

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 HOUSE BILL 2705

By: Collins

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5  
6 AS INTRODUCED

7 An Act relating to veterans; amending 63 O.S. 2001,  
8 Section 1-1903, as amended by Section 1, Chapter 89,  
9 O.S.L. 2003 (63 O.S. Supp. 2009, Section 1-1903),  
10 which relates to licensing requirements of the  
11 Nursing Home Care Act; requiring Veterans Centers to  
12 comply with the Nursing Home Care Act; amending 63  
13 O.S. 2001, Section 1-1906, as amended by Section 4,  
14 Chapter 230, O.S.L. 2002 (63 O.S. Supp. 2009, Section  
15 1-1906) which relates to the issuance or renewal of  
16 licenses; providing exception; providing that  
17 residents of Veterans Centers shall not lose  
18 placement as a result of certain treatment in  
19 different facility; requiring promulgation of rules;  
20 providing for codification; providing an effective  
21 date; and declaring an emergency.

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

23 SECTION 1. AMENDATORY 63 O.S. 2001, Section 1-1903, as  
24 amended by Section 1, Chapter 89, O.S.L. 2003 (63 O.S. Supp. 2009,  
25 Section 1-1903), is amended to read as follows:

26 Section 1-1903. A. No person shall establish, operate, or  
27 maintain in this state any nursing facility without first obtaining  
28 a license as required by the Nursing Home Care Act.

1 B. The Nursing Home Care Act shall not apply to any facility  
2 operated by the Oklahoma Department of Veterans Affairs under  
3 control of the Oklahoma War Veterans Commission residential care  
4 homes, assisted living facilities or adult companion homes which are  
5 operated in conjunction with a nursing facility, or to hotels,  
6 motels, boarding houses, rooming houses, or other places that  
7 furnish board or room to their residents.

8 C. The Nursing Home Care Act shall apply to each Oklahoma  
9 Veterans Center nursing facility and each Center shall be regulated  
10 as an existing nursing facility. On November 1, 2010, the State  
11 Department of Health shall issue licenses to all previously licensed  
12 Oklahoma Veterans Centers who surrendered their licenses to the  
13 Department pursuant to state law. All Oklahoma Veterans Centers not  
14 previously licensed by the Department shall be required to apply for  
15 an initial license as provided in Section 1-1906 of this title.  
16 Each Veterans Center in the state shall comply with all requirements  
17 of the Nursing Home Care Act within six (6) months. The Department  
18 shall assist all Veterans Centers in complying with the provisions  
19 of the Nursing Home Care Act and may extend the period required for  
20 Veterans Centers to come into compliance for good cause shown and as  
21 provided in Section 1-1906 of this title.

22 D. Certificate of need review shall not be required for any  
23 addition, deletion, modification or new construction of current or  
24 future State Veterans Center nursing facilities.

1       ~~D.~~ E. The Nursing Home Care Act shall not authorize any person  
2 to engage in any manner in the practice of the healing arts or the  
3 practice of medicine, as defined by law.

4       ~~E.~~ F. The Nursing Home Care Act shall not apply to a facility  
5 which is not charging or receiving periodic compensation for  
6 services rendered, and not receiving any county, state, or federal  
7 assistance.

8       SECTION 2.       AMENDATORY       63 O.S. 2001, Section 1-1906, as  
9 amended by Section 4, Chapter 230, O.S.L. 2002 (63 O.S. Supp. 2009,  
10 Section 1-1906), is amended to read as follows:

11       Section 1-1906. A. The State Commissioner of Health shall  
12 issue and renew licenses for the operation of facilities which are  
13 found to comply with the provisions of the Nursing Home Care Act,  
14 and standards and rules of the State Board of Health.

15       B. For any new facility or for any facility that has undergone  
16 a transfer of ownership or operation the State Department of Health  
17 shall issue only an initial license, except as provided in  
18 subsection C of Section 1-1903 of this title. An initial license  
19 shall be valid for one hundred eighty (180) days unless sooner  
20 suspended or revoked under this act. Prior to the termination of an  
21 initial license, the Department shall fully and completely inspect  
22 the facility and, if the facility meets the applicable requirements  
23 for licensure, shall issue a license under this act. If the  
24 Department finds that the facility does not meet the requirements

1 for licensure but has made substantial progress toward meeting those  
2 requirements, the initial license may be extended once for a period  
3 not to exceed one hundred twenty (120) days from the expiration date  
4 of the initial license.

5 C. An application for a license may be denied for any of the  
6 following reasons:

7 1. Failure to meet any of the minimum standards set forth by  
8 this act or by rules promulgated by the Board under this act;

9 2. Conviction of the applicant, or of any member of an  
10 applicant that is a firm, partnership or association or, if a  
11 corporation, the conviction of the corporation or any of its  
12 officers or a majority stockholder, or of a person designated to  
13 manage or supervise a facility, of a felony, meaning a crime that  
14 would have a bearing on the operation of a nursing home, the  
15 conviction to be shown by a certified copy of the record of the  
16 court of conviction, if the Department determines, after  
17 investigation, that such applicant has not been sufficiently  
18 rehabilitated to warrant the public trust, or other satisfactory  
19 evidence that the moral character of the applicant, or  
20 administrator, or manager, or supervisor of the facility is not  
21 reputable;

22 3. Personnel insufficient in number or unqualified by training  
23 or experience properly to care for the proposed number and type of  
24

1 residents to be determined by standards set by the Department with  
2 the standards not being less than those set by federal statute; or

3 4. Insufficient financial or other resources that would render  
4 a facility incapable of providing adequate patient care.

5 D. Immediately upon the denial of any application or  
6 reapplication for a license under this act, the Department shall  
7 notify the applicant in writing. Notice of denial shall include a  
8 clear and concise statement of the violations on which denial is  
9 based and notice of the opportunity for a hearing. If the applicant  
10 desires to contest the denial of a license, it shall provide written  
11 notice to the Department of a request for a hearing within ten (10)  
12 days after receipt of the notice of denial and the Department shall  
13 commence the hearing.

14 E. The Commissioner may suspend or revoke a license on any of  
15 the following grounds:

16 1. Violation of any of the provisions of this act or the rules,  
17 regulations and standards issued pursuant thereto;

18 2. Permitting, aiding or abetting the commission of any illegal  
19 act in a licensed facility;

20 3. Conduct of practices deemed by the Commissioner to be  
21 detrimental to the welfare of the patients or residents of a  
22 facility;

23 4. Insufficient financial or other resources that would render  
24 a facility incapable of providing adequate patient care; or

1           5. The facility has closed.

2           F. 1. The Department, after notice to the applicant or  
3 licensee, may suspend, revoke, refuse to renew a license or assess  
4 administrative penalties in any case in which the Department finds  
5 that there has been a substantial failure to comply with this act or  
6 the rules promulgated by the Board under this act;

7           2. Notice under this section shall include a clear and concise  
8 statement of the violations on which the nonrenewal, revocation or  
9 administrative penalty is based, the statute or rule violated and  
10 notice of the opportunity for a hearing;

11           3. If a facility desires to contest the nonrenewal or  
12 revocation of a license or the assessment of administrative  
13 penalties, the facility shall, within ten (10) days after receipt of  
14 notice under paragraph 2 of this section, notify the Commissioner in  
15 writing of its request for a hearing. Upon receipt of the request  
16 the Commissioner shall send notice to the facility and hold a  
17 hearing;

18           4. The effective date of nonrenewal or revocation of a license  
19 by the Commissioner shall be any of the following:

- 20           a. until otherwise ordered by the district court,  
21                revocation is effective on the date set by the  
22                Commissioner in the notice of revocation, or upon  
23                final action after hearing, whichever is later,  
24

1           b.    until otherwise ordered by the district court,  
2                    nonrenewal is effective on the date of expiration of  
3                    any existing license, or upon final action after  
4                    hearing, whichever is later, or

5           c.    the Department may extend the effective date of  
6                    license revocation or expiration in any case in order  
7                    to permit orderly removal and relocation of residents.

8           G.    A new application, following revocation, shall be considered  
9 by the Commissioner on receipt of evidence that the conditions upon  
10 which revocation was based have been corrected; and a new license  
11 may then be granted after proper inspection has been made and all  
12 provisions of this act have been complied with, and the rules,  
13 regulations and standards of the Board have been satisfied.

14           H.    The Department may suspend, for a period not to exceed three  
15 (3) years, the license of a facility that has temporarily closed or  
16 ceased operations for remodeling, renovation, replacement or  
17 relocation, or that has closed or ceased operations pending a change  
18 of ownership, operator or management.

19           1.    The facility shall provide periodic reports to the  
20 Department not less than once every six (6) months demonstrating the  
21 facility's progress towards reopening.

22           2.    The Department may extend the period of suspension upon a  
23 demonstration of extenuating or unusual circumstances, a clear  
24 showing of good faith efforts to proceed towards the reopening of

1 the facility, and a determination by the Department that a  
2 continuation of the period of suspension poses no harm to the  
3 public.

4 3. Whenever, after receipt of a six-month report, the  
5 Department determines that there has been no progress towards  
6 reopening the facility, no demonstration of extenuating or unusual  
7 circumstances or clear showing of good faith efforts to proceed  
8 towards the reopening of the facility, the Department may initiate a  
9 proceeding to revoke the license of the facility.

10 4. At or before the conclusion of the suspension period, the  
11 facility shall meet applicable requirements for licensure and shall  
12 reopen, or the license shall expire.

13 5. Any closed facility that has a suspended license on the  
14 effective date of this act may be issued a suspended license for a  
15 period not to exceed three (3) years from the effective date of this  
16 act.

17 SECTION 3. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 221.6 of Title 72, unless there  
19 is created a duplication in numbering, reads as follows:

20 A resident of a Veterans Center shall not lose placement at the  
21 Center if the resident requires medical or other treatment which  
22 results in the resident's temporary placement at a facility other  
23 than the Veterans Center. The War Veterans Commission of Oklahoma  
24 shall promulgate all necessary rules to comply with this section.

1 SECTION 4. This act shall become effective July 1, 2010.

2 SECTION 5. It being immediately necessary for the preservation  
3 of the public peace, health and safety, an emergency is hereby  
4 declared to exist, by reason whereof this act shall take effect and  
5 be in full force from and after its passage and approval.

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