

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               2nd Session of the 59th Legislature (2024)

4   HOUSE BILL 3760

By: Cantrell of the House

5   and

6   **Thompson (Kristen)** of the  
7   Senate

10                               AS INTRODUCED

11           An Act relating to public health and safety; amending  
12           63 O.S. 2021, Section 1-1902, which relates to the  
13           Nursing Home Care Act; adding a definition; and  
14           providing an effective date.

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

17           SECTION 1.           AMENDATORY           63 O.S. 2021, Section 1-1902, is  
18   amended to read as follows:

19           As used in the Nursing Home Care Act:

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

23           2.   "Access" means the right of a person to enter a facility to  
24   communicate privately and without unreasonable restriction when

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

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

1 ICF/IID-16 facility is supervised by a qualified professional. The  
2 facilities may be free-standing in a community or may be on campus  
3 with a parent institution. The ICF/IID-16 facility may be  
4 independently owned and operated or may be part of a larger  
5 institutional operation;

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

8 5. "Adult companion home" means any home or establishment,  
9 funded and certified by the Department of Human Services, which  
10 provides homelike residential accommodations and supportive  
11 assistance to three or fewer adults with intellectual or  
12 developmental disabilities;

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

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

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

16 9. "Facility" means a nursing facility and a specialized home;  
17 provided this term shall not include a residential care home or an  
18 adult companion home;

19 10. "Nursing facility" means a home, an establishment or an  
20 institution, a distinct part of which is primarily engaged in  
21 providing:

22 a. skilled nursing care and related services for  
23 residents who require medical or nursing care,

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1           b.    rehabilitation services for the rehabilitation of  
2                injured, disabled, or sick persons, or

3           c.    on a regular basis, health-related care and services  
4                to individuals who because of their mental or physical  
5                condition require care and services beyond the level  
6                of care provided by a residential care home and which  
7                can be made available to them only through a nursing  
8                facility.

9   "Nursing facility" does not mean, for purposes of Section 1-851.1 of  
10 this title, a facility constructed or operated by an entity  
11 described in paragraph 7 of subsection B of Section 6201 of Title 74  
12 of the Oklahoma Statutes or the nursing care component of a  
13 continuum of care facility, as such term is defined under the  
14 Continuum of Care and Assisted Living Act, to the extent that the  
15 facility constructed or operated by an entity described in paragraph  
16 7 of subsection B of Section 6201 of Title 74 of the Oklahoma  
17 Statutes contains such a nursing care component;

18       11.   "Specialized facility" means any home, establishment, or  
19 institution which offers or provides inpatient long-term care  
20 services on a twenty-four-hour basis to a limited category of  
21 persons requiring such services, including but not limited to a  
22 facility providing health or habilitation services for individuals  
23 with intellectual or developmental disabilities, but does not mean,  
24 for purposes of Section 1-851.1 of this title, a facility

1 constructed or operated by an entity described in paragraph 7 of  
2 subsection B of Section 6201 of Title 74 of the Oklahoma Statutes or  
3 the nursing care component of a continuum of care facility, as such  
4 term is defined under the Continuum of Care and Assisted Living Act,  
5 to the extent that the facility constructed or operated by an entity  
6 described in paragraph 7 of subsection B of Section 6201 of Title 74  
7 of the Oklahoma Statutes contains such a nursing care component;

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

22 13. "Licensee" means the person, a corporation, partnership, or  
23 association who is the owner of the facility which is licensed by  
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1 the Department pursuant to the provisions of the Nursing Home Care  
2 Act;

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

4 15. "Medication preparation" means any licensed nurse,  
5 performing duties within the scope of their licensure as established  
6 by the Oklahoma Board of Nursing, may prepare medications for  
7 administration including the reconstitution of said medications;

8 16. "Neglect" means failure to provide goods and/or services  
9 necessary to avoid physical harm, mental anguish, or mental illness;

10 ~~16.~~ 17. "Owner" means a person, corporation, partnership,  
11 association, or other entity which owns a facility or leases a  
12 facility. The person or entity that stands to profit or lose as a  
13 result of the financial success or failure of the operation shall be  
14 presumed to be the owner of the facility. Notwithstanding the  
15 foregoing, any nonstate governmental entity that has acquired and  
16 owns or leases a facility and that has entered into an agreement  
17 with the Oklahoma Health Care Authority to participate in the  
18 nursing facility supplemental payment program ("UPL Owner") shall be  
19 deemed the owner of such facility and shall be authorized to obtain  
20 management services from a management services provider ("UPL  
21 Manager"), and to delegate, allocate and assign as between the UPL  
22 Owner and UPL Manager, compensation, profits, losses, liabilities,  
23 decision-making authority and responsibilities, including

1 responsibility for the employment, direction, supervision and  
2 control of the facility's administrator and staff;

3 ~~17.~~ 18. "Personal care" means assistance with meals, dressing,  
4 movement, bathing or other personal needs or maintenance, or general  
5 supervision of the physical and mental well-being of a person, who  
6 is incapable of maintaining a private, independent residence, or who  
7 is incapable of managing his or her person, whether or not a  
8 guardian has been appointed for such person;

9 ~~18.~~ 19. "Resident" means a person residing in a facility due to  
10 illness, physical or mental infirmity, or advanced age;

11 ~~19.~~ 20. "Representative of a resident" means a court-appointed  
12 guardian or, if there is no court-appointed guardian, the parent of  
13 a minor, a relative, or other person, designated in writing by the  
14 resident; provided, that any owner, operator, administrator or  
15 employee of a facility subject to the provisions of the Nursing Home  
16 Care Act, the Residential Care Act, or the Group Homes for the  
17 Developmentally Disabled or Physically Handicapped Persons Act shall  
18 not be appointed guardian or limited guardian of a resident of the  
19 facility unless the owner, operator, administrator or employee is  
20 the spouse of the resident, or a relative of the resident within the  
21 second degree of consanguinity and is otherwise eligible for  
22 appointment; and

23 ~~20.~~ 21. "Supportive assistance" means the service rendered to  
24 any person which is less than the service provided by a nursing

1 facility but which is sufficient to enable the person to meet an  
2 adequate level of daily living. Supportive assistance includes but  
3 is not limited to housekeeping, assistance in the preparation of  
4 meals, assistance in the safe storage, distribution, and  
5 administration of medications, and assistance in personal care as is  
6 necessary for the health and comfort of such person. Supportive  
7 assistance shall not include medical service.

8 SECTION 2. This act shall become effective November 1, 2024.

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10 COMMITTEE REPORT BY: COMMITTEE ON HEALTH SERVICES AND LONG-TERM  
11 CARE, dated 02/28/2024 - DO PASS, As Coauthored.

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