

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1431

By: Rosino

4
5
6 AS INTRODUCED

7 An Act relating to public health; amending 63 O.S.
8 2021, Sections 1-820, 1-829, 1-836, 1-873, 1-890.6,
9 1-1902, 1-1911, 1-1923.1, 1-1928, and 1-1929, which
10 relate to long-term care; amending 74 O.S. 2021,
11 Section 3905, which relates to termination of certain
12 statutory entities; removing provisions relating to
13 the Long-Term Care Facility Advisory Board; updating
14 statutory language; repealing 63 O.S. 2021, Section
15 1-1923, which relates to the Long-Term Care Facility
16 Advisory Board; and providing an effective date.

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

18 SECTION 1. AMENDATORY 63 O.S. 2021, Section 1-820, is
19 amended to read as follows:

20 Section 1-820. As used in the Residential Care Act:

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

24 2. "Access" means the right of a person to enter a home to
communicate privately and without unreasonable restriction;

1 3. "Administrator" means the person who is in charge of a home
2 and who devotes at least one-third (1/3) of his or her full working
3 time to on-the-job supervision of the home;

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

8 ~~5. "Advisory Board" means the Long-Term Care Facility Advisory~~
9 ~~Board;~~

10 ~~6.~~ "Ambulatory" means any resident who is capable of self-
11 movement, including in and out of wheelchairs, to all areas of the
12 home;

13 ~~7.~~ 6. "Board" means the State Board of Health;

14 ~~8.~~ 7. "Commissioner" means the State Commissioner of Health;

15 ~~9.~~ 8. "Department" means the State Department of Health;

16 ~~10.~~ 9. "Habilitation" means procedures and interventions
17 designed to assist a mentally ill, drug-dependent or alcohol-
18 dependent person eighteen (18) years of age or older to achieve
19 greater physical, mental and social development by enhancing the
20 well-being of the person and teaching skills which increase the
21 possibility that the resident will make progressively independent
22 and responsible decisions about social behavior, quality of life,
23 job satisfaction and personal relationships;

24 ~~11.~~ 10. "Home" means a residential care home;

1 ~~12.~~ 11. "Residential care home":

2 a. means any establishment or institution which offers,
3 provides or supports residential accommodations, food
4 service, and supportive assistance to any of its
5 residents or houses any residents requiring supportive
6 assistance who are not related to the owner or
7 administrator of the home by blood or marriage. A
8 residential care home shall not include:

- 9 (1) an adult companion home,
10 (2) a group home,
11 (3) a hotel,
12 (4) a motel,
13 (5) a residential mental health facility operated by
14 the Department of Mental Health and Substance
15 Abuse Services,
16 (6) a fraternity or a sorority house,
17 (7) college or university dormitory, or
18 (8) a home or facility approved and annually reviewed
19 by the United States Department of Veterans
20 Affairs as a medical foster home in which care is
21 provided exclusively to three or fewer veterans.

22 The residents of a residential care home shall be
23 ambulatory and essentially capable of participating in
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1 their own activities of daily living, but shall not
2 routinely require nursing services, and

3 b. may consist of a series of units or buildings which
4 are not connected or part of the same structure if:

5 (1) such buildings or units are owned by the same
6 owner or operator,

7 (2) all residents of the units or buildings are fully
8 capable of ambulation to and from the buildings
9 or units,

10 (3) the location and construction of the buildings or
11 units ensure the health, safety, and protection
12 from fire hazards and other hazards and provide
13 for the convenience and accessibility of the
14 residents to each residential building or unit,

15 (4) any out-of-doors premise or thoroughfare is
16 adequately maintained to ensure the health and
17 safety of the residents, and

18 (5) the buildings or units are within one hundred
19 seventy-five (175) feet of the building housing
20 the main kitchen and dining room. The units or
21 buildings must be located in the most convenient
22 and accessible location for residents;

23 provided, however, the leasing of rooms directly or
24 indirectly to residents of a home shall not void the

1 application of the provisions of the Residential Care
2 Act or rules promulgated pursuant thereto.

3 The State ~~Board~~ Commissioner of Health shall promulgate rules for
4 such residential homes pursuant to the provisions of Section 1-836
5 of this title;

6 ~~13.~~ 12. "Licensee" means a person, corporation, partnership, or
7 association who is the owner of a home which is licensed pursuant to
8 the provisions of the Residential Care Act;

9 ~~14.~~ 13. "Maintenance" means meals, shelter, and laundry
10 services;

11 ~~15.~~ 14. "Neglect" means failure to provide goods and/or
12 services necessary to avoid physical harm, mental anguish, or mental
13 illness;

14 ~~16.~~ 15. "Operator" means the person who is not the
15 administrator but who manages the home;

16 ~~17.~~ 16. "Owner" means a person, corporation, partnership,
17 association, or other entity which owns or leases a home or part of
18 a home, directly or indirectly, to residents. The person or entity
19 that stands to profit or lose as a result of the financial success
20 or failure of the operation shall be presumed to be the owner of the
21 home;

22 ~~18.~~ 17. "Personal care" means assistance with meals, dressing,
23 movement, bathing or other personal needs or maintenance, or general
24 supervision of the physical and mental well-being of a person, who

1 is incapable of maintaining a private, independent residence, or who
2 is unable to manage all activities of daily living without
3 assistance, whether or not a guardian has been appointed for the
4 person;

5 ~~19.~~ 18. "Resident" means a person of legal age, residing in a
6 home due to illness, physical or mental infirmity, or advanced age;

7 ~~20.~~ 19. "Representative of a resident" means a court-appointed
8 guardian, or if there is no court-appointed guardian, a relative or
9 other person designated in writing by the resident. No owner,
10 agent, employee, or person with a pecuniary interest in the
11 residential facility or relative thereof shall be a representative
12 of a resident unless the person is appointed by the court;

13 ~~21.~~ 20. "Supportive assistance" means the service rendered to
14 any person which is sufficient to enable the person to meet an
15 adequate level of daily living. Supportive assistance includes, but
16 is not limited to, housekeeping, assistance in the preparation of
17 meals, assistance in the safe storage, distribution and
18 administration of medications, and assistance in personal care as
19 necessary for the health and comfort of the person. The term
20 "supportive assistance" shall not be interpreted or applied so as to
21 prohibit the participation of residents in housekeeping or meal
22 preparation tasks as a part of the written treatment plan for the
23 training, habilitation or rehabilitation of the resident, prepared
24 with the participation of the resident, the mental health or drug or

1 alcohol services case manager assigned to the resident, and the
2 administrator of the facility or a designee; and

3 ~~22.~~ 21. "Transfer" means a change in location of living
4 arrangements of a resident from one home to another home.

5 SECTION 2. AMENDATORY 63 O.S. 2021, Section 1-829, is
6 amended to read as follows:

7 Section 1-829. A. Every home for which a license has been
8 issued shall be inspected by a duly appointed representative of the
9 State Department of Health pursuant to rules promulgated by the
10 State ~~Board~~ Commissioner of Health ~~with the advice and counsel of~~
11 ~~the Long-Term Care Facility Advisory Board.~~ Inspection reports
12 shall be prepared on forms prescribed by the Department ~~with the~~
13 ~~advice and counsel of the Advisory Board.~~

14 B. 1. The Department shall at least one time a year and
15 whenever it deems necessary inspect, survey, and evaluate each home
16 to determine compliance with applicable licensure rules.

17 2. An inspection, investigation, survey, or evaluation shall be
18 either announced or unannounced. The State ~~Board of Health~~
19 Commissioner shall promulgate rules determining the criteria when an
20 inspection, investigation, survey or evaluation shall be unannounced
21 or may be announced by the Department. Any licensee, applicant for
22 a license or operator of any unlicensed facility shall be deemed to
23 have given consent to any duly authorized employee, agent of the
24 Department to enter and inspect the home in accordance with the

1 provisions of the Residential Care Act. Refusal to permit such
2 entry or inspection shall constitute grounds for the denial,
3 nonrenewal, suspension, or revocation of a license as well as
4 emergency transfer of all residents.

5 3. Any employee of the Department who discloses to any
6 unauthorized person, prior to an inspection, information regarding
7 an unannounced residential care home inspection that is required
8 pursuant to the provisions of the Residential Care Act shall, upon
9 conviction thereof, be guilty of a misdemeanor. In addition, such
10 action shall be construed to be a misuse of office and punishable as
11 a violation of rules promulgated by the Ethics Commission.

12 One person may be invited from a statewide organization of older
13 adults or persons with disabilities by the Department to act as a
14 citizen observer in any inspection.

15 C. The Department shall maintain a log, updated at least
16 monthly and available for public inspection, which shall at a
17 minimum detail:

18 1. The name of the home and date of inspection, investigation,
19 survey, or evaluation;

20 2. Any deficiencies, lack of compliance, or violation noted at
21 the inspection, investigation, survey, or evaluation;

22 3. The date a notice of violation, license denial, nonrenewal,
23 suspension, or revocation was issued or other enforcement action
24 occurred;

1 4. The date a plan of correction was submitted and the date the
2 plan was approved;

3 5. The date corrections were completed, as verified by an
4 inspection; and

5 6. If the inspection or investigation was made pursuant to the
6 receipt of a complaint, the date such complaint was received and the
7 date the complainant was notified of the results of the inspection
8 or investigation.

9 D. The Department may require the residential care home to
10 submit periodic reports. The Department shall have access to books,
11 records and other documents maintained by the home to the extent
12 necessary to implement the provisions of the Residential Care Act
13 and the rules promulgated by the ~~Board~~ Commissioner pursuant
14 thereto.

15 E. The Department shall make at least one annual report on each
16 home in the state. The report shall include all conditions and
17 practices not in compliance with the provisions of the Residential
18 Care Act or rules promulgated pursuant thereto within the last year
19 and, if a violation is corrected, or is subject to an approved plan
20 of correction. The Department shall send a copy of the report to
21 any person upon receiving a written request. The Department may
22 charge a reasonable fee to cover the cost of copying and mailing the
23 report.

1 F. A state or local ombudsman as that term is defined by the
2 Special Unit on Aging within the Department of Human Services
3 pursuant to the Older Americans' Act, 42 U.S.C.A., Section 3001 et
4 seq., as amended, or case manager employed by the Department of
5 Mental Health and Substance Abuse Services or one of its contract
6 agencies is authorized to accompany and shall be notified by the
7 Department of any inspection conducted of any home licensed pursuant
8 to the provisions of the Residential Care Act. Any state or local
9 ombudsman is authorized to enter any home licensed pursuant to the
10 provisions of the Residential Care Act, communicate privately and
11 without unreasonable restriction with any resident of a home who
12 consents to such communication, to seek consent to communicate
13 privately and without restriction with any resident of a home, and
14 to observe all areas of a home that directly pertain to the care of
15 a resident of a home.

16 G. Following any inspection by the Department, pursuant to the
17 provisions of this section, all reports relating to the inspection
18 shall be filed in the county office of the Department of Human
19 Services in which the home is located and with the Department of
20 Mental Health and Substance Abuse Services.

21 SECTION 3. AMENDATORY 63 O.S. 2021, Section 1-836, is
22 amended to read as follows:
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1 Section 1-836. A. The State ~~Board~~ Commissioner of Health shall
2 promulgate rules to enforce the provisions of the Residential Care
3 Act. Such rules shall regulate:

4 1. Location and construction of the home, including plumbing,
5 heating, lighting, ventilation, and other physical conditions which
6 shall ensure the health, safety, and comfort of residents and
7 protection from fire hazards;

8 2. Number of all personnel, including management and
9 supervisory personnel, having responsibility for any part of the
10 care given to residents. The Department shall establish staffing
11 ratios for homes which shall specify the number of staff hours of
12 care per resident that are needed for care for various types of
13 homes or areas within homes. Minimum personnel ratio requirements
14 for all homes shall be based only on average daily census;

15 3. All sanitary conditions within the home and its
16 surroundings, including water supply, sewage disposal, food
17 handling, and general hygiene, which shall ensure the health and
18 comfort of residents;

19 4. Diet-related needs of each resident based on sound
20 nutritional practice and on recommendations which may be made by the
21 physicians attending the resident;

22 5. Equipment essential to the health and welfare of the
23 residents; and
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1 6. Rehabilitation programs for those residents who would
2 benefit from such programs.

3 B. 1. In order to further ensure minimum standards for homes,
4 a certificate of training as specified shall be required of all:

- 5 a. administrators, who shall obtain a residential care
6 administrator certificate of training, and
- 7 b. direct care staff responsible for administration of
8 medication to residents, who shall obtain a
9 residential care certificate of training.

10 2. The certificate will be developed and administered by an
11 institution of higher learning with the advice of the ~~State~~
12 ~~Commissioner of Health and of the Long-Term Care Facility Advisory~~
13 ~~Board.~~

- 14 a. (1) For residential care home administrators the
15 training shall consist of a minimum of fifty (50)
16 hours which shall include at least fifteen (15)
17 hours of training in the administration of
18 medication and shall also include, but not be
19 limited to, training in:
 - 20 (a) administration,
 - 21 (b) supervision,
 - 22 (c) reporting,
 - 23 (d) record keeping,
 - 24 (e) independent or daily living skills,

1 (f) leisure skills and recreation, and
2 (g) public relations concerning the issues
3 associated with the operation of residential
4 care homes and programs.

5 (2) An individual applying for certification as an
6 administrator may at any time present the
7 institution of higher education with
8 documentation of prior education and work
9 experience for consideration for possible credit
10 toward certification.

11 (3) Any person employed as an administrator after
12 July 1, 1988, shall have completed the training
13 specified by this division.

14 (4) Thereafter, annually, at least sixteen (16) hours
15 of training in the subjects specified by this
16 division shall be required for such
17 administrator.

18 (5) A certified administrator may make a written
19 request to the Commissioner to be placed in an
20 inactive status for up to five (5) subsequent
21 calendar years. Such inactive status shall allow
22 the administrator to waive the educational
23 requirements for the period of the request. Such
24 certified administrator shall not work in a
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1 residential care administrator capacity in
2 ~~Oklahoma~~ this state until such time as the
3 certificate is reactivated. The request to
4 reactivate the certificate shall be made in
5 writing to the Commissioner. Such administrator
6 shall then be required to complete sixteen (16)
7 hours of training in the subjects specified in
8 this division.

9 b. All direct care staff who are responsible for
10 administration of medication to residents shall be
11 required to begin training in the administration of
12 medication within ninety (90) days of employment with
13 the home and to satisfactorily complete at least
14 fifteen (15) hours of training in the administration
15 of medication, within the first year of employment
16 with the home.

17 3. All other direct care staff who are employed by a
18 residential care home, within ninety (90) days of employment with
19 the home, shall be required to begin eight (8) hours of in-service
20 training, to be administered by the administrator of the home or
21 other person designated by the administrator of the home and
22 completed within twelve (12) months from such person's date of
23 employment, and annually thereafter. Thereafter such direct care
24 staff and the direct care staff responsible for administering

1 medication to residents shall, annually, be required to receive at
2 least eight (8) hours of training by the administrator of the home
3 in:

- 4 a. patient reporting and observation,
- 5 b. record keeping,
- 6 c. independent or daily living skills,
- 7 d. leisure skills and recreation,
- 8 e. human relations, and
- 9 f. such other training relevant to residential care
10 programs and operations.

11 4. The requirement of certification and the training specified
12 pursuant to the provisions of this subsection shall be included in
13 the rules promulgated by the ~~Board~~ Commissioner.

14 5. Failure of the owner or administrator to ensure the training
15 required pursuant to this subsection is received shall constitute a
16 violation of the Residential Care Act and shall be grounds for
17 revocation of licensure. Proof of successful completion of such
18 training for the residential care home administrator and direct care
19 staff shall be required prior to issuance or renewal of a license
20 issued pursuant to the provisions of the Residential Care Act. The
21 Department shall not renew any license for any residential care home
22 if the training required by this subsection has not been completed.

23 SECTION 4. AMENDATORY 63 O.S. 2021, Section 1-873, is
24 amended to read as follows:

1 Section 1-873. A. The State Commissioner of Health, ~~with the~~
2 ~~advice of the Long Term Care Facility Advisory Board, created~~
3 ~~pursuant to Section 1-1923 of this title,~~ shall define minimum adult
4 day care licensure requirements and rules including standards for:

5 1. Health and social services which may be provided to
6 participants;

7 2. The range of services to be provided by a center based on
8 the type of participants to be served;

9 3. Staff to participant ratios;

10 4. Staff and volunteer qualifications;

11 5. Staff training;

12 6. Food services;

13 7. Participant records and care plans;

14 8. Antidiscrimination policies;

15 9. Sanitary and fire standards; and

16 10. Any other requirements necessary to ensure the safety and
17 well-being of frail elderly and disabled adults.

18 B. Centers to be licensed shall include all adult day care
19 centers. Sheltered workshops and senior recreational centers which
20 do not receive participant fees for services are not required to be
21 licensed. It shall be unlawful to operate a center without first
22 obtaining a license for such operation as required by the Adult Day
23 Care Act, regardless of other licenses held by the operator.

1 Organizations operating more than one center shall obtain a license
2 for each site.

3 C. The license for operation of a center shall be issued by the
4 State Department of Health. The license shall:

- 5 1. Not be transferable or assignable;
- 6 2. Be posted in a conspicuous place on the licensed premises;
- 7 3. Be issued only for the premises named in the application;

8 and

9 4. Expire thirty-six (36) months from the date of issuance,
10 provided an initial license shall expire one hundred eighty (180)
11 days after the date of issuance. Licenses may be issued for a
12 period of more than twelve (12) months, but not more than thirty-six
13 (36) months, for the licensing period immediately following November
14 1, 2021, in order to permit an equitable distribution of license
15 expiration dates to all months of the year.

16 D. A center shall meet the safety, sanitation and food service
17 standards of the State Department of Health.

18 E. Local health, fire and building codes relating to adult day
19 care centers shall be classified as an education use group.

20 F. The issuance or renewal of a license after notice of a
21 violation has been sent shall not constitute a waiver by the State
22 Department of Health of its power to subsequently revoke the license
23 or take other enforcement action for any violations of the Adult Day
24 Care Act committed prior to issuance or renewal of the license.

1 SECTION 5. AMENDATORY 63 O.S. 2021, Section 1-890.6, is

2 amended to read as follows:

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

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

1 C. Any person who has been determined by the Commissioner to
2 have violated any provision of the Continuum of Care and Assisted
3 Living Act or any rule promulgated hereunder shall be liable for an
4 administrative penalty of not more than Five Hundred Dollars
5 (\$500.00) for each day that the violation occurs.

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

- 11 a. no actual harm with the potential for minimal harm,
- 12 b. no actual harm with the potential for more than
13 minimal harm,
- 14 c. actual harm that is not immediate jeopardy, and
- 15 d. immediate jeopardy to resident health and safety.

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

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

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

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

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

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

1 SECTION 6. AMENDATORY 63 O.S. 2021, Section 1-1902, is

2 amended to read as follows:

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

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

7 2. "Access" means the right of a person to enter a facility to
8 communicate privately and without unreasonable restriction when
9 invited to do so by a resident. The state or local "ombudsman", as
10 that term is defined by the Aging Services Division of the
11 Department of Human Services pursuant to the Older Americans' Act,
12 42 U.S.C.A., Section 3001 et seq., as amended, and a case manager
13 employed by the Department of Mental Health and Substance Abuse
14 Services or one of its contract agencies shall have right of access
15 to enter a facility, communicate privately and without unreasonable
16 restriction with any resident who consents to the communication, to
17 seek consent to communicate privately and without restriction with
18 any resident, and to observe all areas of the facility that directly
19 pertain to the patient care of the resident without infringing upon
20 the privacy of the other residents without first obtaining their
21 consent;

22 3. "Administrator" means the person licensed by the State of
23 Oklahoma who is in charge of a facility. An administrator must
24 devote at least one-third (1/3) of such person's working time to on-

1 the-job supervision of the facility; provided that this requirement
2 shall not apply to an administrator of an intermediate care facility
3 for individuals with intellectual disabilities with sixteen or fewer
4 beds (ICF/IID-16), in which case the person licensed by the state
5 may be in charge of more than one such ICF/IID-16 facility, if such
6 facilities are located within a circle that has a radius of not more
7 than fifteen (15) miles, the total number of facilities and beds
8 does not exceed six facilities and sixty-four beds, and each such
9 ICF/IID-16 facility is supervised by a qualified professional. The
10 facilities may be free-standing in a community or may be on campus
11 with a parent institution. The ICF/IID-16 facility may be
12 independently owned and operated or may be part of a larger
13 institutional operation;

14 4. ~~"Advisory Board" means the Long Term Care Facility Advisory~~
15 ~~Board;~~

16 5. "Adult companion home" means any home or establishment,
17 funded and certified by the Department of Human Services, which
18 provides homelike residential accommodations and supportive
19 assistance to three or fewer adults with intellectual or
20 developmental disabilities;

21 6. 5. "Board" means State Board of Health;

22 7. 6. "Commissioner" means State Commissioner of Health;

23 8. 7. "Department" means the State Department of Health;

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1 ~~9.~~ 8. "Facility" means a nursing facility and a specialized
2 home; provided this term shall not include a residential care home
3 or an adult companion home;

4 ~~10.~~ 9. "Nursing facility" means a home, an establishment or an
5 institution, a distinct part of which is primarily engaged in
6 providing:

- 7 a. skilled nursing care and related services for
- 8 residents who require medical or nursing care,
- 9 b. rehabilitation services for the rehabilitation of
- 10 injured, disabled, or sick persons, or
- 11 c. on a regular basis, health-related care and services
- 12 to individuals who because of their mental or physical
- 13 condition require care and services beyond the level
- 14 of care provided by a residential care home and which
- 15 can be made available to them only through a nursing
- 16 facility.

17 "Nursing facility" does not mean, for purposes of Section 1-851.1 of
18 this title, a facility constructed or operated by an entity
19 described in paragraph 7 of subsection B of Section 6201 of Title 74
20 of the Oklahoma Statutes or the nursing care component of a
21 continuum of care facility, as such term is defined under the
22 Continuum of Care and Assisted Living Act, to the extent that the
23 facility constructed or operated by an entity described in paragraph
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1 7 of subsection B of Section 6201 of Title 74 of the Oklahoma
2 Statutes contains such a nursing care component;

3 ~~11.~~ 10. "Specialized facility" means any home, establishment,
4 or institution which offers or provides inpatient long-term care
5 services on a twenty-four-hour basis to a limited category of
6 persons requiring such services, including but not limited to a
7 facility providing health or habilitation services for individuals
8 with intellectual or developmental disabilities, but does not mean,
9 for purposes of Section 1-851.1 of this title, a facility
10 constructed or operated by an entity described in paragraph 7 of
11 subsection B of Section 6201 of Title 74 of the Oklahoma Statutes or
12 the nursing care component of a continuum of care facility, as such
13 term is defined under the Continuum of Care and Assisted Living Act,
14 to the extent that the facility constructed or operated by an entity
15 described in paragraph 7 of subsection B of Section 6201 of Title 74
16 of the Oklahoma Statutes contains such a nursing care component;

17 ~~12.~~ 11. "Residential care home" means any home, establishment,
18 or institution licensed pursuant to the provisions of the
19 Residential Care Act other than a hotel, motel, fraternity or
20 sorority house, or college or university dormitory, which offers or
21 provides residential accommodations, food service, and supportive
22 assistance to any of its residents or houses any resident requiring
23 supportive assistance. The residents shall be persons who are
24 ambulatory and essentially capable of managing their own affairs,

1 but who do not routinely require nursing care; provided, the term
2 "residential care home" shall not mean a hotel, motel, fraternity or
3 sorority house, or college or university dormitory, if the facility
4 operates in a manner customary to its description and does not house
5 any person who requires supportive assistance from the facility in
6 order to meet an adequate level of daily living;

7 ~~13.~~ 12. "Licensee" means the person, a corporation,
8 partnership, or association who is the owner of the facility which
9 is licensed by the Department pursuant to the provisions of the
10 Nursing Home Care Act;

11 ~~14.~~ 13. "Maintenance" means meals, shelter, and laundry
12 services;

13 ~~15.~~ 14. "Neglect" means failure to provide goods and/or
14 services necessary to avoid physical harm, mental anguish, or mental
15 illness;

16 ~~16.~~ 15. "Owner" means a person, corporation, partnership,
17 association, or other entity which owns a facility or leases a
18 facility. The person or entity that stands to profit or lose as a
19 result of the financial success or failure of the operation shall be
20 presumed to be the owner of the facility. Notwithstanding the
21 foregoing, any nonstate governmental entity that has acquired and
22 owns or leases a facility and that has entered into an agreement
23 with the Oklahoma Health Care Authority to participate in the
24 nursing facility supplemental payment program ("UPL Owner") shall be

1 deemed the owner of such facility and shall be authorized to obtain
2 management services from a management services provider ("UPL
3 Manager"), and to delegate, allocate and assign as between the UPL
4 Owner and UPL Manager, compensation, profits, losses, liabilities,
5 decision-making authority and responsibilities, including
6 responsibility for the employment, direction, supervision and
7 control of the facility's administrator and staff;

8 ~~17.~~ 16. "Personal care" means assistance with meals, dressing,
9 movement, bathing or other personal needs or maintenance, or general
10 supervision of the physical and mental well-being of a person, who
11 is incapable of maintaining a private, independent residence, or who
12 is incapable of managing his person, whether or not a guardian has
13 been appointed for such person;

14 ~~18.~~ 17. "Resident" means a person residing in a facility due to
15 illness, physical or mental infirmity, or advanced age;

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

1 the spouse of the resident, or a relative of the resident within the
2 second degree of consanguinity and is otherwise eligible for
3 appointment; and

4 ~~20.~~ 19. "Supportive assistance" means the service rendered to
5 any person which is less than the service provided by a nursing
6 facility but which is sufficient to enable the person to meet an
7 adequate level of daily living. Supportive assistance includes but
8 is not limited to housekeeping, assistance in the preparation of
9 meals, assistance in the safe storage, distribution, and
10 administration of medications, and assistance in personal care as is
11 necessary for the health and comfort of such person. Supportive
12 assistance shall not include medical service.

13 SECTION 7. AMENDATORY 63 O.S. 2021, Section 1-1911, is
14 amended to read as follows:

15 Section 1-1911. A. 1. Every building, institution, or
16 establishment for which a license has been issued, including any
17 facility operated by the Oklahoma Department of Veterans Affairs,
18 shall be periodically inspected by a duly appointed representative
19 of the State Department of Health, pursuant to rules promulgated by
20 the State ~~Board~~ Commissioner of Health ~~with the advice and counsel~~
21 ~~of the Long Term Care Facility Advisory Board, created in Section 1-~~
22 ~~1923 of this title.~~

23 2. Inspection reports shall be prepared on forms prescribed by
24 the Commissioner ~~with the advice and counsel of the Advisory Board.~~

1 B. 1. The Department, whenever it deems necessary, shall
2 inspect, survey, and evaluate every facility, including any facility
3 operated by the Oklahoma Department of Veterans Affairs, to
4 determine compliance with applicable licensure and certification
5 requirements and standards. All inspections of facilities shall be
6 unannounced. The Department may have as many unannounced
7 inspections as it deems necessary.

8 2. The Department shall conduct at least one unannounced
9 inspection per calendar year of all nursing facilities operated by
10 the Oklahoma Department of Veterans Affairs.

11 3. Any employee of the State Department of Health who discloses
12 to any unauthorized person, prior to an inspection, information
13 regarding an unannounced nursing home inspection required pursuant
14 to the provisions of this section shall, upon conviction thereof, be
15 guilty of a misdemeanor. In addition, such action shall be
16 construed to be a misuse of office and punishable as a violation of
17 rules promulgated by the Ethics Commission.

18 4. a. The Department may periodically visit a facility for
19 the purpose of consultation and may notify the
20 facility in advance of such a visit. An inspection,
21 survey, or evaluation, other than an inspection of
22 financial records or a consultation visit, shall be
23 conducted without prior notice to the facility.

1 b. One person shall be invited by the Department from a
2 statewide organization of the elderly to act as a
3 citizen observer in unannounced inspections. The
4 individual may be a state or local ombudsman as
5 defined by the Aging Services Division of the
6 Department of Human Services, acting pursuant to the
7 provisions of the Older Americans Act of 1965, Public
8 Law No. 89-73, 42 U.S.C.A., Section 3001 et seq., as
9 amended.

10 c. The citizen observer shall be reimbursed for expenses
11 in accordance with the provisions of the State Travel
12 Reimbursement Act.

13 d. An employee of a state or unit of a local government
14 agency, charged with inspecting, surveying, and
15 evaluating facilities, who aids, abets, assists,
16 conceals, or conspires with a facility administrator
17 or employee in violation of the provisions of the
18 Nursing Home Care Act shall be guilty, upon conviction
19 thereof, of a misdemeanor and shall be subject to
20 dismissal from employment.

21 C. The Department shall hold open meetings, as part of its
22 routine licensure survey, in each of the licensed facilities to
23 advise and to facilitate communication and cooperation between
24 facility personnel and the residents of facilities in their mutual

1 efforts to improve patient care. Administrators, employees of the
2 facility, residents, residents' relatives, friends, residents'
3 representatives, and employees from appropriate state and federal
4 agencies shall be encouraged to attend these meetings to contribute
5 to this process.

6 D. 1. The Department shall require periodic reports and shall
7 have access to books, records, and other documents maintained by the
8 facility to the extent necessary to implement the provisions of the
9 Nursing Home Care Act and the rules promulgated pursuant thereto.

10 2. Any holder of a license or applicant for a license shall be
11 deemed to have given consent to any authorized officer, employee, or
12 agent of the Department to enter and inspect the facility in
13 accordance with the provisions of the Nursing Home Care Act.
14 Refusal to permit said entry or inspection, except for good cause,
15 shall constitute grounds for remedial action or administrative
16 penalty or both such action and penalty as provided in the Nursing
17 Home Care Act.

18 E. The Department shall maintain a file on each facility in the
19 state. All conditions and practices not in compliance with
20 applicable standards shall be specifically stated. If a violation
21 is corrected or is subject to an approved plan of correction, such
22 action shall be contained in the file. Upon receiving a written
23 request for a copy of the file documents, the Department shall send
24

1 a copy of the document to any person making the written request.

2 The Department may charge a reasonable fee for copying costs.

3 SECTION 8. AMENDATORY 63 O.S. 2021, Section 1-1923.1, is
4 amended to read as follows:

5 Section 1-1923.1. The State Department of Health shall:

6 1. Establish a Residents and Family State Council which shall
7 be composed of fifteen (15) members who are, or who have been within
8 the last twelve (12) months, residents, family members, resident
9 volunteer representatives or guardians of residents of nursing
10 facilities licensed pursuant to the Nursing Home Care Act, but shall
11 not include persons representing residents in facilities for the
12 developmentally disabled. The Council shall annually elect a chair
13 and vice-chair, and shall meet at least quarterly. Meetings shall
14 be conducted in the various areas of the state with at least one
15 meeting in each of the four quadrants of the state to allow for
16 participation by family members and residents where possible. The
17 members of the Council shall be reimbursed pursuant to the State
18 Travel Reimbursement Act. The Council ~~may present recommendations~~
19 ~~to the Long Term Care Facility Advisory Board created in Section 1-~~
20 ~~1923 of this title and~~ shall have the power and duty to advise the
21 State Department of Health concerning the development and
22 improvement of services to and care and treatment of residents of
23 facilities subject to the provisions of the Nursing Home Care Act
24 and make recommendations to the Department as necessary and

1 appropriate. The members shall serve at the pleasure of the State
2 Commissioner of Health; and

3 2. Establish a toll free, twenty-four-hour hotline for filing
4 of complaints against facilities licensed pursuant to the provisions
5 of the Nursing Home Care Act.

6 SECTION 9. AMENDATORY 63 O.S. 2021, Section 1-1928, is
7 amended to read as follows:

8 Section 1-1928. The ~~Department~~ State Commissioner of Health
9 shall develop reasonable rules and regulations that establish
10 appropriate criteria for the transfer of residents initiated by a
11 facility or a residential care home, including notice and hearings
12 if the resident is aggrieved by the decision. The primary purpose
13 and emphasis of the departmental rules and regulations shall be the
14 preservation of the health, welfare, and safety of the residents.

15 The process of developing these rules and regulations shall
16 include the consideration of advice and comments from ~~the Long Term~~
17 ~~Care Facility Advisory Board,~~ representatives of nursing homes,
18 residential care homes, and representatives of statewide
19 organizations for the elderly.

20 SECTION 10. AMENDATORY 63 O.S. 2021, Section 1-1929, is
21 amended to read as follows:

22 Section 1-1929. The ~~Department~~ State Commissioner of Health
23 shall develop reasonable rules and regulations that establish
24 appropriate criteria for the transfer of residents initiated by the

1 Department in emergency situations, including notice and hearings if
2 the resident is aggrieved by the decision. The primary purpose and
3 emphasis of the ~~departmental~~ rules and regulations shall be the
4 preservation of the health, welfare, and safety of the residents.
5 In addition, the Department of Human Services shall cooperate with
6 the Health Department and the Department of Mental Health and
7 Substance Abuse Services to provide assistance in relocation of
8 residents, to provide casework services, and in other ways to
9 minimize the impact of the transfer on the residents.

10 In the development of these rules and regulations, the
11 ~~Department~~ Commissioner shall consider advice and comments from ~~the~~
12 ~~Long-Term Care Facility Advisory Board~~, representatives of the
13 nursing home and residential care home industries, and
14 representatives of statewide organizations for the elderly.

15 SECTION 11. AMENDATORY 74 O.S. 2021, Section 3905, is
16 amended to read as follows:

17 Section 3905. The following statutory entities and their
18 successors shall be terminated on July 1, 2014, and all powers,
19 duties and functions shall be abolished one (1) year thereafter:

20 1. State Board of Licensure for Professional Engineers and Land
21 Surveyors as created by Section 475.3 of Title 59 of the Oklahoma
22 Statutes;

23 2. Oklahoma Accountancy Board as created by Section 15.2 of
24 Title 59 of the Oklahoma Statutes;

1 3. The Board of Governors of the Licensed Architects, Landscape
2 Architects and Registered Interior Designers of Oklahoma as created
3 by Section 46.4 of Title 59 of the Oklahoma Statutes;

4 4. Oklahoma Funeral Board as created by Section 396 of Title 59
5 of the Oklahoma Statutes;

6 ~~5. Long Term Care Facility Advisory Board as created by Section~~
7 ~~1-1923 of Title 63 of the Oklahoma Statutes;~~

8 ~~6. Commission on Marginally Producing Oil and Gas Wells as~~
9 ~~created by Section 700 of Title 52 of the Oklahoma Statutes;~~

10 ~~7. 6. Group Homes for Persons with Developmental or Physical~~
11 ~~Disabilities Advisory Board as created by Section 1430.4 of Title 10~~
12 ~~of the Oklahoma Statutes;~~

13 ~~8. 7. Electronic and Information Technology Accessibility~~
14 ~~Advisory Council as created by Section 34.30 of Title 62 of the~~
15 ~~Oklahoma Statutes; and~~

16 ~~9. 8. Oklahoma Strategic Military Commission as created by~~
17 ~~Section 5401 of Title 74 of the Oklahoma Statutes.~~

18 SECTION 12. REPEALER 63 O.S. 2021, Section 1-1923, is
19 hereby repealed.

20 SECTION 13. This act shall become effective November 1, 2022.

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