

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

HOUSE BILL 3463

By: West (Tammy)

AS INTRODUCED

An Act relating to assisted living centers; amending 63 O.S. 2011, Section 1-890.8, as amended by Section 1, Chapter 248, O.S.L. 2013 (63 O.S. Supp. 2019, Section 1-890.8), which relates to the plan of accommodation for certain disabled residents; modifying criteria for prescription of an antipsychotic drug for residents; requiring reassessments; listing requirements; requiring documentation; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2011, Section 1-890.8, as amended by Section 1, Chapter 248, O.S.L. 2013 (63 O.S. Supp. 2019, 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 nursing care through a home care agency under the provisions of the Home Care Act.

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

1 C. Nothing in the foregoing provisions shall be construed to
2 prohibit any resident of an assisted living center from receiving
3 such services from any person who is exempt from the provisions of
4 the Home Care Act.

5 D. The assisted living center shall monitor and assure the
6 delivery of those services. All nursing services shall be in
7 accordance with the written orders of the personal or attending
8 physician of the resident.

9 E. A resident of an assisted living center or the family or
10 legal representative of the resident shall be required to disclose
11 any third-party provider of medical services or supplies prior to
12 service delivery.

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

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

22 H. If a resident of an assisted living center develops a
23 disability or a condition that is consistent with the facility's
24 discharge criteria:

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

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

15 3. The person or persons responsible for performing, monitoring
16 and assuring compliance with the plan of accommodation shall be
17 expressly specified in the plan of accommodation and shall include
18 the assisted living center and any of the following:

- 19 a. the personal or attending physician of the resident,
- 20 b. a home care agency,
- 21 c. a hospice, or
- 22 d. other designated persons.

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

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

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

19 6. Any resident aggrieved by a decision to terminate residency
20 may seek injunctive relief in the district court of the county in
21 which the assisted living center is located. Such action shall be
22 filed no later than ten (10) days after the receipt of the written
23 notice of termination.
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1 I. When an antipsychotic drug is prescribed for a resident who
2 meets the admission criteria (a) (2) through (6) as described in OAC
3 310:663-3-2 of the State Department of Health rules, the assisted
4 living center shall do all of the following:

5 1. Ensure the resident is reassessed by a physician, physician
6 assistant, advanced practice registered nurse or registered nurse,
7 as needed, but at least quarterly for the desired responses and
8 possible side effects of the medication. The results of the
9 assessments shall be documented in the resident's record and
10 provided to the resident or the representative of the resident;

11 2. Ensure all resident care staff understands the potential
12 benefits and side effects of the medication; and

13 3. When an antipsychotic drug is prescribed on an as-needed
14 basis (PRN) for a resident:

15 a. include in the resident's record the rationale for use
16 and a detailed description of the behaviors which
17 indicate the need for administration of PRN
18 antipsychotic drug,

19 b. monitor at least monthly for the inappropriate use of
20 PRN antipsychotic drugs, including but not limited to,
21 presence of significant adverse side effects, use for
22 discipline or staff convenience, or contrary to the
23 prescribed use. The monitoring required by this
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1 subparagraph shall be conducted by the administrator
2 or a qualified designee, and

3 c. document in the resident's record the rationale for
4 use, description of behaviors requiring the PRN
5 antipsychotic drug, the effectiveness of the
6 medication, the presence of any side effects, and
7 monitoring for inappropriate use for each PRN
8 antipsychotic drug given.

9 J. Nothing in this section shall be construed to abrogate an
10 assisted living center's responsibility to provide care for and
11 oversight of a resident.

12 SECTION 2. This act shall become effective November 1, 2020.

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