ENGROSSED SENATE AMENDMENT
TO
ENGROSSED HOUSE
BILL NO. 2280 By: Murphey of the House

and

Standridge of the Senate

[public health and safety - requiring Department of Health to develop a classification system of violations - effective date]

AUTHOR: Add the following Senate Coauthor: Pittman

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

"An Act relating to the Continuum of Care and Assisted Living Act; amending 63 O.S. 2011, Section 1-890.6, as amended by Section 2, Chapter 12, O.S.L. 2012 (63 O.S. Supp. 2015, Section 1-890.6), which relates to violations; requiring State Department of Health to develop certain system; directing certain consideration; providing standards for certain determinations; stipulating procedures for correcting violations; specifying circumstances for fines; clarifying applicability of violations; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2011, Section 1-890.6, as amended by Section 2, Chapter 12, O.S.L. 2012 (63 O.S. Supp. 2015, Section 1-890.6), is amended to read as follows:

Section 1-890.6. A. The Continuum of Care and Assisted Living Act shall not apply to residential care homes, adult companion homes, domiciliary care units operated by the Department of Veterans Affairs, the private residences of persons with developmental disabilities receiving services provided by the Developmental Disabilities Services Division of the Department of Human Services or through the Home- and Community-Based Waiver or the Alternative Disposition Plan Waiver of the Oklahoma Health Care Authority, or to hotels, motels, boardinghouses, rooming houses, a home or facility approved and annually reviewed by the United States Department of Veterans Affairs as a medical foster home in which care is provided exclusively to three or fewer veterans, or other places that furnish board or room to their residents. The Continuum of Care and Assisted Living Act shall not apply to facilities not charging or receiving periodic compensation for services rendered and not receiving any county, state or federal assistance.

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

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

D. 1. The State Department of Health shall develop a classification system of violations, taking into consideration the recommendations of the Long-Term Care Facility Advisory Board pursuant to Section 1-1923 of this title, which shall gauge the severity of the violation and specify graduated penalties based on:

a. no actual harm with the potential for minimal harm,

b. no actual harm with the potential for more than minimal harm,

c. actual harm that is not immediate jeopardy, and

d. immediate jeopardy to resident health and safety.

2. Upon discovery of one or more violations, the Department shall provide a statement of deficiencies containing the violations. The continuum of care facility or assisted living center shall be required to correct these violations and submit a plan of correction that details how the facility or center will correct each violation, ensure that the violation will not occur in the future and a period to correct each violation not to exceed sixty (60) days.

3. No fine shall be assessed for any violation that is not classified as actual harm or immediate jeopardy, unless the

continuum of care facility or assisted living center fails to correct the violation within the period set forth in the accepted plan of correction. Fines may be assessed at any time for any violations that are classified as actual harm or immediate jeopardy.

4. Any new violation unrelated to the original violation and not classified as actual harm or immediate jeopardy that is discovered upon a re-visitation of a continuum of care facility or assisted living center shall constitute a new action and shall not be included in the original citation or assessment of fines or penalties; provided, that a preexisting violation not corrected in compliance with the approved plan of correction shall be considered still in effect.

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

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

SECTION 2. This act shall become effective November 1, 2016."

Passed the Senate the 13th day of April, 2016.

_____
Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2016.

_____
Presiding Officer of the House of Representatives

ENGROSSED HOUSE
BILL NO. 2280 By: Murphey of the House

and

Standridge of the Senate

[public health and safety - requiring Department of Health to develop a classification system of violations - effective date]

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

SECTION 1. AMENDATORY 63 O.S. 2011, Section 1-890.6, as amended by Section 2, Chapter 12, O.S.L. 2012 (63 O.S. Supp. 2015, Section 1-890.6), is amended to read as follows:

Section 1-890.6 A. The Continuum of Care and Assisted Living Act shall not apply to residential care homes, adult companion homes, domiciliary care units operated by the Department of Veterans Affairs, the private residences of persons with developmental disabilities receiving services provided by the Developmental Disabilities Services Division of the Department of Human Services or through the Home- and Community-Based Waiver or the Alternative Disposition Plan Waiver of the Oklahoma Health Care Authority, or to hotels, motels, boardinghouses, rooming houses, a home or facility approved and annually reviewed by the United States Department of Veterans Affairs as a medical foster home in which care is provided exclusively to three or fewer veterans, or other places that furnish board or room

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

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

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

D. 1. The Department of Health shall develop a classification system of violations which shall gauge the severity of the violation based on:

a. no actual harm with the potential for minimal harm,

b. no actual harm with the potential for more than minimal harm,

c. actual harm that is not immediate jeopardy, and

d. immediate jeopardy to resident health and safety.

2. Upon discovery of one or more violations the Department shall provide an itemized list containing said violations which shall include each of the fines to be assessed. The continuum of care facility or assisted living center shall be given an opportunity to correct these violations. If the violations are not corrected within the time limits set forth in the accepted plan of correction, fines may then be assessed.

3. Any subsequent violation discovered upon a revisitation of a continuum of care facility or assisted living center as a result of a preexisting violation shall constitute a new action and shall not be included in the original citation or assessment of fines or penalties; provided, that if a preexisting violation has not been rectified the original assessment shall be considered still in effect.

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

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

SECTION 2. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The State Department of Health shall develop the classification system required in Section 1-890.6 of Title 63 of the Oklahoma Statutes in consultation and coordination with the Long-Term Care Facility Advisory Board as defined in Section 1-1923 of Title 63 of the Oklahoma Statutes.

SECTION 3. This act shall become effective November 1, 2016.

Passed the House of Representatives the 9th day of March, 2016.

_____
Presiding Officer of the House
of Representatives

Passed the Senate the ___ day of _____, 2016.

_____
Presiding Officer of the Senate