

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 738

By: Morgan of the Senate

and

Blackwell of the House

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9 COMMITTEE SUBSTITUTE

10 (public health and safety - Continuum of Care and

11 Assisted Living Act - assisted living center

12 residents - codification -

13 effective date)

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

17 SECTION 1. AMENDATORY 63 O.S. 2001, Section 1-890.2, is
18 amended to read as follows:

19 Section 1-890.2 As used in the Continuum of Care and Assisted
20 Living Act:

21 1. "Assisted living center" means any home or establishment
22 offering, coordinating or providing services to two or more persons
23 who:

24 a. are domiciled therein,

- b. are unrelated to the operator,
- c. by choice or functional impairments, need assistance with personal care or nursing supervision,
- d. may need intermittent or unscheduled nursing care,
- e. may need medication assistance, and
- f. may need assistance with transfer and/or ambulation-

~~Intermittent nursing care and home health aide services may be provided in an assisted living facility by a home health agency;~~

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

3. "Commissioner" means the Commissioner of Health; and

4. "Continuum of care facility" means a home, establishment or institution providing nursing facility services as defined in Section 1-1902 of ~~Title 63 of the Oklahoma Statutes~~ this title and one or both of the following:

a. assisted living center services as defined in the Continuum of Care and Assisted Living Act, and

b. adult day care center services as defined in Section 1-872 of ~~Title 63 of the Oklahoma Statutes~~ this title.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-890.8 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Residents of an assisted living center may receive home care services and intermittent, periodic, or recurrent nursing care

1 through a home care agency under the provisions of the Home Care
2 Act.

3 B. Residents of an assisted living center may receive hospice
4 home services under the provisions of the Oklahoma Hospice Licensing
5 Act.

6 C. Nothing in the foregoing provisions shall be construed to
7 prohibit any resident of an assisted living center from receiving
8 such services from any person who is exempt from the provisions of
9 the Home Care Act.

10 D. The services may be arranged or coordinated by the assisted
11 living center or privately by the resident, or the designated or
12 legal representative of the resident. To the extent the assisted
13 living center arranges or coordinates the services, the assisted
14 living center shall monitor and assure the delivery of those
15 services. All nursing services shall be in accordance with the
16 written orders of the personal or attending physician of the
17 resident.

18 E. Notwithstanding the foregoing provisions, a resident of an
19 assisted living center, or the family or legal representative of the
20 resident, may privately contract or arrange for private nursing
21 services under the orders and supervision of the personal or
22 attending physician of the resident, private monitoring, private
23 sitters or companions, personal domestic servants, or personal
24 staff.

1 F. The assisted living apartment of the resident shall be
2 considered the resident's domicile.

3 G. If a resident of an assisted living center develops a
4 disability or condition requiring additional services or
5 accommodations:

6 1. The resident, the designated or legal representative of the
7 resident, the personal or attending physician of the resident, and a
8 representative of the assisted living center shall determine by and
9 through a consensus of the foregoing persons any reasonable and
10 necessary accommodations and additional services required to permit
11 the resident to remain in place in the assisted living center as the
12 least restrictive environment and with privacy and dignity;

13 2. All accommodations or additional services shall be described
14 in a written plan of accommodation, signed by the personal or
15 attending physician of the resident, a representative of the
16 assisted living center, and the resident or the legal representative
17 of the resident;

18 3. A person responsible for performing, monitoring, and
19 assuring compliance with the plan of accommodation shall be
20 expressly specified in the plan of accommodation and may include:

- 21 a. assisted living center staff,
- 22 b. the personal or attending physician of the resident,
- 23 c. a home care agency,
- 24 d. hospice, or

1 e. other designated persons;

2 4. If the parties identified in paragraph 1 of this subsection
3 fail to reach a consensus on a plan of accommodation, the assisted
4 living center shall give written notice to the resident, the legal
5 representative of the resident, or persons designated in the
6 resident's contract with the assisted living center, of the
7 termination of the residency of the resident in the assisted living
8 center in accordance with the provisions of the resident's contract
9 with the assisted living center. Notice shall not be less than
10 thirty (30) calendar days prior to the date of termination, unless
11 the assisted living center or the personal or attending physician of
12 the resident determines the resident is in imminent peril or the
13 continued residency places other persons at risk of imminent harm;
14 and

15 5. Any resident aggrieved by a decision to terminate residency
16 may seek injunctive relief in the district court of the county in
17 which the assisted living center is located. Such action shall be
18 filed no later than ten (10) days after the receipt of the written
19 notice of termination.

20 SECTION 3. This act shall become effective November 1, 2007.

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