

1 **SENATE FLOOR VERSION**

2 April 4, 2016

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL NO. 2280

By: Murphey of the House

and

Standridge of the Senate

7
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9 COMMITTEE SUBSTITUTE

10 [public health and safety - requiring Department of
11 Health to develop a classification system of
12 violations - 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. 2011, Section 1-890.6, as
16 amended by Section 2, Chapter 12, O.S.L. 2012 (63 O.S. Supp. 2015,
17 Section 1-890.6), is amended to read as follows:

18 Section 1-890.6. A. The Continuum of Care and Assisted Living
19 Act shall not apply to residential care homes, adult companion
20 homes, domiciliary care units operated by the Department of Veterans
21 Affairs, the private residences of persons with developmental
22 disabilities receiving services provided by the Developmental
23 Disabilities Services Division of the Department of Human Services
24 or through the Home- and Community-Based Waiver or the Alternative

1 Disposition Plan Waiver of the Oklahoma Health Care Authority, or to
2 hotels, motels, boardinghouses, rooming houses, a home or facility
3 approved and annually reviewed by the United States Department of
4 Veterans Affairs as a medical foster home in which care is provided
5 exclusively to three or fewer veterans, or other places that furnish
6 board or room to their residents. The Continuum of Care and
7 Assisted Living Act shall not apply to facilities not charging or
8 receiving periodic compensation for services rendered and not
9 receiving any county, state or federal assistance.

10 B. The State Commissioner of Health may ban admissions to, or
11 deny, suspend, refuse to renew or revoke the license of, any
12 continuum of care facility or assisted living center which fails to
13 comply with the Continuum of Care and Assisted Living Act or rules
14 promulgated by the State Board of Health.

15 C. Any person who has been determined by the Commissioner to
16 have violated any provision of the Continuum of Care and Assisted
17 Living Act or any rule promulgated hereunder shall be liable for an
18 administrative penalty of not more than Five Hundred Dollars
19 (\$500.00) for each day that the violation occurs.

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

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

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

3. No fine shall be assessed for any violation that is not classified as actual harm or immediate jeopardy, unless the continuum of care facility or assisted living center fails to correct the violation within the period set forth in the accepted plan of correction. Fines may be assessed at any time for any violations that are classified as actual harm or immediate jeopardy.

4. Any new violation unrelated to the original violation and not classified as actual harm or immediate jeopardy that is discovered upon a re-visitation of a continuum of care facility or assisted living center shall constitute a new action and shall not be included in the original citation or assessment of fines or penalties; provided, that a preexisting violation not corrected in

1 compliance with the approved plan of correction shall be considered
2 still in effect.

3 E. If a continuum of care facility's failure to comply with the
4 Continuum of Care and Assisted Living Act or rules involves nursing
5 care services, the Commissioner shall have authority to exercise
6 additional remedies provided under the Nursing Home Care Act. If a
7 continuum of care facility's failure to comply with the Continuum of
8 Care and Assisted Living Act or rules involves adult day care
9 services, then the Commissioner shall have authority to exercise
10 additional remedies provided under the Adult Day Care Act.

11 ~~E.~~ F. In taking any action to deny, suspend, deny renewal, or
12 revoke a license, or to impose an administrative fee, the
13 Commissioner shall comply with requirements of the Administrative
14 Procedures Act.

15 SECTION 2. This act shall become effective November 1, 2016.

16 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
17 April 4, 2016 - DO PASS AS AMENDED
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