

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2549 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Doug Cox _____

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2549

By: Mulready

7
8 PROPOSED COMMITTEE SUBSTITUTE

9 An Act relating to public health and safety; amending
10 63 O.S. 2011, Section 1-1902, which relates to
11 definitions used in the Nursing Home Care Act;
12 modifying certain definition; and providing an
13 effective date.

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

15 SECTION 1. AMENDATORY 63 O.S. 2011, Section 1-1902, is
16 amended to read as follows:

17 Section 1-1902. As used in the Nursing Home Care Act:

18 1. "Abuse" means the willful infliction of injury, unreasonable
19 confinement, intimidation or punishment, with resulting physical
20 harm, impairment or mental anguish;

21 2. "Access" means the right of a person to enter a facility to
22 communicate privately and without unreasonable restriction when
23 invited to do so by a resident. The state or local "ombudsman", as
24 that term is defined by the Aging Services Division of the

1 Department of Human Services pursuant to the Older Americans' Act,
2 42 U.S.C.A., Section 3001 et seq., as amended, and a case manager
3 employed by the Department of Mental Health and Substance Abuse
4 Services or one of its contract agencies shall have right of access
5 to enter a facility, communicate privately and without unreasonable
6 restriction with any resident who consents to the communication, to
7 seek consent to communicate privately and without restriction with
8 any resident, and to observe all areas of the facility that directly
9 pertain to the patient care of the resident without infringing upon
10 the privacy of the other residents without first obtaining their
11 consent;

12 3. "Administrator" means the person licensed by the State of
13 Oklahoma who is in charge of a facility. An administrator must
14 devote at least one-third (1/3) of such person's working time to on-
15 the-job supervision of the facility; provided that this requirement
16 shall not apply to an administrator of an intermediate care facility
17 for the mentally retarded with sixteen or fewer beds (ICF-MR/16), in
18 which case the person licensed by the state may be in charge of more
19 than one ICF-MR/16 facility, if such facilities are located within a
20 circle that has a radius of not more than fifteen (15) miles, the
21 total number of facilities and beds does not exceed six facilities
22 and sixty-four beds, and each ICF-MR/16 facility is supervised by a
23 qualified mental retardation professional. The facilities may be
24 free-standing in a community or may be on campus with a parent

1 institution. The ICF-MR/16 may be independently owned and operated
2 or may be part of a larger institutional operation;

3 4. "Advisory Board" means the Long-Term Care Facility Advisory
4 Board;

5 5. "Adult companion home" means any home or establishment,
6 funded and certified by the Department of Human Services, which
7 provides homelike residential accommodations and supportive
8 assistance to three or fewer mentally retarded or developmentally
9 disabled adults;

10 6. "Board" means State Board of Health;

11 7. "Commissioner" means State Commissioner of Health;

12 8. "Department" means the State Department of Health;

13 9. "Facility" means a nursing facility and a specialized home;
14 provided, u this term shall not include a residential care home or an
15 adult companion home;

16 10. "Nursing facility" means a home, an establishment or an
17 institution, a distinct part of which is primarily engaged in
18 providing:

- 19 a. skilled nursing care and related services for
20 residents who require medical or nursing care,
21 b. rehabilitation services for the rehabilitation of
22 injured, disabled, or sick persons, or
23 c. on a regular basis, health-related care and services
24 to individuals who because of their mental or physical

1 condition require care and services beyond the level
2 of care provided by a residential care home and which
3 can be made available to them only through a nursing
4 facility.

5 "Nursing facility" does not mean, for purposes of Section 1-851.1 of
6 this title, a facility constructed or operated by an entity
7 described in paragraph 7 of subsection B of Section 6201 of Title 74
8 of the Oklahoma Statutes or the nursing care component of a
9 continuum of care facility, as such term is defined under the
10 Continuum of Care and Assisted Living Act, to the extent that the
11 facility constructed or operated by an entity described in paragraph
12 7 of subsection B of Section 6201 of Title 74 of the Oklahoma
13 Statutes contains such a nursing care component;

14 11. "Specialized facility" means any home, establishment, or
15 institution which offers or provides inpatient long-term care
16 services on a twenty-four-hour basis to a limited category of
17 persons requiring such services, including but not limited to a
18 facility providing health or habilitation services for mentally
19 retarded or developmentally disabled persons, but does not mean, for
20 purposes of Section 1-851.1 of this title, a facility constructed or
21 operated by an entity described in paragraph 7 of subsection B of
22 Section 6201 of Title 74 of the Oklahoma Statutes or the nursing
23 care component of a continuum of care facility, as such term is
24 defined under the Continuum of Care and Assisted Living Act, to the

1 extent that the facility constructed or operated by an entity
2 described in paragraph 7 of subsection B of Section 6201 of Title 74
3 of the Oklahoma Statutes contains such a nursing care component;

4 12. "Residential care home" means any home, establishment, or
5 institution licensed pursuant to the provisions of the Residential
6 Care Act other than a hotel, motel, fraternity or sorority house, or
7 college or university dormitory, which offers or provides
8 residential accommodations, food service, and supportive assistance
9 to any of its residents or houses any resident requiring supportive
10 assistance. The residents shall be persons who are ambulatory and
11 essentially capable of managing their own affairs, but who do not
12 routinely require nursing care; provided, the term "residential care
13 home" shall not mean a hotel, motel, fraternity or sorority house,
14 or college or university dormitory, if the facility operates in a
15 manner customary to its description and does not house any person
16 who requires supportive assistance from the facility in order to
17 meet an adequate level of daily living;

18 13. "Licensee" means the person, a corporation, partnership, or
19 association who is the owner of the facility which is licensed by
20 the Department pursuant to the provisions of the Nursing Home Care
21 Act;

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

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

1 16. "Owner" means a person, corporation, partnership,
2 association, managing entity, or other entity which owns a facility
3 or leases a facility. The person or entity that stands to profit or
4 lose as a result of the financial success or failure of the
5 operation shall be presumed to be the owner of the facility;

6 17. "Personal care" means assistance with meals, dressing,
7 movement, bathing or other personal needs or maintenance, or general
8 supervision of the physical and mental well-being of a person, who
9 is incapable of maintaining a private, independent residence, or who
10 is incapable of managing his person, whether or not a guardian has
11 been appointed for such person;

12 18. "Resident" means a person residing in a facility due to
13 illness, physical or mental infirmity, or advanced age;

14 19. "Representative of a resident" means a court-appointed
15 guardian or, if there is no court-appointed guardian, the parent of
16 a minor, a relative, or other person, designated in writing by the
17 resident; provided, that any owner, operator, administrator or
18 employee of a facility subject to the provisions of the Nursing Home
19 Care Act, the Residential Care Act, or the Group Homes for the
20 Developmentally Disabled or Physically Handicapped Persons Act shall
21 not be appointed guardian or limited guardian of a resident of the
22 facility unless the owner, operator, administrator or employee is
23 the spouse of the resident, or a relative of the resident within the
24

1 second degree of consanguinity and is otherwise eligible for
2 appointment; and

3 20. "Supportive assistance" means the service rendered to any
4 person which is less than the service provided by a nursing facility
5 but which is sufficient to enable the person to meet an adequate
6 level of daily living. Supportive assistance includes but is not
7 limited to housekeeping, assistance in the preparation of meals,
8 assistance in the safe storage, distribution, and administration of
9 medications, and assistance in personal care as is necessary for the
10 health and comfort of such person. Supportive assistance shall not
11 include medical service.

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

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14 55-2-9295 AM 02/23/16

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