

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 SENATE BILL 1321

By: Garvin

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7 AS INTRODUCED

8 An Act relating to long-term care; amending 63 O.S.
9 2021, Section 1-1912, which relates to nursing
10 facility violations; limiting certain authority of
the State Department of Health; and providing an
effective date.

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

15 SECTION 1. AMENDATORY 63 O.S. 2021, Section 1-1912, is
16 amended to read as follows:

17 Section 1-1912. A. The State Department of Health shall
18 promptly serve a notice of violation upon a licensee whenever, upon
19 inspection or investigation, the Department determines that:

20 1. The facility is in violation of the Nursing Home Care Act,
21 any rule promulgated thereunder, or applicable federal certification
22 criteria; or

1 2. The financial condition of the facility poses an immediate
2 risk to the proper operation of the facility or to the health,
3 safety or welfare of the residents of the facility.

4 B. 1. Each notice of violation shall be prepared in writing
5 and shall specify the nature of the violation, and the statutory
6 provision, rule or standard alleged to have been violated. The
7 notice of violation shall inform the licensee of its obligation to
8 file a plan of correction within ten (10) working days of receipt of
9 the notice of violation. In the case of a specialized facility for
10 individuals with intellectual disabilities, the Department shall
11 offer the licensee an informal opportunity comparable to the process
12 offered to Medicaid-certified nursing facilities pursuant to 42 CFR
13 488.331, in order to dispute the alleged violations.

14 2. If the Department determines that a facility is in violation
15 of federal certification criteria and an equivalent and duplicative
16 violation under the Nursing Home Care Act or applicable rules
17 exists, the Department shall only serve a notice of violation for
18 the violation of federal certification criteria and may only
19 penalize the facility for the violation of federal certification
20 criteria.

21 C. The Department shall notify the licensee of its intent to
22 take any remedial action, impose administrative penalties, place a
23 monitor or temporary manager in the facility, issue a conditional
24 license, or suspend or revoke a license. The Department shall also

1 inform the licensee of the right to an informal dispute resolution,
2 hearing, or both.

3 D. Whenever the Department finds that an emergency exists
4 requiring immediate action to protect the health, safety or welfare
5 of any resident of a facility licensed pursuant to the provisions of
6 the Nursing Home Care Act, the Department may, without notice of
7 hearing, issue an order stating the existence of such an emergency
8 and requiring that action be taken as deemed necessary by the
9 Department to meet the emergency. The order shall be effective
10 immediately. Any person to whom such an order is directed shall
11 comply with such order immediately but, upon application to the
12 Department, shall be afforded a hearing within ten (10) business
13 days of receipt of the application. On the basis of such hearing,
14 the Department may continue the order in effect, revoke it, or
15 modify it. Any person aggrieved by such order continued after the
16 hearing provided in this subsection may appeal to the district court
17 in Oklahoma County within thirty (30) days. Such appeal when
18 docketed shall have priority over all cases pending on the docket,
19 except criminal cases. For purposes of this subsection, the State
20 Board of Health shall define by rule the term "emergency" to
21 include, but not be limited to, a life-endangering situation.

22 E. Within thirty (30) days of receipt of a plan of correction
23 by the State Department of Health from any facility operated by the
24 Oklahoma Department of Veterans Affairs, the State Department of

1 Health shall submit the results of the inspection, including a list
2 of deficiencies in the condition or operation of the facility and
3 recommendations for corrective measures in the form of a written
4 report to the person immediately responsible for the administration
5 of the facility inspected, to the Oklahoma Department of Veterans
6 Affairs, to the Governor, to the Speaker of the House of
7 Representatives, and to the President Pro Tempore of the Senate.

8 F. At the conclusion of an inspection, survey, or
9 investigation, the survey team's observations and preliminary
10 findings shall be discussed in an exit conference with the facility
11 personnel. During the exit conference, the facility shall be
12 provided with the opportunity to discuss and supply additional
13 information that they believe is pertinent to the preliminary
14 findings. The following shall be provided to the facility:

15 1. A written list containing preliminary areas of potential
16 noncompliance with state requirements based on findings during the
17 survey, inspection, or investigation. The information provided
18 should be adequate to notify staff of surveyor concerns regarding
19 preliminary findings that indicate actual harm or substandard
20 quality of care; and

21 2. Any additional noncompliance with state requirements
22 determined during the review of field notes or in preparation of the
23 final survey report will be communicated to the facility personnel
24 by email or phone before issuing the final survey report.

1 SECTION 2. This act shall become effective November 1, 2022.

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