provider no earlier than at the commencement of the on-site  
14 inspection of the group home which takes place pursuant to the  
15 complaint.

16 3. The Commission shall promulgate rules to protect the  
17 identity of the complainant, provided that such complainant is  
18 presently a resident or resident's representative or such  
19 complainant is presently an employee of the group home.

20 4. Upon receipt of a complaint, the Department shall ~~determine~~  
21 investigate whether the Group Homes for Persons with Developmental  
22 or Physical Disabilities Act, or a rule promulgated pursuant  
23 thereto, ~~or a federal certification rule for facilities~~ has been or

1 is being violated. Allegations of abuse, neglect, or exploitation  
2 shall be investigated by appropriate authorities in accordance with  
3 state law. Other complaints shall be evaluated by authorized  
4 Department staff and investigated timely based on the nature of the  
5 complaint. A determination about a complaint ~~which alleges a~~  
6 ~~violation~~ shall be made in writing, ~~within thirty (30) days after~~  
7 ~~receipt of the complaint.~~ The determination shall state the reasons  
8 therefor.

9 5. In all cases, the Department shall inform the group home and  
10 the complainant, ~~unless otherwise indicated by the~~ if so requested  
11 by the complainant, of its findings within ten (10) days of its  
12 determination. The ~~complainant may direct the Department to send a~~  
13 ~~copy of such findings to one other person~~ notice of such findings  
14 shall include a copy of the written determination, the correction  
15 order, if any, the warning notice, if any, and the state licensure  
16 ~~of federal certification for~~ or regulatory requirement, or both, on  
17 which the violation is listed.

18 6. A written determination, correction order or warning notice  
19 concerning a complaint shall be available for public inspection from  
20 the Department.

21 7. The Department shall issue a written determination ~~signed by~~  
22 ~~the Director~~ which shall serve as a final appealable order subject  
23 to trial de novo in the appropriate district court.

1       8. The Commission shall establish any additional rules  
2 necessary for the investigation and hearing of complaints as  
3 provided herein, and is authorized to employ hearing officers.

4       SECTION 5.        AMENDATORY        10 O.S. 2001, Section 1430.8, is  
5 amended to read as follows:

6       Section 1430.8 A. The provider is liable to a resident for any  
7 intentional or negligent act or omission of their agents or  
8 employees which injures the resident. Also, any state employee that  
9 aids, abets, assists, or conspires with a provider to perform an act  
10 that causes injury to a resident shall be individually liable.

11       B. A resident may maintain an action under this act for any  
12 other type of relief, including injunctive and declaratory relief,  
13 permitted by law.

14       C. Any damages recoverable under this section, including  
15 minimum damages as provided by this section, may be recovered in any  
16 action which a court may authorize to be brought as a class action.  
17 The remedies provided in this section, are in addition to and  
18 cumulative with any other legal remedies available to a resident.  
19 Exhaustion of any available administrative remedies shall not be  
20 required prior to commencement of suit hereunder.

21       D. Any waiver by a resident or the resident's guardian or  
22 advocate of the right to commence an action under this section,

1 whether oral or in writing, shall be null and void, and without  
2 legal force or effect.

3 E. Any party to an action brought under this section shall be  
4 entitled to a trial by jury and any waiver of the right to a trial  
5 by a jury, whether oral or in writing, prior to the commencement of  
6 an action, shall be null and void, and without legal force or  
7 effect.

8 F. A No provider or licensee, or ~~its~~ agents or employees of a  
9 provider or licensee shall ~~not~~ transfer, discharge, evict, harass,  
10 dismiss or retaliate against a resident, a ~~resident's~~ guardian or  
11 advocate of a resident, or an employee or agent who makes a report,  
12 brings, or testifies in, an action under this section, or files a  
13 complaint because of a report, testimony or complaint.

14 G. Any person, institution or agency, under this act,  
15 participating in good faith in the making of a report, or in the  
16 investigation of such a report shall not be deemed to have violated  
17 any privileged communication and shall have immunity from any  
18 liability, civil or criminal, or any other proceedings, civil or  
19 criminal, as a consequence of making such report. ~~The good faith of~~  
20 ~~any persons required or permitted to report cases of suspected~~  
21 ~~resident abuse, neglect or exploitation pursuant to the Group Homes~~  
22 ~~for Persons with Developmental or Physical Disabilities Act shall be~~  
23 ~~a rebuttable presumption.~~

1           H. An employee or agent of a provider or licensee who becomes  
2 aware of abuse, neglect or exploitation of a resident ~~as prohibited~~  
3 ~~by the Group Homes for Persons with Developmental or Physical~~  
4 ~~Disabilities Act~~ shall immediately report the matter ~~to the group~~  
5 ~~home administrator~~ as required by Section 10-104 of Title 43A of the  
6 Oklahoma Statutes. A group home administrator who becomes aware of  
7 abuse, neglect or exploitation of a resident shall make a report as  
8 required by Section 10-104 of Title 43A of the Oklahoma Statutes and  
9 take immediate action to ensure the health and safety of the  
10 resident, ~~and shall make a report of the incident and any action~~  
11 ~~taken to the Department~~.

12           SECTION 6.           AMENDATORY 10 O.S. 2001, Section 1430.9, is  
13 amended to read as follows:

14           Section 1430.9. ~~Any~~ In addition to any other penalties and  
15 liabilities provided in this Act, any person who violates any of the  
16 provisions of the Group Homes for Persons with Developmental or  
17 Physical Disabilities Act, or any order or determination of the  
18 Department promulgated pursuant thereto, or who fails to perform any  
19 duty imposed upon such person by the provisions of the Group Homes  
20 for Persons with Developmental or Physical Disabilities Act, shall  
21 be subject to any of the following penalties and liabilities as  
22 authorized by the provisions of the Group Homes for Persons with  
23 Developmental or Physical Disabilities Act:

- 1 1. License revocation, suspension, or nonrenewal;
- 2 2. Conditional license;
- 3 3. Transfer of residents;
- 4 4. Receivership;
- 5 5. Injunctive proceedings, including prohibiting the admission
- 6 of new residents to the group home;
- 7 6. Civil fines; ~~and~~
- 8 7. Criminal penalties; and
- 9 8. Other remedies established by the Department of Human
- 10 Services through rule-making authority.

11 SECTION 7. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 1430.10a of Title 10, unless  
13 there is created a duplication in numbering, reads as follows:

14 A. The Department of Human Services may revoke, deny or refuse  
15 to renew the license of any group home found to be in violation of  
16 any provision of this act or the rules of the Commission for Human  
17 Services, as provided in Section 1430.3 of Title 10 of the Oklahoma  
18 Statutes.

19 B. 1. No license shall be revoked or issuance or renewal  
20 denied unless and until such time as the licensee or applicant shall  
21 have been given at least thirty (30) days' notice in writing of the  
22 grounds for the proposed revocation or refusal.

1           2. At the time the group home is given notice in writing of the  
2 revocation or denial of a license, the Department shall also advise  
3 the family member or advocate of each resident, as noted in Section  
4 1430.22 of Title 10 of the Oklahoma Statutes, of the action by  
5 written notification and the posting of an announcement in the group  
6 home.

7           3. If the revocation or denial is protested within thirty (30)  
8 days of receipt of the notice, in writing and addressed to the  
9 Commission for Human Services, the Commission or the authorized  
10 agency of the Commission shall conduct a hearing at which an  
11 opportunity shall be given to the licensee or applicant to present  
12 testimony and confront witnesses. On the basis of the evidence  
13 produced at the hearing, the Department shall make findings of fact  
14 and conclusions of law and enter an order thereon. The order of the  
15 Department shall become final and binding on all parties unless  
16 appealed to the district court as provided in Article II of the  
17 Administrative Procedures Act within thirty (30) days after notice  
18 has been sent to the parties.

19           4. Notice of the hearing shall be given to the licensee or  
20 applicant by personal service or by delivery to the last-known  
21 address by certified mail, return receipt requested, at least two  
22 (2) weeks prior to the date of the hearing.

1           5. After notice, if the proposed revocation or denial of a  
2 license is not protested in accordance with this section, the  
3 license may thereupon be revoked or denied.

4           C. 1. Nothing in this section shall be construed as preventing  
5 the Department from taking emergency action as provided by this  
6 subsection.

7           2. After an investigation or inspection, if the Department  
8 finds that an emergency exists which requires immediate action to  
9 protect the health, safety, or welfare of any resident of a group  
10 home licensed pursuant to the provisions of the Group Homes for  
11 Persons with Developmental or Physical Disabilities Act, the  
12 Director may without notice or hearing issue an emergency order  
13 stating the existence of the emergency and require that action be  
14 taken as is deemed necessary to meet the emergency including, when  
15 necessary, removing residents from the group home and prohibiting  
16 the group home from providing services to residents pending a  
17 hearing on the matter.

18           a. The emergency order shall be effective immediately.  
19           Any person to whom an emergency order is directed shall  
20           comply with the emergency order immediately but, upon  
21           written request to the Department on or before the  
22           tenth day after receipt of the emergency order, shall

1 be afforded a hearing on or before the tenth day after  
2 receipt of the request by the Department.

3 b. On the basis of such hearing, the Department shall  
4 continue the order in effect, revoke it, or modify it.

5 c. Any person aggrieved by the order continued after the  
6 hearing provided for in this subsection may appeal the  
7 order to the district court of the group home affected  
8 within thirty (30) days of continuation or modification  
9 of the order. The appeal when docketed shall have  
10 priority over all cases pending on the docket, except  
11 criminal cases. For purposes of this subsection,  
12 "emergency" means a situation that poses a direct and  
13 serious hazard to the health, safety, or welfare of any  
14 resident of the group home.

15 SECTION 8. AMENDATORY 10 O.S. 2001, Section 1430.11, is  
16 amended to read as follows:

17 Section 1430.11 A. The Department of Human Services shall  
18 develop ~~and annually review~~ rules establishing minimum standards for  
19 group homes. ~~These standards shall be promulgated by the Commission~~  
20 ~~for Human Services and submitted to the Legislature no later than~~  
21 ~~January of each year.~~ These standards, at minimum, shall regulate:

22 1. Location and construction of the home, including plumbing,  
23 heating, lighting, ventilation, and other physical conditions which

1 shall ensure the health, safety, and comfort of residents and  
2 protection from fire hazards;

3 2. All sanitary conditions within the group home and its  
4 surroundings, including water supply, sewage disposal, food  
5 handling, and general hygiene, which shall ensure the health and  
6 comfort of residents;

7 3. ~~Diet related to the needs of each resident based on sound~~  
8 ~~nutritional practice and on recommendations which may be made by the~~  
9 ~~physicians attending the resident; and~~ Number and qualifications of  
10 all personnel, including management and supervisory, direct care,  
11 specialized professional or paraprofessional and other personnel,  
12 having responsibility for any part of the care given to residents.  
13 The Department of Human Services shall establish staffing  
14 requirements for homes which shall specify the supervision,  
15 continuing education, and training requirements that are needed for  
16 care of the residents of the various types of group homes;

17 4. ~~Equipment essential to the health and welfare of the~~  
18 ~~residents~~ An individualized written plan for the training,  
19 habilitation or rehabilitation for each resident of the group home  
20 specifying the training, habilitation or rehabilitation outcomes and  
21 activities for the resident. The plan shall be prepared by the team  
22 of the resident;

1        5. Competency-based training for the safe administration of  
2 medication and the provision of health-related services, as defined  
3 in Section 1020 of Title 56 of the Oklahoma Statutes, to residents;

4        6. Accountability for the management and safekeeping of any  
5 funds of the resident which the group home manages; and

6        7. Conditions and procedures for the involuntary transfer or  
7 discharge of a resident from a group home.

8        B. The Department may, as necessary and appropriate, establish  
9 a system of classification for group homes based upon the level of  
10 care or treatment, training, habilitation or rehabilitation services  
11 required by residents of the group home, and establish ~~minimum~~  
12 ~~program certification standards~~ requirements for each  
13 classification.

14        ~~C. The Commission shall promulgate rules establishing minimum~~  
15 ~~standards for certification of the programs and services of a group~~  
16 ~~home provided to or obtained on behalf of the residents for the~~  
17 ~~specialized care, treatment, training, habilitation or~~  
18 ~~rehabilitation of the residents. The certification standards shall~~  
19 ~~provide for:~~

20        ~~1. Number and qualifications of all personnel, including~~  
21 ~~management and supervisory, direct care, specialized professional or~~  
22 ~~para-professional and other personnel, having responsibility for any~~  
23 ~~part of the care given to residents. The Department shall establish~~

1 ~~staffing requirements for homes which shall specify the supervision,~~  
2 ~~continued education and training requirements that are needed for~~  
3 ~~care of the residents of the various types of group homes or areas~~  
4 ~~within group homes;~~

5 ~~2. An individualized written plan for the training,~~  
6 ~~habilitation or rehabilitation for each resident of the group home~~  
7 ~~specifying the training, habilitation or rehabilitation objectives~~  
8 ~~and activities for the resident. The plan shall be prepared by an~~  
9 ~~interdisciplinary team of professional, para-professional and direct~~  
10 ~~care personnel of the group home and with the participation of the~~  
11 ~~resident and the resident's guardian or advocate, if any;~~

12 ~~3. Training for the safe administration of medication to a~~  
13 ~~resident;~~

14 ~~4. Accountability for the management and safekeeping of any~~  
15 ~~resident's funds which the group home manages; and~~

16 ~~5. Conditions and procedures for the involuntary transfer or~~  
17 ~~discharge of a resident from a group home.~~

18 ~~D. 1. The certification standards for programs and services~~  
19 ~~shall be developed jointly by the Department and the Advisory Board~~  
20 ~~for presentation to the Commission for Human Services for its~~  
21 ~~approval. The standards shall be reviewed at least annually for any~~  
22 ~~necessary modifications by the Department and the Group Homes for~~  
23 ~~Persons with Developmental or Physical Disabilities Advisory Board,~~

1 ~~and any necessary modifications shall be presented to the Commission~~  
2 ~~for its approval.~~

3 ~~2. Any provider of group home services that has a current~~  
4 ~~contract with the Developmental Disabilities Services Division of~~  
5 ~~the Department of Human Services shall be deemed to be licensed.~~

6 SECTION 9. AMENDATORY 10 O.S. 2001, Section 1430.12, is  
7 amended to read as follows:

8 Section 1430.12 The State Fire Marshal or a designee shall  
9 conduct fire safety inspections on a regular basis at group homes  
10 subject to the provisions of the Group Homes for Persons with  
11 Developmental or Physical Disabilities Act and report findings of  
12 such inspections to the Department of Human Services. ~~In addition,~~  
13 ~~the State Fire Marshal shall develop, adopt, and promulgate rules or~~  
14 ~~specifications consistent with nationally recognized standards or~~  
15 ~~practices necessary for the safeguarding of life and property of~~  
16 ~~residents of group homes from the hazards of fire and smoke~~  
17 Providers of group home services and licensees shall make reports of  
18 the inspections available to authorized staff of the Department of  
19 Human Services upon request.

20 SECTION 10. AMENDATORY 10 O.S. 2001, Section 1430.13, is  
21 amended to read as follows:

22 Section 1430.13 The following information is subject to  
23 disclosure to the public from the Department of Human Services:

1           1. Information submitted under Section ~~14~~ 1430.14 of this ~~act~~  
2 title, except information concerning the remuneration of personnel  
3 licensed, registered or certified by the Department, and monthly  
4 charges for an individual private resident; ~~and~~

5           2. Records of ~~license, certification and program certification~~  
6 inspections, surveys and evaluations of group homes, ~~other reports~~  
7 ~~of inspections, surveys and evaluations of resident care, and~~  
8 ~~reports concerning a group home prepared pursuant to Titles XVIII~~  
9 ~~and XIX of the Social Security Act, 42 U.S.C., Section 1301 et seq.,~~  
10 ~~subject to the provisions of the Social Security Act; and~~

11           3. Complaints filed against a group home and complaint  
12 investigation reports, except that a complaint or complaint  
13 investigation report shall not be disclosed to a person other than  
14 the complainant or complainant's representative before it is  
15 disclosed to a group home as provided in Section 7 1430.7 of this  
16 ~~act~~ title and, further, except that a complainant or resident's name  
17 shall not be disclosed except as provided in Section 7 1430.7 of  
18 this ~~act~~ title.

19           SECTION 11.           AMENDATORY           10 O.S. 2001, Section 1430.14, is  
20 amended to read as follows:

21           Section 1430.14 A. ~~Except as provided for in Section 16 of~~  
22 ~~this act, a~~ A license shall expire twelve (12) months from the date  
23 of issuance, unless sooner revoked, and may be renewed annually by

1 the Department of Human Services pursuant to the provisions of the  
2 Group Homes for Persons with Developmental or Physical Disabilities  
3 Act. All licenses shall be on a form prescribed by the Director of  
4 Human Services, and shall include, but not be limited to, the  
5 maximum bed capacity for which the license is granted, the kind of  
6 program the licensee is certified to operate, the date the license  
7 was issued, and the expiration date of the license. The provisions  
8 of the license shall require that the license shall:

9 1. Not be transferable or assignable except as authorized by  
10 the provisions of the Group Homes for Persons with Developmental or  
11 Physical Disabilities Act;

12 2. Be available on the licensed premises; and

13 3. Be issued only for the premises named in the application,  
14 and may be renewed for twelve-month periods upon application and  
15 inspection, pursuant to the provisions of the Group Homes for  
16 Persons with Developmental or Physical Disabilities Act.

17 B. An application shall be under oath and shall contain, but  
18 not be limited to, the following information:

19 1. The name and address of the applicant or licensee. If the  
20 applicant or licensee is a firm or partnership, the name and address  
21 of each member thereof shall be included in the application. If the  
22 applicant or licensee is a firm, partnership, limited liability  
23 company, or corporation, the name and address of the firm,

1 partnership, limited liability company, or corporation and the name  
2 and address of each member of the firm, major member of the limited  
3 liability company or manager, major partner of the partnership, or  
4 officer, major stockholder and registered agent of the corporation  
5 shall be included in the application;

6 2. The name and address of the applicant or licensee if the  
7 applicant or licensee is not the provider and is acting as agent for  
8 the provider of group home services or licensee;

9 3. The name and location of the group home for which a license  
10 is sought;

11 4. The name of the administrator of the home;

12 5. The number and type of residents for whom services are to be  
13 provided;

14 6. A description of the program and the staffing pattern for  
15 providing resident care. In the case of an application for an  
16 initial license, such description may be shown as the projected  
17 program and staffing pattern; and

18 7. Information or records required by the Department pursuant  
19 to the rules adopted by the Commission for Human Services ~~for~~  
20 ~~program certification~~ regarding group homes.

21 C. Each initial application shall be accompanied by a statement  
22 from the unit of local government having zoning jurisdiction over

1 the location of the group home stating that the location is not in  
2 violation of a zoning ordinance.

3 D. 1. An applicant or licensee shall be twenty-one (21) years  
4 of age or older and of reputable and responsible character. In  
5 addition, the applicant or licensee shall have appropriate business  
6 or professional experience.

7 2. No person who ~~has been convicted of a felony in connection~~  
8 ~~with the management or operation of a group home as defined in~~  
9 ~~Section 1-1902 of this title, or in the care and treatment of the~~  
10 ~~residents of a group home pursuant to the provisions of the Group~~  
11 ~~Homes for Persons with Developmental or Physical Disabilities Act,~~  
12 ~~as defined in Section 1-1902 of this title, is ineligible for~~  
13 employment as a community services worker in accordance with Section  
14 1025.2 of Title 56 of the Oklahoma Statutes shall be eligible to be  
15 licensed or to receive a contract to become a community services  
16 provider. If the applicant or licensee is a firm, partnership,  
17 limited liability company, or corporation, the applicant shall not  
18 be eligible to be licensed or to receive a contract if any member of  
19 the firm ~~or partnership~~, any major member of the limited liability  
20 company or manager, any major partner of the partnership, or any  
21 officer or major stockholder of the corporation ~~has been convicted~~  
22 ~~of a felony in connection with the operation or management of a~~  
23 ~~group home pursuant to the provisions of the Group Homes for Persons~~

1 ~~with Developmental or Physical Disabilities Act or the care and~~  
2 ~~treatment of the residents of a group home as defined in Section 1-~~  
3 ~~1902 of this title~~ is ineligible for employment as a community  
4 services worker in accordance with Section 1025.2 of Title 56 of the  
5 Oklahoma Statutes.

6 E. ~~1.~~ The application for a license or renewal of a license  
7 shall be accompanied by a statement of ownership which shall include  
8 the following:

9 a. ~~the~~

10 1. The name, address, telephone number, occupation or business  
11 activity, business address, and business telephone number of the  
12 owner of the group home and of every person who owns the building in  
13 which the group home is located. If the owner is a partnership,  
14 limited liability company, or corporation, the name and address of  
15 each partner, major member of the limited liability company, and  
16 stockholder with an ownership interest of five percent (5%) or more  
17 shall be included in the statement; and

18 b. ~~the~~

19 2. The name and address of any other group home in which the  
20 owner has a full or partial financial interest or, if the applicant  
21 or licensee is a partnership, limited liability company, or  
22 corporation, any other group home as defined in Section 1-1902 of  
23 this title in which the partnership, limited liability company, or

1 corporation has a full or partial financial interest. The statement  
2 shall indicate whether or not any other group home wherein a full or  
3 partial financial interest is held would, if located in this state,  
4 be required to be licensed.

5 ~~2. The applicant or licensee shall agree in writing, prior to~~  
6 ~~the issuance of a license, to notify the Department if there is any~~  
7 ~~change in the information required to be included in the statement~~  
8 ~~of ownership within six (6) months of such change. The information~~  
9 ~~contained in the statement of ownership shall be public information~~  
10 ~~and shall be available upon request from the Department.~~

11 ~~F. Upon application of a licensee, a license may be modified in~~  
12 ~~accordance with the provisions of the Group Homes for Persons with~~  
13 ~~Developmental or Physical Disabilities Act.~~

14 ~~G. F.~~ The Director or designee shall issue and renew licenses  
15 for group homes which comply with the provisions of the Group Homes  
16 for Persons with Developmental or Physical Disabilities Act and the  
17 standards and rules promulgated by the Commission pursuant thereto.

18 SECTION 12. AMENDATORY 10 O.S. 2001, Section 1430.15, is  
19 amended to read as follows:

20 Section 1430.15 A. A license to operate a group home subject  
21 to the provisions of the Group Homes for Persons with Developmental  
22 or Physical Disabilities Act is not transferable. ~~Whenever~~  
23 ~~operation~~ Operation of a group home ~~is~~ can only be transferred ~~from:~~

1        1. With the prior written approval of the director of the  
2 Developmental Disabilities Services Division (DDSD) of the  
3 Department of Human Services or designee; and

4        2. From the provider or licensee named in the application to  
5 another provider who ~~does not have a current group home license for~~  
6 ~~the home, the transferee must obtain a probationary license as~~  
7 ~~provided in Section 16 of this act~~ has a current license or is  
8 deemed licensed in accordance with Section 1430.3 of this title.

9        ~~B. The transferee shall notify the Department of Human Services~~  
10 ~~of the transfer and apply for a license no less than thirty (30)~~  
11 ~~days prior to final transfer.~~

12        The transferor shall remain responsible for the operation of the  
13 group home until ~~such time as a probationary license is issued to~~  
14 ~~the transferee~~ the transfer is complete. The transferor shall  
15 remain liable for all penalties assessed which are imposed for  
16 violations occurring prior to transfer of operation. Any citations,  
17 problems identified by the Development Disabilities Services  
18 Division prior to the transfer, or outstanding deficiencies  
19 remaining after the transfer are the responsibility of the  
20 transferee to correct.

21        SECTION 13.        AMENDATORY        10 O.S. 2001, Section 1430.17, is  
22 amended to read as follows:

1           Section 1430.17 A. The Department of Human Services may issue  
2 a conditional license to any group home if the Department finds that  
3 a violation exists in such group home. The issuance of a  
4 conditional license shall revoke any license held by the group home  
5 issued pursuant to the Group Homes for Persons with Developmental or  
6 Physical Disabilities Act.

7           B. Prior to the issuance of a conditional license, the  
8 Department shall review and approve a written plan of correction.  
9 The Department shall specify the violations which prevent issuance  
10 of a regular license and shall establish a time schedule for  
11 correction of the deficiencies. Retention of the license shall be  
12 conditional on meeting the requirements of the plan of correction.  
13 In the alternative or in addition to a conditional license, the  
14 Director of Human Services may withhold vendor payments due to a  
15 group home under its programs until such time as the corrections are  
16 made or a plan of correction for all deficiencies is approved by the  
17 Department.

18           C. Written notice of the decision to issue a conditional  
19 license shall be sent to the group home together with the proposed  
20 plan of correction. The notice shall inform the group home of its  
21 right to an informal conference prior to issuance of the conditional  
22 license and its right to a full hearing.

1           D. If the group home desires to have an informal conference it  
2 shall, within four (4) working days of receipt of notice, send a  
3 written request for an informal conference to the Department. The  
4 Department shall, within four (4) working days from the receipt of  
5 the request, hold an informal conference. Following the conference,  
6 the Department may affirm or overrule its previous decision, or  
7 modify the terms of the conditional license and plan of correction.  
8 The conditional license may be issued after the informal conference  
9 or after the time for requesting an informal conference has expired,  
10 prior to any further hearing.

11           E. If after the informal conference the group home desires to  
12 contest the basis for issuance of a conditional license, or the  
13 terms of the license or plan of correction, the facility shall send  
14 a written request for hearing to the Department within ten (10) days  
15 after issuance of the conditional license and the Department shall  
16 then hold the hearing.

17           F. A conditional license shall be issued for a period specified  
18 by the Department, but in no event for more than one (1) year. The  
19 Department shall periodically, but not less than semiannually,  
20 inspect any group home operating under a conditional license. If  
21 the Department finds substantial failure by the group home to follow  
22 the plan of correction, the conditional license may be revoked.

1 G. If the Department determines that a conditional license  
2 shall expire without renewal or replacement of the conditional  
3 license by a regular license, the Department shall so notify the  
4 ~~provider~~ licensee at least thirty (30) days prior to expiration of  
5 the license. The licensee is entitled to a hearing if requested  
6 prior to expiration of the conditional license. The provider is  
7 entitled to a hearing if requested prior to expiration of the  
8 conditional license.

9 SECTION 14. AMENDATORY 10 O.S. 2001, Section 1430.18, is  
10 amended to read as follows:

11 Section 1430.18 Every provider and licensee shall make  
12 available to residents, employees and visitors the following:

13 1. ~~Its~~ The current license or current contract with the  
14 Department of Human Services or the Oklahoma Health Care Authority  
15 for provision of group home services;

16 2. ~~Residents' rights~~ Rights of residents as listed in Section  
17 ~~1-818.20~~ 1430.20 of the ~~Group Homes for Persons with Developmental~~  
18 ~~or Physical Disabilities Act~~ this title;

19 3. A description, ~~provided by the Department of Human Services,~~  
20 ~~of complaint of the grievance~~ procedures of the group home  
21 ~~established under the Group Homes for Persons with Developmental or~~  
22 ~~Physical Disabilities Act and~~ in accordance with OAC 340:2-3-54, to  
23 include the name, address and telephone number of the local

1 grievance coordinator and the name, address, and telephone number of  
2 a person authorized by the Department to receive complaints  
3 regarding potential contract violations. A copy of the grievance  
4 and complaint procedure procedures shall also be given to each  
5 resident and the ~~resident's~~ guardian or advocate of the resident, if  
6 any;

7 4. A copy of any order pertaining to the group home issued by  
8 the Department or a court which is currently in effect; and

9 5. A list of the material available for public inspection under  
10 Section ~~19~~ 1430.19 of this ~~act~~ title.

11 SECTION 15. AMENDATORY 10 O.S. 2001, Section 1430.19, is  
12 amended to read as follows:

13 Section 1430.19 A group home subject to the provisions of the  
14 Group Homes for Persons with Developmental or Physical Disabilities  
15 Act shall retain the following for public inspection:

16 1. A complete copy of every inspection report of the group home  
17 received from the Department of Human Services during the past three  
18 (3) years with resident-identifying information removed;

19 2. A copy of ~~every order~~ correspondence with resident  
20 identifying information removed issued by the Department of Human  
21 Services, the Oklahoma Health Care Authority, or a court during the  
22 last three (3) years pertaining to the group home ~~issued by the~~  
23 ~~Department or a court during the past three (3) years;~~

1 3. A description of the services provided by the group home,  
2 the rates charged for those services and items for which a resident  
3 may be separately charged;

4 4. A copy of the statement of ownership; and

5 ~~5. A record of personnel who are licensed, certified or~~  
6 ~~registered and employed or retained by the group home who are~~  
7 ~~responsible for resident care;~~

8 ~~6. A complete copy of the most recent inspection report of the~~  
9 ~~group home received from the Department; and~~

10 ~~7.~~ A complete copy of any current license or ~~agreement~~ group  
11 home contract between the group home and the Department or the  
12 Oklahoma Health Care Authority for the care, treatment, training,  
13 habilitation or rehabilitation of residents of the group home.

14 SECTION 16. AMENDATORY 10 O.S. 2001, Section 1430.20, is  
15 amended to read as follows:

16 Section 1430.20 A. ~~All principles enunciated in this section~~  
17 Rules promulgated by the Commission for Human Services regarding the  
18 rights and responsibilities of residents shall be available in each  
19 group home subject to the provisions of the Group Homes for Persons  
20 with Developmental or Physical Disabilities Act, and each resident  
21 and ~~resident's~~ guardian or advocate of the resident, if any, shall  
22 be provided a copy of these ~~principles~~ rules prior to or upon  
23 admission. The provider or licensee shall ensure that ~~its~~ the staff

1 is familiar with and observes the rights and responsibilities  
2 enumerated in this section.

3 B. A statement of rights and responsibilities shall include,  
4 but not be limited to, the following:

5 1. Every resident's civil and religious liberties, including  
6 the right to independent personal decisions and knowledge of  
7 available choices, shall not be infringed and the provider shall  
8 encourage and assist in the exercise of these rights;

9 2. Every resident shall have the right to have private  
10 communications and consultations with the physician, attorney or any  
11 other person of the resident's choice, and may send and promptly  
12 receive, unopened, the resident's personal mail;

13 3. Every resident shall have the right, without fear of  
14 reprisal, to present grievances on behalf of the resident or others  
15 to the provider's staff or administrator, to governmental officials  
16 or to any other person, and to join with other residents or  
17 individuals within or outside of the facility to work for  
18 improvements in resident care;

19 4. Every resident shall have the right to manage his or her own  
20 financial affairs, unless the resident delegates the responsibility,  
21 in writing, to the provider. The resident shall have at least a  
22 quarterly accounting of any personal financial transactions  
23 undertaken in the resident's behalf by the provider during any

1 period of time the resident has delegated such responsibilities to  
2 the provider;

3 5. Every resident shall have the right to receive adequate and  
4 appropriate medical care consistent with established and recognized  
5 medical practice standards within the community. Every resident  
6 shall be fully informed by the resident's attending physician of the  
7 resident's own medical condition and proposed treatment in terms and  
8 language that the resident can understand, and shall have the right  
9 to refuse medication and treatment after being fully informed of and  
10 understanding the consequences of such actions;

11 6. Every resident shall receive respect and privacy in the  
12 resident's medical care program. Case discussion, consultation,  
13 examination and treatment shall remain confidential and shall be  
14 conducted discreetly. Personal and medical records shall be  
15 confidential;

16 7. Every resident shall have the right to retain and use his or  
17 her personal clothing and possessions, unless prohibited by law, and  
18 shall have the right to security in the storage and use of such  
19 clothing and possessions;

20 8. Every resident shall have the right to be treated  
21 courteously and respectfully and shall be furnished by the provider  
22 with a written statement of the services and related charges;

1           9. Every resident shall be free from mental and physical abuse,  
2 and free from physical and chemical restraints, except those  
3 physical and chemical restraints which are:

4           ~~a.~~ authorized in writing by a physician, in accordance  
5 with rules promulgated by the Department, for a  
6 specified period of time, ~~or~~

7           ~~b.~~ ~~necessitated by an emergency where the restraint may~~  
8 ~~only be applied by a physician or a qualified licensed~~  
9 ~~nurse or other personnel under the supervision of such~~  
10 ~~physician, who shall set forth in writing the~~  
11 ~~circumstances requiring the use of such restraints;~~

12           10. Every resident shall receive a statement of the provider's  
13 guidelines and an explanation of the resident's responsibility to  
14 comply with all reasonable regulations of the group home and to  
15 respect the personal rights and private property of the other  
16 residents;

17           11. Every resident shall receive a statement that should they  
18 be adjudicated incompetent, the above rights and responsibilities  
19 shall be exercised by a court-appointed guardian;

20           12. No resident shall be required to perform services for a  
21 provider, except for normal, shared household tasks;

1 13. Every resident shall have privacy for conjugal visits. A  
2 resident may share a room with a spouse, if the spouse is residing  
3 in the same group home; and

4 ~~14. A provider shall immediately notify the resident's next of~~  
5 ~~kin, or guardian or advocate, of the resident's death or when the~~  
6 ~~resident's death appears to be imminent, unless the resident has~~  
7 ~~left instructions to the contrary~~ Every resident shall be entitled  
8 to all rights provided in OAC 340:100-3-1.2.

9 C. No provider shall deny appropriate care on the basis of the  
10 resident's source of payment ~~as defined in the rules.~~

11 D. Each provider shall ~~prepare a written plan and provide~~  
12 appropriate staff training to implement each resident's rights as  
13 stated in this section.

14 E. ~~Any person convicted of violating any provision of this~~  
15 ~~section shall be guilty of a misdemeanor, punishable by a fine of~~  
16 ~~not less than One Hundred Dollars (\$100.00) nor more than Three~~  
17 ~~Hundred Dollars (\$300.00), or imprisonment in the county jail for~~  
18 ~~not more than thirty (30) days, or by both such fine and~~  
19 ~~imprisonment~~ The rights enumerated in subsection B of this section  
20 may be limited for residents of an alternative group home, as  
21 described in OAC 340:100-5-22.6, if the resident has been placed in  
22 the alternative group home pursuant to Section 1175.6b or Section  
23 1175.6c of Title 22 of the Oklahoma Statutes, or if the resident has

1 mental retardation and a current community protection issue, which  
2 include, but are not limited to:

3 1. Allegation(s), charge, or conviction of a sexual offense;

4 2. A history of stalking or opportunistic behavior which  
5 demonstrates a likelihood of committing a sexually violent or  
6 predatory act;

7 3. A pattern of violence towards others;

8 4. A diagnosis of mental retardation and mental illness with  
9 ongoing episodes that are dangerous as defined in Section 1175 of  
10 Title 22 of the Oklahoma Statutes; or

11 5. Evidence of commission of a violent crime.

12 F. ~~In addition to the penalties provided in this section, an~~ An  
13 action may be brought against an individual by any resident who is  
14 injured by any violation of this section, or who shall suffer injury  
15 from any person whose threats would cause a violation of this  
16 section if carried through, may maintain an action to prevent,  
17 restrain or enjoin a violation or threatened violation. If a  
18 violation or threatened violation of this section shall be  
19 established in any action, the court shall enjoin and restrain or  
20 otherwise prohibit the violation or threatened violation and assess  
21 in favor of the plaintiff and against the defendant the cost of the  
22 suit, and the reasonable attorney fees incurred by the plaintiff.  
23 If damages are alleged and proved in the action, the plaintiff shall

1 be entitled to recover from the defendant the actual damages  
2 sustained by the plaintiff. If it is proved in an action that the  
3 defendant's conduct was willful or in reckless disregard of the  
4 rights provided by this section, punitive damages may be assessed.

5 G. Any employee of the Department of Human Services who  
6 inspects any group home shall report any flagrant violations of this  
7 act or any other statute to the Director of Human Services, or a  
8 designee, who shall immediately take whatever steps are necessary to  
9 correct the situation including, when appropriate, reporting the  
10 violation to the district attorney of the county in which the  
11 violation occurred.

12 H. Upon the death of a resident who has no sources of payment  
13 for funeral services, the provider shall immediately notify  
14 appropriate county officials who shall be responsible for funeral  
15 and burial procedures of the deceased in the same manner as with any  
16 indigent resident of the county.

17 SECTION 17. AMENDATORY 10 O.S. 2001, Section 1430.22, is  
18 amended to read as follows:

19 Section 1430.22 A. A written contract shall be executed  
20 between a person, the ~~resident's~~ guardian ~~or advocate~~ of a resident,  
21 if any, and a group home or ~~its~~ the agent of the group home ~~within~~  
22 ~~one hundred twenty (120) days from~~ prior to the time a person is  
23 admitted to a group home subject to the provisions of the Group

1 Homes for Persons with Developmental or Physical Disabilities Act,  
2 and annually thereafter, or at the expiration of the period of  
3 previous contract, or when the source of payment for the ~~resident's~~  
4 care of the resident changes, or when there are changes in the terms  
5 of the contract.

6 B. The contract shall be executed between the provider and the  
7 resident and the ~~resident's~~ guardian ~~or advocate~~ of the resident, if  
8 any.

9 C. A copy of the contract shall be given to the resident and to  
10 the ~~resident's~~ guardian or advocate of the resident, if any, ~~at the~~  
11 ~~time of the resident's admission to the group home.~~

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

16 E. The contract shall be written legibly in clear and  
17 unambiguous language ~~and shall be printed in type no smaller than~~  
18 ~~standard typewriter pica or elite type.~~

19 F. The contract shall specify:

20 1. The ~~term~~ expiration date of the contract;

21 2. The services to be provided under the contract and the  
22 charges for the services, including the amount of the room and board  
23 payment for which the service recipient is responsible;

1           3. The services that may be provided to supplement the contract  
2 and the charges for ~~the~~ such additional services;

3           4. ~~The sources liable for payments due under the contract;~~

4           5. The amount of any deposit paid; and

5           6. 5. The rights, duties and obligations of the resident,  
6 except that the specification of ~~a resident's~~ rights of a resident  
7 may be furnished on a separate document ~~which complies with the~~  
8 ~~requirements of Section 20 of this act.~~

9           G. The contract shall state the name of the ~~resident's~~ guardian  
10 or advocate of the resident, if any, and emergency contact.

11           H. The contract shall provide that if the resident dies or is  
12 compelled by a change in physical or mental health to leave the  
13 group home, the contract and all obligations under it shall  
14 terminate immediately. All charges shall be prorated as of the date  
15 on which the contract terminates, and, if any payments have been  
16 made in advance, the excess shall be refunded to the resident or the  
17 ~~resident's~~ guardian or advocate of the resident, if any.

18           SECTION 18.           AMENDATORY           10 O.S. 2001, Section 1430.23, is  
19 amended to read as follows:

20           Section 1430.23 To protect the funds of a resident of a  
21 facility subject to the provisions of the Group Homes for Persons  
22 with Developmental or Physical Disabilities Act, the group home:

1       ~~1. May assist the resident in reserving a portion of the~~  
2       ~~resident's monthly income for the resident's personal use;~~

3       ~~2. Shall at the time of admission, and annually thereafter,~~  
4       ~~provide each resident and the resident's guardian or advocate, if~~  
5       ~~any, with a written statement explaining the resident's rights~~  
6       ~~regarding personal funds and listing the services for which the~~  
7       ~~resident will be charged, and obtain a signed acknowledgment from~~  
8       ~~each resident and the resident's guardian or advocate, if any, that~~  
9       ~~the resident has received the statement;~~

10       ~~3. May assist the resident in safekeeping and managing the~~  
11       ~~resident's funds, if the group home receives written authorization~~  
12       ~~from the resident and the resident's guardian or advocate, if any;~~

13       ~~4. Shall maintain and allow each resident and the resident's~~  
14       ~~guardian or advocate, if any, access to a written record of all~~  
15       ~~financial arrangements and transactions involving the individual~~  
16       ~~resident's funds;~~

17       ~~5. Shall provide each resident and the resident's guardian or~~  
18       ~~advocate, if any, with a written itemized statement on request, of~~  
19       ~~all financial transactions involving the resident's funds;~~

20       ~~6. Shall keep any funds received from a resident for~~  
21       ~~safekeeping in an account separate from the provider's funds;~~

22       ~~7. Shall return to the resident, upon written request by the~~  
23       ~~resident and the resident's guardian or advocate, if any, all or any~~

1 ~~part of the resident's funds given the provider for safekeeping,~~  
2 ~~including the interest accrued, if any, from deposits;~~

3 ~~8. Unless otherwise provided by state law, upon the death of a~~  
4 ~~resident, shall provide the administrator or executor of the~~  
5 ~~resident's estate with a complete accounting of all the resident's~~  
6 ~~personal property, including any funds of the resident being held by~~  
7 ~~the provider; and~~

8 ~~9. If the operation of a provider agency changes, shall provide~~  
9 ~~the buyer with written verification by a public accountant of all~~  
10 ~~residents' monies and properties for which the provider is~~  
11 ~~responsible, and obtain a signed receipt from the new provider must~~  
12 ~~comply with rules promulgated by the Department of Human Services~~  
13 ~~regarding protection of the personal funds of the resident.~~

14 SECTION 19. AMENDATORY 10 O.S. 2001, Section 1430.24, is  
15 amended to read as follows:

16 Section 1430.24 A. Residents of group homes subject to the  
17 Group Homes for Persons with Developmental or Physical Disabilities  
18 Act may receive any guest or visitor in the group home during  
19 reasonable hours as long as the visit does not infringe upon the  
20 rights of other group home residents. Any guest or visitor entering  
21 a group home shall promptly notify the staff on duty of their  
22 presence and shall, upon request, produce identification to  
23 establish their identity. No such person shall enter the immediate

1 living area of any resident without first identifying oneself and  
2 then receiving permission from the resident to enter. The rights of  
3 other residents present in the room shall be respected. A resident  
4 may terminate at any time a visit by a person having access to the  
5 ~~resident's~~ living area of the resident pursuant to this section.

6 B. ~~Any employee or agent of a public agency or any~~  
7 ~~representative of a community legal services program or any member~~  
8 ~~of a nonprofit community-supported agency which provides health or~~  
9 ~~social services to the developmentally disabled or physically~~  
10 ~~handicapped, or any member of a church group, association of older~~  
11 ~~persons or community service club which provides volunteers for~~  
12 ~~service to group home residents shall be permitted access to a group~~  
13 ~~home at reasonable hours, subject to the consent of a resident or~~  
14 ~~residents to receive such persons as guests or visitors in~~  
15 ~~accordance with the provisions of subsection A of this section.~~

16 ~~C.~~ This section shall not limit the power of the Department of  
17 Human Services or other public agency otherwise permitted or  
18 required by law to enter and inspect a group home.

19 ~~D.~~ C. The provider or licensee may refuse access to the group  
20 home to any person if the presence of that person in the group home  
21 would be injurious to the health and safety of a resident or would  
22 threaten the security of the property of a resident or the group  
23 home, or if the person seeks access to the group home for commercial

1 purposes. ~~Any person refused access to a group home may within ten~~  
2 ~~(10) days request a hearing. In that proceeding, the burden of~~  
3 ~~proof as to the right of the group home to refuse access under this~~  
4 ~~section shall be on the group home.~~

5 SECTION 20. AMENDATORY 10 O.S. 2001, Section 1430.25, is  
6 amended to read as follows:

7 Section 1430.25 A group home subject to the provisions of the  
8 Group Homes for Persons with Developmental or Physical Disabilities  
9 Act shall not involuntarily transfer or discharge a resident except  
10 for medical reasons, for the ~~resident's~~ safety of the resident or  
11 for the safety of other residents, for violations of the contract  
12 between the resident and the group home or for nonpayment for the  
13 ~~resident's~~ stay, ~~unless limited by the Federal Social Security Act,~~  
14 ~~42 U.S.C., Section 301 et seq~~ of the resident. Involuntary transfer  
15 or discharge of a resident for violations of the contract shall be  
16 subject to the conditions and procedures established by the rules  
17 adopted by the Commission for Human Services ~~for program~~  
18 ~~certification~~. Involuntary transfer or discharge of a resident from  
19 a group home shall be preceded by a minimum written notice of thirty  
20 (30) days. The thirty-day requirement shall not apply in any of the  
21 following instances:

22 1. When an emergency transfer or discharge is mandated by the  
23 ~~resident's~~ health care needs of the resident and is in accordance

1 with the written orders and medical justification of the attending  
2 physician; or

3 2. When the transfer or discharge is necessary for the physical  
4 safety of other residents as documented in the ~~elinical~~ record.

5 SECTION 21. AMENDATORY 10 O.S. 2001, Section 1430.26, is  
6 amended to read as follows:

7 Section 1430.26 A. No provider or licensee, including a  
8 corporate officer, major stockholder or member of the board of  
9 directors, member of the firm, major member of the limited liability  
10 company or manager, major partner of the partnership when the  
11 provider or licensee is a firm, partnership, limited liability  
12 company, or corporation, administrator, or employee of a group home  
13 subject to the provisions of the Group Homes for Persons with  
14 Developmental or Physical Disabilities Act shall have an insurable  
15 interest in the life of a resident of the home unless the provider,  
16 licensee, administrator, or employee is related to the resident of  
17 the home by blood ~~or~~, marriage or adoption.

18 B. No provider or licensee, including a corporate officer,  
19 major stockholder, or member of the board of directors, member of  
20 the firm, major member of the limited liability company or manager,  
21 major partner of the partnership when the provider or licensee is a  
22 firm, partnership, limited liability company, or corporation,  
23 administrator, or employee of a group home shall be entitled or

1 assigned to any benefits of a life insurance policy on the resident  
2 unless the provider, licensee, administrator, or employee is related  
3 to the resident of the home by blood ~~or~~, marriage or adoption.

4 C. No provider or licensee, including a corporate officer,  
5 major stockholder or member of the board of directors, member of the  
6 firm, major member of the limited liability company or manager,  
7 major partner of the partnership, when the provider or licensee is a  
8 firm, partnership, limited liability company, or corporation,  
9 administrator, or employee of a group home shall be appointed  
10 guardian or conservator of a resident of the home or hold power of  
11 attorney for a resident of the home unless said provider, licensee,  
12 administrator or employee is a relative of the resident and is  
13 otherwise eligible for appointment by a court as the guardian of the  
14 resident.

15 SECTION 22. AMENDATORY 10 O.S. 2001, Section 1430.27, is  
16 amended to read as follows:

17 Section 1430.27 A. Every group home ~~for which a license has~~  
18 ~~been issued~~ shall be ~~periodically~~ inspected at least annually by a  
19 duly appointed representative of the Department of Human Services  
20 pursuant to rules promulgated by the Commission for Human Services  
21 with the advice and counsel of the Group Homes for Persons with  
22 Developmental or Physical Disabilities Advisory Board established by  
23 Section 4 1430.4 of this ~~act~~ title. ~~Inspection reports shall be~~

1 ~~prepared on forms prescribed by the Department with the advice and~~  
2 ~~counsel of the Advisory Board.~~

3 B. The Department shall at least ~~three times a year~~ annually  
4 and whenever it deems necessary inspect, survey, and evaluate each  
5 group home to determine compliance with applicable licensure and  
6 program ~~certification~~ requirements and standards.

7 ~~1. An inspection shall occur within one hundred twenty (120)~~  
8 ~~days prior to license renewal.~~

9 ~~2.~~ C. Any inspection, investigation, survey, or evaluation may  
10 be conducted without prior notice to the home. At least one  
11 inspection per group home shall be unannounced. Any licensee or  
12 applicant for a license shall be deemed to have given consent to any  
13 duly authorized employee or agent of the Department to enter and  
14 inspect the group home in accordance with the provisions of the  
15 Group Homes for Persons with Developmental or Physical Disabilities  
16 Act. Refusal to permit such entry or inspection may constitute  
17 grounds for the denial, nonrenewal, suspension, or revocation of a  
18 license.

19 ~~C.~~ D. The Department shall maintain a log, updated at least  
20 monthly and available for public inspection, which shall at a  
21 minimum detail:

22 1. The name of the group home and date of inspection,  
23 investigation, survey, or evaluation;

1           2. Any deficiencies, lack of compliance, or violation noted at  
2 the inspection, investigation, survey, or evaluation;

3           3. The date a notice of violation, license denial, nonrenewal,  
4 suspension, or revocation was issued or other enforcement action  
5 occurred;

6           4. ~~The date a plan of correction was submitted and the date the~~  
7 ~~plan was approved~~ Proposed dates for the resolution of deficiencies;

8           5. The date corrections were completed, as verified by an  
9 inspection; and

10          6. If the inspection or investigation was made pursuant to the  
11 receipt of a complaint, the date such complaint was received and the  
12 date ~~the complainant and~~ the group home was notified of the results  
13 of the inspection or investigation.

14          ~~D.~~ E. The Department shall require periodic reports and shall  
15 have access to books, records and other documents maintained by the  
16 group home to the extent necessary to implement the provisions of  
17 the Group Homes for Persons with Developmental or Physical  
18 Disabilities Act and the rules promulgated by the Commission for  
19 Human Services pursuant thereto.

20          ~~E. A state or local ombudsman, or a representative of the~~  
21 ~~Office of Client Advocacy, or a case manager assigned monitoring~~  
22 ~~responsibilities for clients residing in group homes is authorized~~  
23 ~~to accompany and shall be notified of any survey or inspection~~

1 ~~conducted of any group home licensed pursuant to the provisions of~~  
2 ~~the Group Homes for Persons with Developmental or Physical~~  
3 ~~Disabilities Act.~~

4 F. Any state or local ombudsman or a representative of the  
5 Office of Client Advocacy having proper identification is authorized  
6 to enter any group home licensed pursuant to the provisions of the  
7 Group Homes for Persons with Developmental or Physical Disabilities  
8 Act, communicate privately and without unreasonable restriction with  
9 any resident of a group home who consents to such communication, to  
10 seek consent to communicate privately and without restriction with  
11 any resident of a group home, and to observe all areas of a group  
12 home that directly pertain to the care of a resident of a group  
13 home.

14 ~~F.~~ ~~Following any survey or inspection pursuant to the~~  
15 ~~provisions of this section, all reports relating to the survey or~~  
16 ~~inspection shall be filed in the county office of the Department of~~  
17 ~~Human Services in which the group home is located and with the~~  
18 ~~Developmental Disabilities Services Division of the Department of~~  
19 ~~Human Services.~~

20 G. All state agencies receiving complaints on, or conducting  
21 surveys or inspections of group homes shall forward complete copies  
22 of complaints or inspection or survey results to the Office of  
23 Client Advocacy of the Department of Human Services.

1 SECTION 23. AMENDATORY 10 O.S. 2001, Section 1430.31, is  
2 amended to read as follows:

3 Section 1430.31 A. No person shall willfully:

- 4 1. Fail to correct or interfere with the correction of a  
5 violation within the time specified on the notice or approved plan  
6 of correction pursuant to the provisions of the Group Homes for  
7 Persons with Developmental or Physical Disabilities Act as the  
8 maximum period given for correction, unless an extension is granted  
9 and the corrections are made before expiration of extension;
- 10 2. Prevent, interfere with, or attempt to impede in any way the  
11 work of any duly authorized representative of the Department of  
12 Human Services in the investigation and enforcement of the Group  
13 Homes for Persons with Developmental or Physical Disabilities Act;
- 14 3. Prevent or attempt to prevent any such representative from  
15 examining any relevant books or records in the conduct of official  
16 duties pursuant to the provisions of the Group Homes for Persons  
17 with Developmental or Physical Disabilities Act;
- 18 4. Prevent or interfere with any such representative in the  
19 preserving of evidence of any violation of the Group Homes for  
20 Persons with Developmental or Physical Disabilities Act or the rules  
21 promulgated pursuant thereto;
- 22 5. Retaliate or discriminate against any resident or employee  
23 for contacting or providing information to any state official, or

1 for initiating, participating in, or testifying in an action for any  
2 remedy authorized pursuant to the provisions of the Group Homes for  
3 Persons with Developmental or Physical Disabilities Act;

4 6. File any false, incomplete, or intentionally misleading  
5 information required to be filed pursuant to the provisions of the  
6 Group Homes for Persons with Developmental or Physical Disabilities  
7 Act, or willfully fail or refuse to file any information required by  
8 the Department pursuant to the provisions of the Group Homes for  
9 Persons with Developmental or Physical Disabilities Act; or

10 7. Open or operate a group home without a license or ~~operate~~ a  
11 contract for group home ~~without a license and program certification~~  
12 services with the Department of Human Services or the Oklahoma  
13 Health Care Authority.

14 B. No employee of a state or unit of a local government agency  
15 shall aid, abet, assist, conceal, or conspire with any employee of a  
16 provider or licensee in a violation of any provision of the Group  
17 Homes for Persons with Developmental or Physical Disabilities Act or  
18 any rule or standard promulgated by the Commission for Human  
19 Services pursuant to the Group Homes for Persons with Developmental  
20 or Physical Disabilities Act.

21 C. Any person who violates any of the provisions of the Group  
22 Homes for Persons with Developmental or Physical Disabilities Act,

1 upon conviction, shall be guilty of a misdemeanor. Each day upon  
2 which such violation occurs shall constitute a separate violation.

3 SECTION 24. AMENDATORY 10 O.S. 2001, Section 1430.33, is  
4 amended to read as follows:

5 Section 1430.33 Any provider or licensee operating under the  
6 Group Homes for Persons with Developmental or Physical Disabilities  
7 Act shall give ninety (90) days' notice prior to voluntarily closing  
8 a group home or closing any part of a group home, or prior to  
9 closing any part of a group home if closing such part will require  
10 the transfer or discharge of more than ten percent (10%) of the  
11 residents. Such notice shall be given to the Department of Human  
12 Services, to any resident who must be transferred or discharged, to  
13 the resident's guardian or advocate, and to a member of the  
14 resident's family, where practicable. Notice shall state the  
15 proposed date of closing and the reason for closing. The provider  
16 or licensee shall offer to assist the resident in securing an  
17 alternative placement and shall advise the resident on available  
18 alternatives. Where the resident is unable to choose an alternative  
19 placement and is not under guardianship, the Department shall be  
20 notified of the need for relocation assistance. The provider or  
21 licensee shall comply with all applicable laws and rules until the  
22 date of closing, including those related to transfer or discharge of  
23 residents. The Department may place a relocation team in the group

1 home if needed. Also, the Department may promulgate rules that  
2 establish criteria for the acceleration of the notice requirement if  
3 extraordinary circumstances warrant it.

4 SECTION 25. AMENDATORY 10 O.S. 2001, Section 1430.34, is  
5 amended to read as follows:

6 Section 1430.34 A. The Department of Human Services may place  
7 an employee or agent to serve as a monitor at a provider agency or  
8 licensee subject to the provisions of the Group Homes for Persons  
9 with Developmental or Physical Disabilities Act or may petition the  
10 district court for appointment of a receiver for a provider or  
11 licensee, or both, when any of the following conditions exist:

- 12 1. The group home is operating without a license;
- 13 2. The Department has suspended, revoked or refused to renew  
14 the existing license of the provider or licensee;
- 15 3. The provider or licensee has closed or has informed the  
16 Department that it intends to close and adequate arrangements for  
17 relocation of residents have not been made at least thirty (30) days  
18 prior to closure; or
- 19 4. The Department determines that an emergency exists, whether  
20 or not it has initiated revocation or nonrenewal procedures, if  
21 because of the unwillingness or inability of the provider or  
22 licensee to remedy the emergency the Department believes a monitor  
23 or receiver is necessary.

1           B. In any situation described in subsection A of this section,  
2 the Department may place a qualified person to act as monitor at the  
3 provider agency or licensee. The monitor shall observe the  
4 operation of the provider agency or licensee, assist the provider or  
5 licensee by advising it on how to comply with the state rules  
6 promulgated by the Commission for Human Services and shall report  
7 periodically to the Department on the operation of the provider  
8 agency or licensee.

9           SECTION 26.           AMENDATORY           10 O.S. 2001, Section 1430.35, is  
10 amended to read as follows:

11           Section 1430.35 A. Where a resident of a group home subject to  
12 the Group Homes for Persons with Developmental or Physical  
13 Disabilities Act, a ~~resident's~~ guardian or advocate of a resident,  
14 if any, or a resident's next of kin believes that an emergency  
15 exists, each of them, collectively or separately, may file a  
16 verified statement with the Director of Human Services, or a  
17 designee, who shall immediately investigate. If the Director, or a  
18 designee, determines that proper cause exists, the Director, or a  
19 designee, shall take whatever steps are necessary to protect the  
20 health, welfare and safety of the residents including, if necessary,  
21 petitioning the court to place the group home under the control of a  
22 receiver to ensure that the residents receive adequate care.

1           B. The court shall hold a hearing within five (5) days of the  
2 filing of the petition. The petition and notice of the hearing  
3 shall be served on the provider or licensee or designated agent of  
4 the provider or licensee and the petition and notice of hearing  
5 shall be posted in a conspicuous place in the group home not later  
6 than three (3) days before the time specified for the hearing,  
7 unless a different time limit is fixed by order of the court. The  
8 court shall appoint a receiver for a limited time period, not to  
9 exceed one hundred eighty (180) days, which shall automatically  
10 terminate the receivership unless extended by the court, if it finds  
11 that:

12           1. The group home is operating without a license;

13           2. The Department has suspended, revoked or refused to renew  
14 the existing license of the provider or licensee;

15           3. The group home is closing or has informed the Department  
16 that it intends to close and adequate arrangements for relocation of  
17 residents have not been made at least thirty (30) days prior to  
18 closure;

19           4. An emergency exists, whether or not the Department has  
20 initiated revocation or nonrenewal procedures, if because of the  
21 unwillingness or inability of the provider or licensee to remedy the  
22 emergency, the appointment of a receiver is necessary; or

1           5. It is necessary to ensure that the residents get adequate  
2 care in a situation in which the ~~residents'~~ health, welfare and  
3 safety of the residents are threatened.

4           C. If a petition filed under this section alleges that the  
5 conditions listed in subsection B of this section exist within a  
6 group home, the court may set the matter for hearing at the earliest  
7 possible time. The petitioner shall notify the provider of the  
8 group home or licensee or registered agent of the provider or  
9 licensee more than five (5) days prior to the hearing. Any form of  
10 written notice may be used. A receivership shall not be established  
11 ex parte by the court unless the Director of Human Services, under  
12 oath, has provided a statement that such Director, or a designee,  
13 has personally determined that there is a life-endangering  
14 situation. A waiver of the five-day notice requirement may be  
15 approved by the court in life-endangering situations as determined  
16 and confirmed under oath, by the Director.

17           SECTION 27.           AMENDATORY           10 O.S. 2001, Section 1430.36, is  
18 amended to read as follows:

19           Section 1430.36 A. The court may appoint any qualified person  
20 as a receiver, except it shall not appoint any employee or affiliate  
21 of the provider or licensee which is in receivership as its  
22 receiver. The Department of Human Services shall maintain a list of  
23 such persons to operate group homes which the court may consider.

1 B. The receiver shall make provisions for the continued health,  
2 safety and welfare of all residents of the group home.

3 C. A receiver appointed pursuant to the Group Homes for Persons  
4 with Developmental or Physical Disabilities Act shall exercise those  
5 powers and shall perform those duties set out by the court. These  
6 powers and duties may include those generally ascribed to receivers  
7 and receiverships and may also include the powers and duties of  
8 trustees under the current Bankruptcy Code for the State of  
9 Oklahoma. The court shall provide for the receiver to have  
10 sufficient power and duties to ensure that the residents receive  
11 adequate care.

12 SECTION 28. AMENDATORY 10 O.S. 2001, Section 1430.40, is  
13 amended to read as follows:

14 Section 1430.40 A. The court may terminate a receivership:

15 1. If the time period specified in the order appointing the  
16 receiver elapses and is not extended;

17 2. If the court determines that the receivership is no longer  
18 necessary because the conditions which gave rise to the receivership  
19 no longer exist; or the Department of Human Services issues the  
20 provider or licensee a new license, whether the structure of the  
21 group home, the right to operate the group home, or the land on  
22 which it is located is under the same or different ownership; or

1           3. If all of the residents in the group home have been  
2 transferred or discharged.

3           B. 1. Within thirty (30) days after termination, the receiver  
4 shall give the court a complete accounting of all property of which  
5 the receiver has taken possession, of all funds collected, and of  
6 the expenses of the receivership.

7           2. If the operating funds exceed the reasonable expenses of the  
8 receivership, the court shall order payment of the surplus to the  
9 provider or licensee, after reimbursement of funds drawn from the  
10 contingency fund provided for in Section ~~37~~ 1430.37 of this ~~act~~  
11 title. If the operating funds are insufficient to cover the  
12 reasonable expenses of the receivership, the provider or licensee  
13 shall be liable for the deficiency. Payment recovered from the  
14 provider or licensee shall be used to reimburse the contingency fund  
15 for amounts drawn by the receiver under Section ~~37~~ 1430.37 of this  
16 ~~act~~ title.

17           3. The Department shall have a lien for any payment made under  
18 Section ~~37~~ 1430.37 of this ~~act~~ title upon any beneficial interest,  
19 direct or indirect, of any owner in the following property:

- 20           a. the building in which the group home is located,  
21           b. any fixtures, equipment or goods used in the operation  
22                 of the group home,  
23           c. the land on which the group home is located, or

1           d.    the proceeds from any conveyance of property described  
2                    in subparagraphs a, b or c above, made by the provider  
3                    or licensee within one (1) year prior to the filing of  
4                    the petition for receivership.

5           4.    The receiver shall, within sixty (60) days after termination  
6   of the receivership, file a notice of any lien created under this  
7   section.  If the lien is on real property, the notice shall be filed  
8   with the county clerk.  If the lien is on personal property, the  
9   notice shall be filed with the Secretary of State.  The notice shall  
10 specify the name of the person against whom the lien is claimed, the  
11 name of the receiver, the dates of the petition for receivership and  
12 the termination of receivership, a description of the property  
13 involved and the amount claimed.  No lien shall exist under this act  
14 against any person, on any property, or for any amount not specified  
15 in the notice filed under this paragraph.

16           SECTION 29.        AMENDATORY        10 O.S. 2001, Section 1430.41, is  
17 amended to read as follows:

18           Section 1430.41  Notwithstanding the general rules of  
19 receiverships and trustees, nothing in the Group Homes for Persons  
20 with Developmental or Physical Disabilities Act shall be deemed to  
21 relieve any administrator or employee of a group home placed in  
22 receivership of any civil or criminal liability incurred, or any  
23 duty imposed by law, by reason of acts or omissions of the

1 administrator or employee prior to the appointment of a receiver;  
2 provided, that nothing contained in this act shall be construed to  
3 suspend during the receivership any obligation of the administrator  
4 or employee for payment of taxes or other operating and maintenance  
5 expenses of the group home or of the administrator, employee or any  
6 other person for the payment of mortgages or liens. The provider or  
7 licensee shall retain the right to sell or mortgage any group home  
8 under receivership, subject to approval of the court which ordered  
9 the receivership.

10 SECTION 30. REPEALER 10 O.S. 2001, Sections 1430.5,  
11 1430.10, 1430.16, 1430.21, 1430.28, 1430.29 and 1430.30, are hereby  
12 repealed.

13 SECTION 31. This act shall become effective November 1, 2006.

14 COMMITTEE REPORT BY: COMMITTEE ON HEALTH & HUMAN RESOURCES, dated  
15 4-6-06 - DO PASS, As Amended.