

1 ENGROSSED HOUSE
2 BILL NO. 3760

By: Cantrell of the House

3 and

4 Thompson (Kristen) of the
5 Senate

6
7
8 An Act relating to public health and safety; amending
9 63 O.S. 2021, Section 1-1902, which relates to the
10 Nursing Home Care Act; adding a definition; and
11 providing an effective date.

12
13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

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

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

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

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

1 independently owned and operated or may be part of a larger
2 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 adults with intellectual or
9 developmental disabilities;

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 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 individuals
19 with intellectual or developmental disabilities, but does not mean,
20 for purposes of Section 1-851.1 of this title, a facility
21 constructed or operated by an entity described in paragraph 7 of
22 subsection B of Section 6201 of Title 74 of the Oklahoma Statutes or
23 the nursing care component of a continuum of care facility, as such
24 term is defined under the Continuum of Care and Assisted Living Act,

1 to the 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. "Medication preparation" means any licensed nurse,
24 performing duties within the scope of his or her licensure as

1 established by the Oklahoma Board of Nursing, may prepare
2 medications for administration including the reconstitution of said
3 medications;

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

6 ~~16.~~ 17. "Owner" means a person, corporation, partnership,
7 association, or other entity which owns a facility or leases a
8 facility. The person or entity that stands to profit or lose as a
9 result of the financial success or failure of the operation shall be
10 presumed to be the owner of the facility. Notwithstanding the
11 foregoing, any nonstate governmental entity that has acquired and
12 owns or leases a facility and that has entered into an agreement
13 with the Oklahoma Health Care Authority to participate in the
14 nursing facility supplemental payment program ("UPL Owner") shall be
15 deemed the owner of such facility and shall be authorized to obtain
16 management services from a management services provider ("UPL
17 Manager"), and to delegate, allocate and assign as between the UPL
18 Owner and UPL Manager, compensation, profits, losses, liabilities,
19 decision-making authority and responsibilities, including
20 responsibility for the employment, direction, supervision and
21 control of the facility's administrator and staff;

22 ~~17.~~ 18. "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 incapable of managing his or her person, whether or not a
3 guardian has been appointed for such person;

4 ~~18.~~ 19. "Resident" means a person residing in a facility due to
5 illness, physical or mental infirmity, or advanced age;

6 ~~19.~~ 20. "Representative of a resident" means a court-appointed
7 guardian or, if there is no court-appointed guardian, the parent of
8 a minor, a relative, or other person, designated in writing by the
9 resident; provided, that any owner, operator, administrator or
10 employee of a facility subject to the provisions of the Nursing Home
11 Care Act, the Residential Care Act, or the Group Homes for the
12 Developmentally Disabled or Physically Handicapped Persons Act shall
13 not be appointed guardian or limited guardian of a resident of the
14 facility unless the owner, operator, administrator or employee is
15 the spouse of the resident, or a relative of the resident within the
16 second degree of consanguinity and is otherwise eligible for
17 appointment; and

18 ~~20.~~ 21. "Supportive assistance" means the service rendered to
19 any person which is less than the service provided by a nursing
20 facility but which is sufficient to enable the person to meet an
21 adequate level of daily living. Supportive assistance includes but
22 is not limited to housekeeping, assistance in the preparation of
23 meals, assistance in the safe storage, distribution, and
24 administration of medications, and assistance in personal care as is

1 necessary for the health and comfort of such person. Supportive
2 assistance shall not include medical service.

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

4 Passed the House of Representatives the 11th day of March, 2024.

5

6

Presiding Officer of the House
of Representatives

7

8

9

Passed the Senate the ___ day of _____, 2024.

10

11

Presiding Officer of the Senate

12

13

14

15

16

17

18

19

20

21

22

23

24