

EHB 2539

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**THE STATE SENATE**  
**Wednesday, March 26, 2008**

**ENGROSSED**

**House Bill No. 2539**

ENGROSSED HOUSE BILL NO. 2539 - By: Joyner of the House and Barrington, Easley and Johnson (Constance) 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:

SECTION 1. AMENDATORY Section 2, Chapter 347, O.S.L.

2007 (63 O.S. Supp. 2007, Section 1-890.8), is amended to read as follows:

Section 1-890.8 A. Residents of an assisted living center may receive home care services and intermittent, periodic, or recurrent nursing care through a home care agency under the provisions of the Home Care Act.

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

C. Nothing in the foregoing provisions shall be construed to prohibit any resident of an assisted living center from receiving

1 such services from any person who is exempt from the provisions of  
2 the Home Care Act.

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

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

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

17 1. The personal or attending physician of a resident, a  
18 representative of the assisted living center, and the resident or  
19 the designated representative of the resident shall determine by and  
20 through a consensus of the foregoing persons any reasonable and  
21 necessary accommodations, in accordance with the current building  
22 codes, the rules of the State Fire Marshal, and the requirements of  
23 the local fire jurisdiction, and additional services required to

1 permit the resident to remain in place in the assisted living center  
2 as the least restrictive environment and with privacy and dignity;

3 2. All accommodations or additional services shall be described  
4 in a written plan of accommodation, signed by the personal or  
5 attending physician of the resident, a representative of the  
6 assisted living center and the resident or the designated  
7 representative of the resident;

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

- 12 a. the personal or attending physician of the resident,
- 13 b. a home care agency,
- 14 c. a hospice, or
- 15 d. other designated persons;

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

18 4. If the parties identified in paragraph 1 of this subsection  
19 fail to reach a consensus on a plan of accommodation, the assisted  
20 living center shall give written notice to the resident, the legal  
21 representative or the resident or such persons as are designated in  
22 the resident's contract with the assisted living center, of the  
23 termination of the residency of the resident in the assisted living

1 center in accordance with the provisions of the resident's contract  
2 with the assisted living center. Such notice shall not be less than  
3 thirty (30) calendar days prior to the date of termination, unless  
4 the assisted living center or the personal or attending physician of  
5 the resident determines the resident is in imminent peril or the  
6 continued residency of the resident places other persons at risk of  
7 imminent harm;

8 5. If any party identified in paragraph 1 of this subsection  
9 determines that the plan of accommodation is not being met, such  
10 party shall notify the other parties and a meeting shall be held  
11 between the parties within ten (10) business days to re-evaluate the  
12 plan of accommodation; and

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

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

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

22 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY & HOMELAND SECURITY,  
23 dated 3-25-08 - DO PASS, As Coauthored.