

- 1 1. "Abuse" means the willful infliction of injury, unreasonable
2 confinement, intimidation or punishment, with resulting physical
3 harm, impairment or mental anguish;
- 4 2. "Access" means the right of a person to enter a home to
5 communicate privately and without unreasonable restriction;
- 6 3. "Administrator" means the person who is in charge of a home
7 and who devotes at least one-third (1/3) of his or her full working
8 time to on-the-job supervision of such home;
- 9 4. "Adult companion home" means any home or establishment,
10 funded and certified by the Department of Human Services, which
11 provides homelike residential accommodations and supportive
12 assistance to three or fewer mentally retarded or developmentally
13 disabled adults;
- 14 5. "Advisory Board" means the Long-Term Care Facility Advisory
15 Board;
- 16 6. "Ambulatory" means any resident who is capable of self-
17 movement, including in and out of wheelchairs, to all areas of the
18 home;
- 19 7. "Board" means the State Board of Health;
- 20 8. "Commissioner" means the State Commissioner of Health;
- 21 9. "Department" means the State Department of Health;
- 22 10. "Habilitation" means procedures and interventions designed
23 to assist a mentally ill, drug-dependent or alcohol-dependent person
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1 | eighteen (18) years of age or older to achieve greater physical,
2 | mental and social development by enhancing the well-being of the
3 | person and teaching skills which increase the possibility that the
4 | resident will make progressively independent and responsible
5 | decisions about social behavior, quality of life, job satisfaction
6 | and personal relationships;

7 | 11. "Home" means a residential care home;

8 | 12. "Residential care home":

9 | a. means any establishment or institution which offers,
10 | provides or supports residential accommodations, food
11 | service, and supportive assistance to any of its
12 | residents or houses any residents requiring supportive
13 | assistance who are not related to the owner or
14 | administrator of the home by blood or marriage. A
15 | residential care home shall not include:

16 | (1) an adult companion home,

17 | (2) a group home,

18 | (3) a hotel,

19 | (4) a motel,

20 | (5) a residential mental health facility operated by
21 | the Department of Mental Health and Substance
22 | Abuse Services,

23 | (6) a fraternity or a sorority house, ~~or~~

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- 1 (7) college or university dormitory, or
2 (8) a United State Department of Veterans Affairs
3 approved medical foster home.

4 The residents of a residential care home shall be
5 ambulatory and essentially capable of participating in
6 their own activities of daily living, but shall not
7 routinely require nursing services, and

8 b. may consist of a series of units or buildings which
9 are not connected or part of the same structure if:

- 10 (1) such buildings or units are owned by the same
11 owner or operator,
12 (2) all residents of the units or buildings are fully
13 capable of ambulation to and from the buildings
14 or units,
15 (3) the location and construction of the buildings or
16 units ensure the health, safety, and protection
17 from fire hazards and other hazards and provide
18 for the convenience and accessibility of the
19 residents to each residential building or unit,
20 (4) any out-of-doors premise or thoroughfare is
21 adequately maintained to ensure the health and
22 safety of the residents, and
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1 (5) the buildings or units are within one hundred
2 seventy-five (175) feet of the building housing
3 the main kitchen and dining room. The units or
4 buildings must be located in the most convenient
5 and accessible location for residents;
6 provided, however, the leasing of rooms directly or
7 indirectly to residents of a home shall not void the
8 application of the provisions of the Residential Care
9 Act or rules promulgated pursuant thereto.

10 The State Board of Health shall promulgate rules for such
11 residential homes pursuant to the provisions of Section 1-836 of
12 this title;

13 13. "Licensee" means a person, corporation, partnership, or
14 association who is the owner of a home which is licensed pursuant to
15 the provisions of the Residential Care Act;

16 14. "Maintenance" means meals, shelter, and laundry services;

17 15. "Neglect" means failure to provide goods and/or services
18 necessary to avoid physical harm, mental anguish, or mental illness;

19 16. "Operator" means the person who is not the administrator
20 but who manages the home;

21 17. "Owner" means a person, corporation, partnership,
22 association, or other entity which owns or leases a home or part of
23 a home, directly or indirectly, to residents. The person or entity

1 that stands to profit or lose as a result of the financial success
2 or failure of the operation shall be presumed to be the owner of the
3 home;

4 18. "Personal care" means assistance with meals, dressing,
5 movement, bathing or other personal needs or maintenance, or general
6 supervision of the physical and mental well-being of a person, who
7 is incapable of maintaining a private, independent residence, or who
8 is unable to manage all activities of daily living without
9 assistance, whether or not a guardian has been appointed for such
10 person;

11 19. "Resident" means a person of legal age, residing in a home
12 due to illness, physical or mental infirmity, or advanced age;

13 20. "Representative of a resident" means a court-appointed
14 guardian, or if there is no court-appointed guardian, a relative or
15 other person designated in writing by the resident. No owner,
16 agent, employee, or person with a pecuniary interest in the
17 residential facility or relative thereof shall be a representative
18 of a resident unless such person is appointed by the court;

19 21. "Supportive assistance" means the service rendered to any
20 person which is sufficient to enable the person to meet an adequate
21 level of daily living. Supportive assistance includes, but is not
22 limited to, housekeeping, assistance in the preparation of meals,
23 assistance in the safe storage, distribution and administration of

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1 medications, and assistance in personal care as necessary for the
2 health and comfort of such person. The term "supportive assistance"
3 shall not be interpreted or applied so as to prohibit the
4 participation of residents in housekeeping or meal preparation tasks
5 as a part of the written treatment plan for the training,
6 habilitation or rehabilitation of the resident, prepared with the
7 participation of the resident, the mental health or drug or alcohol
8 services case-manager assigned to the resident, and the
9 administrator of the facility or a designee; and

10 22. "Transfer" means a change in location of living
11 arrangements of a resident from one home to another home.

12 SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-890.6, is
13 amended to read as follows:

14 Section 1-890.6 A. The Continuum of Care and Assisted Living
15 Act shall not apply to residential care homes, adult companion
16 homes, domiciliary care units operated by the Department of Veterans
17 Affairs, medical foster homes approved by the Department of Veterans
18 Affairs, the private residences of persons with developmental
19 disabilities receiving services provided by the Developmental
20 Disabilities Services Division of the Department of Human Services
21 or through the Home- and Community-Based Waiver or the Alternative
22 Disposition Plan Waiver of the Oklahoma Health Care Authority, or to
23 hotels, motels, boardinghouses, rooming houses, or other places that

1 furnish board or room to their residents. The Continuum of Care and
2 Assisted Living Act shall not apply to facilities not charging or
3 receiving periodic compensation for services rendered and not
4 receiving any county, state or federal assistance.

5 B. The State Commissioner of Health may ban admissions to, or
6 deny, suspend, refuse to renew or revoke the license of, any
7 continuum of care facility or assisted living center which fails to
8 comply with the Continuum of Care and Assisted Living Act or rules
9 promulgated by the State Board of Health.

10 C. Any person who has been determined by the Commissioner to
11 have violated any provision of the Continuum of Care and Assisted
12 Living Act or any rule promulgated hereunder shall be liable for an
13 administrative penalty of not more than Five Hundred Dollars
14 (\$500.00) for each day that such violation occurs.

15 D. If a continuum of care facility's failure to comply with the
16 Continuum of Care and Assisted Living Act or rules involves nursing
17 care services, the Commissioner shall have authority to exercise
18 additional remedies provided under the Nursing Home Care Act. If a
19 continuum of care facility's failure to comply with the Continuum of
20 Care and Assisted Living Act or rules involves adult day care
21 services, then the Commissioner shall have authority to exercise
22 additional remedies provided under the Adult Day Care Act.

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1 E. In taking any action to deny, suspend, deny renewal, or
2 revoke a license, or to impose an administrative fee, the
3 Commissioner shall comply with requirements of the Administrative
4 Procedures Act.

5 SECTION 3. AMENDATORY 63 O.S. 2011, Section 1-1903, is
6 amended to read as follows:

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

10 B. The Nursing Home Care Act shall not apply to any facility
11 operated by the Oklahoma Department of Veterans Affairs under
12 control of the Oklahoma War Veterans Commission residential care
13 homes, medical foster homes approved by the Department of Veterans
14 Affairs, assisted living facilities or adult companion homes which
15 are operated in conjunction with a nursing facility, or to hotels,
16 motels, boarding houses, rooming houses, or other places that
17 furnish board or room to their residents.

18 C. Certificate of need review shall not be required for any
19 addition, deletion, modification or new construction of current or
20 future State Veterans Center nursing facilities.

21 D. The Nursing Home Care Act shall not authorize any person to
22 engage in any manner in the practice of the healing arts or the
23 practice of medicine, as defined by law.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 E. The Nursing Home Care Act shall not apply to a facility
2 which is not charging or receiving periodic compensation for
3 services rendered, and not receiving any county, state, or federal
4 assistance.

5 SECTION 4. AMENDATORY 63 O.S. 2011, Section 1-1962, is
6 amended to read as follows:

7 Section 1-1962. A. No home care agency as such term is defined
8 by this act shall operate without first obtaining a license as
9 required by the Home Care Act.

10 B. 1. No home care agency, except as otherwise provided by
11 this subsection, shall place an individual in the role of supportive
12 home assistant with a client on a full-time, temporary, per diem, or
13 other basis, unless the individual has completed agency-based
14 supportive home assistant training taught by a registered nurse in
15 the sections applicable to the assistance required by the client.
16 Each supportive home assistant who successfully completes agency-
17 based training shall demonstrate competence by testing through an
18 independent entity approved by the State Department of Health. The
19 requirements related to application, approval, renewal, and denial
20 of such testing entities shall be set forth in administrative rules
21 promulgated by the State Board of Health.

22 2. The home care agency shall develop a written training plan
23 that shall include, at a minimum, the following:

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~~Strike thru~~ language denotes deletion from present Statutes.

- a. observation, reporting, and documentation of client status and the standby assistance or other services furnished,
- b. maintenance of a clean, safe, and healthy environment,
- c. recognizing an emergency and necessary emergency procedures,
- d. safe techniques to provide standby assistance with bathing, grooming, and toileting,
- e. assistance with meal preparation and safe food handling and storage,
- f. client rights and responsibilities and the need for respect for the client and for the privacy and property of the client, and
- g. basic infection control practices to include, at a minimum, instruction in acceptable hand hygiene techniques and the application of standard precautions.

3. Supervisory visits shall be made according to the client need, as determined by the nursing supervisor, but no less than once every six (6) months.

4. No supportive home assistant shall provide services to a client until a criminal history background check and a check of the nurse aide registry maintained by the State Department of Health is

1 performed in accordance with Section 1-1950.1 of this title and the
2 assistant is found to have no notations of abuse of any kind on the
3 registry and no convictions of the crimes listed in subsection F of
4 Section 1-1950.1 of this title.

5 5. No home care agency may employ a supportive home assistant
6 listed on the Department of Human Services Community Services Worker
7 Registry.

8 C. 1. No employer or contractor, except as otherwise provided
9 by this subsection, shall employ or contract with any individual as
10 a home health aide for more than four (4) months, on a full-time,
11 temporary, per diem or other basis, unless such individual is a
12 licensed health professional or unless such individual has satisfied
13 the requirements for certification and placement on the home health
14 aide registry maintained by the State Department of Health; and

15 2. a. Any person in the employment of a home care agency as
16 a home health aide on June 30, 1992, with continuous
17 employment through June 30, 1993, shall be granted
18 home health aide certification by the Department on
19 July 1, 1993. The home care agency shall maintain
20 responsibility for assurance of specific competencies
21 of the home health aide and shall only assign the home
22 health aide to tasks for which the aide has been
23 determined to be competent.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 b. Any home health aide employed between the dates of
2 July 1, 1992, and June 30, 1993, shall be eligible for
3 certification by passing a competency evaluation and
4 testing as required by the Department.

5 c. Any home health aide employed on and after July 1,
6 1996, shall complete any specified training,
7 competency evaluation and testing required by the
8 Department.

9 D. The provisions of the Home Care Act shall not apply to:

10 1. A person acting alone who provides services in the home of a
11 relative, neighbor or friend;

12 2. A person who provides maid services only;

13 3. A nurse service or home aide service conducted by and for
14 the adherents to any religious denomination, the tenets of which
15 include reliance on spiritual means through prayer alone for
16 healing;

17 4. A person providing hospice services pursuant to the Oklahoma
18 Hospice Licensing Act;

19 5. A nurse-midwife;

20 6. An individual, agency, or organization that contracts with
21 the Oklahoma Health Care Authority to provide services under the
22 Home and Community-Based Waiver for persons with mental retardation
23 or that contracts with the Department of Human Services to provide
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1 community services to persons with mental retardation; provided,
2 that staff members and individuals providing such services shall
3 receive a level of training, approved by the Department of Human
4 Services, which meets or exceeds the level required pursuant to the
5 Home Care Act. An individual, agency or organization otherwise
6 covered under the Home Care Act shall be exempt from the act only
7 for those paraprofessional direct care services provided under
8 contracts referenced in this paragraph;

9 7. An individual, agency or organization that provides or
10 supports the provision of personal care services to an individual
11 who performs individual employer responsibilities of hiring,
12 training, directing and managing a personal care attendant as part
13 of the Oklahoma Health Care Authority Consumer-Directed Personal
14 Assistance Supports and Services (CD-PASS) waiver program. An
15 individual, agency or organization otherwise covered under the
16 provisions of the Home Care Act shall be exempt from the act only
17 for those paraprofessional direct care services provided under
18 Oklahoma Health Care Authority contracts referenced in this
19 paragraph, but shall not be exempt from the criminal history
20 background check required under the Home Care Act and Section 1-
21 1950.1 of this title for other paraprofessional direct care service
22 providers. A personal care attendant hired by a consumer under the
23 CD-PASS program shall be exempt from certification as a home health

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1 aide, provided such personal care attendant receives the training
2 required and approved by the Department of Human Services;

3 8. An individual who only provides Medicaid home- and
4 community-based personal care services pursuant to a contract with
5 the Oklahoma Health Care Authority; ~~or~~

6 9. An individual, agency or organization providing services in
7 a medical foster home subject to the approval of the Department of
8 Veterans Affairs; or

9 10. An individual who:

- 10 a. is employed by a licensed home care agency exclusively
11 to provide personal care services on a live-in basis,
12 b. has no convictions pursuant to a criminal history
13 investigation as provided in Section 1-1950.1 of this
14 title,
15 c. is being continuously trained by a registered nurse to
16 provide care that is specific to the needs of the
17 particular client receiving the care, and
18 d. is supervised by a registered nurse via an on-site
19 visit at least once each month.

20 SECTION 5. This act shall become effective November 1, 2012.

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22 COMMITTEE REPORT BY: COMMITTEE ON VETERANS AND MILITARY AFFAIRS,
23 dated 02/22/2012 - DO PASS, As Coauthored.