

THE HOUSE OF REPRESENTATIVES

Monday, February 25, 2008

House Bill No. 2539

HOUSE BILL NO. 2539 - By: JOYNER of the House and BARRINGTON of the Senate.

An Act relating to public health and safety; amending Section 2, Chapter 347, O.S.L. 2007 (63 O.S. Supp. 2007, Section 1-890.8), which relates to the provision of home care, nursing, hospice, and private services; directing that plan of accommodation be in accordance with certain codes, rules and requirements; and providing an effective date.

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

- 1 SECTION 1. AMENDATORY Section 2, Chapter 347, O.S.L. 2007 (63 O.S.
- 2 Supp. 2007, Section 1-890.8), is amended to read as follows:
- 3 Section 1-890.8 A. Residents of an assisted living center may receive home care
- 4 services and intermittent, periodic, or recurrent nursing care through a home care
- 5 agency under the provisions of the Home Care Act.
- 6 B. Residents of an assisted living center may receive hospice home services under
- 7 the provisions of the Oklahoma Hospice Licensing Act.
- 8 C. Nothing in the foregoing provisions shall be construed to prohibit any resident of
- 9 an assisted living center from receiving such services from any person who is exempt
- 10 from the provisions of the Home Care Act.

1 D. The assisted living center shall monitor and assure the delivery of those
2 services. All nursing services shall be in accordance with the written orders of the
3 personal or attending physician of the resident.

4 E. Notwithstanding the foregoing provisions, a resident of an assisted living center,
5 or the family or legal representative of the resident, may privately contract or arrange for
6 private nursing services under the orders and supervision of the personal or attending
7 physician of the resident, private monitoring, private sitters or companions, personal
8 domestic servants, or personal staff.

9 F. If a resident of an assisted living center develops a disability or a condition that
10 is consistent with the facility's discharge criteria:

11 1. The personal or attending physician of a resident, a representative of the
12 assisted living center, and the resident or the designated representative of the resident
13 shall determine by and through a consensus of the foregoing persons any reasonable and
14 necessary accommodations, in accordance with the current building codes, the rules of
15 the State Fire Marshal, and the requirements of the local fire jurisdiction, and additional
16 services required to permit the resident to remain in place in the assisted living center as
17 the least restrictive environment and with privacy and dignity;

18 2. All accommodations or additional services shall be described in a written plan of
19 accommodation, signed by the personal or attending physician of the resident, a
20 representative of the assisted living center and the resident or the designated
21 representative of the resident;

1 3. The person or persons responsible for performing, monitoring and assuring
2 compliance with the plan of accommodation shall be expressly specified in the plan of
3 accommodation and shall include the assisted living center and any of the following:

- 4 a. the personal or attending physician of the resident,
- 5 b. a home care agency,
- 6 c. a hospice, or
- 7 d. other designated persons;

8 The plan of accommodation shall be reviewed at least quarterly by a licensed health
9 care professional.

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

20 5. If any party identified in paragraph 1 of this subsection determines that the plan
21 of accommodation is not being met, such party shall notify the other parties and a

1 meeting shall be held between the parties within ten (10) business days to re-evaluate
2 the plan of accommodation; and

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

7 G. Nothing in this section shall be construed to abrogate an assisted living center's
8 responsibility to provide care for and oversight of a resident.

9 SECTION 2. This act shall become effective November 1, 2008.

10 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 02-21-08 - DO
11 PASS, As Coauthored.