

1 ENGROSSED SENATE AMENDMENT
TO

2 ENGROSSED HOUSE
BILL NO. 1745

By: Wright of the House

and

Ivester of the Senate

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7 An Act relating to public health and safety; amending
8 63 O.S. 2011, Section 1-890.8, which relates to home
9 care, nursing, hospice and private services for
10 assisted living center residents; requiring
11 disclosure of certain providers prior to delivery;
12 and providing an effective date.

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19 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
entire bill and insert

"An Act relating to public health and safety;
amending 63 O.S. 2011, Section 1-890.8, which relates
to home care, nursing, hospice and private services
for assisted living center residents; requiring
disclosure of certain providers prior to delivery;
requiring third-party providers to comply with
certain provisions and requirements; and providing an
effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2011, 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

1 nursing care through a home care agency under the provisions of the
2 Home Care 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 assisted living center shall monitor and assure the
11 delivery of those services. All nursing services shall be in
12 accordance with the written orders of the personal or attending
13 physician of the resident.

14 E. A resident of an assisted living center or the family or
15 legal representative of the resident shall be required to disclose
16 any third-party provider of medical services or supplies prior to
17 service delivery.

18 F. Any third-party provider of medical services or supplies
19 shall comply with the provisions of subsection D of this section.

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

1 sitters or companions, personal domestic servants, or personal
2 staff.

3 ~~F.~~ H. If a resident of an assisted living center develops a
4 disability or a condition that is consistent with the facility's
5 discharge criteria:

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

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

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

24 a. the personal or attending physician of the resident,

- b. a home care agency,
- c. a hospice, or
- d. other designated persons~~+~~.

The plan of accommodation shall be reviewed at least quarterly by a licensed health care professional~~;~~;

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

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

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7 An Act relating to public health and safety; amending
8 63 O.S. 2011, Section 1-890.8, which relates to home
9 care, nursing, hospice and private services for
10 assisted living center residents; requiring
11 disclosure of certain providers prior to delivery;
12 and providing an effective date.

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

14 SECTION 3. AMENDATORY 63 O.S. 2011, Section 1-890.8, is
15 amended to read as follows:

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

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

23 C. Nothing in the foregoing provisions shall be construed to
24 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. A resident of an assisted living center or the family or
8 legal representative of the resident shall be required to disclose
9 any third-party provider of medical services or supplies prior to
10 service delivery.

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

18 ~~F.~~ G. If a resident of an assisted living center develops a
19 disability or a condition that is consistent with the facility's
20 discharge criteria:

21 1. The personal or attending physician of a resident, a
22 representative of the assisted living center, and the resident or
23 the designated representative of the resident shall determine by and
24 through a consensus of the foregoing persons any reasonable and

1 necessary accommodations, in accordance with the current building
2 codes, the rules of the State Fire Marshal, and the requirements of
3 the local fire jurisdiction, and additional services required to
4 permit the resident to remain in place in the assisted living center
5 as the least restrictive environment and with privacy and dignity;

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

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

- 15 a. the personal or attending physician of the resident,
- 16 b. a home care agency,
- 17 c. a hospice, or
- 18 d. other designated persons~~;~~.

19 The plan of accommodation shall be reviewed at least quarterly
20 by a licensed health care professional~~;~~;

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

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

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

15 6. 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 ~~G.~~ H. Nothing in this section shall be construed to abrogate an
21 assisted living center's responsibility to provide care for and
22 oversight of a resident.

23 SECTION 4. This act shall become effective November 1, 2013.
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1 Passed the House of Representatives the 4th day of March, 2013.

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4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ___ day of _____, 2013.

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7 _____
8 Presiding Officer of the Senate