

CONTINUUM OF CARE AND ASSISTED LIVING ACT

TITLE 63 OF THE OKLAHOMA STATUTES

Section 1-890 et seq.

As Amended in 2008

§63-1-890.1. Short title.

Sections 1 through 7 of this act shall be known and may be cited as the "Continuum of Care and Assisted Living Act".

Added by Laws 1997, c. 223, § 1, emerg. eff. May 20, 1997.

§63-1-890.2. Definitions.

As used in the Continuum of Care and Assisted Living Act:

1. "Assisted living center" means any home or establishment offering, coordinating or providing services to two or more persons who:

- a. are domiciled therein,
- b. are unrelated to the operator,
- c. by choice or functional impairments, need assistance with personal care or nursing supervision,
- d. may need intermittent or unscheduled nursing care,
- e. may need medication assistance, and
- f. may need assistance with transfer and/or ambulation.

2. "Board" means the State Board of Health;

3. "Commissioner" means the Commissioner of Health; and

4. "Continuum of care facility" means a home, establishment or institution providing nursing facility services as defined in Section 1-1902 of Title 63 of the Oklahoma Statutes and one or both of the following:

- a. assisted living center services as defined in the Continuum of Care and Assisted Living Act, and
- b. adult day care center services as defined in Section 1-872 of Title 63 of the Oklahoma Statutes.

Added by Laws 1997, c. 223, § 2, emerg. eff. May 20, 1997, Amended by Laws 2007, SB 738, c. 347, § 1, eff. November 1, 2007.

§63-1-890.3. Promulgation of rules - Contents - Other applicable acts.

A. The State Board of Health shall promulgate rules necessary to implement the provisions of the Continuum of Care and Assisted Living Act. Such rules shall include, but shall not be limited to:

1. A uniform comprehensive resident screening instrument to measure the needs and capabilities of residents in all settings and to determine appropriate placements of residents;

2. Physical plant requirements meeting construction and life safety codes, with provisions accommodating resident privacy and independence in assisted living centers and in assisted living components of continuum of care facilities based on the variable capabilities of residents;

3. Staffing levels responsive to the variable needs of residents, with provisions for sharing of staff between components in a continuum of care facility;

4. Standards for measuring quality outcomes for residents;

5. Provisions for individualized services chosen by and designed for each resident;

6. Procedures for inspections and investigations of licensed entities to ensure compliance with the Continuum of Care and Assisted Living Act and rules promulgated by the Board;

7. Enumeration of resident rights and responsibilities to be observed by each facility and its staff; and

8. Provisions for a surety bond or deposit from each applicant in an amount sufficient to guarantee that obligations to residents will be performed, with provisions for reduction or waiver of the surety bond or deposit when the assets of the applicant or its contracts with other persons are sufficient to reasonably ensure the performance of its obligations.

B. The nursing care service of a continuum of care facility shall be subject to the requirements, procedures and remedies set out in the Nursing Home Care Act, including provisions relating to resident rights.

C. The adult day care component of a continuum of care facility shall be subject to requirements and procedures specified under the Adult Day Care Act.

Added by Laws 1997, c. 223, § 3, emerg. eff. May 20, 1997.

§63-1-890.4. Application to establish or license a continuum of care facility or assisted living center.

A. Each application for establishment of a continuum of care facility or assisted living center shall be accompanied by a nonrefundable application fee. The State Board of Health shall develop a sliding fee scale not to exceed One Thousand Dollars (\$1,000.00) for each application. The scale shall be based upon the bed capacity of the continuum of care facilities or assisted living centers.

B. Each application for an initial license, or annual renewal of the license, to operate a continuum of care facility or assisted living center shall be accompanied by a license fee of Ten Dollars (\$10.00) for each bed included in the maximum bed capacity at such facility or center. Each application for an initial or renewal license for a continuum of care facility that includes an adult day care component shall be accompanied by an

additional license fee in an amount to be determined by the Board, but not to exceed Seventy-five Dollars (\$75.00).

C. Each application to establish or license a continuum of care facility or assisted living center shall be on a form approved by the Commissioner to include, but not be limited to, the following:

1. Disclosure of the applicant's identity and background in the operation of continuum of care and assisted living services; and

2. Evidence of the adequacy of the applicant's financial resources and ability to ensure adequate staffing.

Added by Laws 1997, c. 223, § 4, emerg. eff. May 20, 1997. Amended by Laws 1998, c. 31, § 1, eff. July 1, 1998.

§63-1-890.5. License required.

No person shall establish, operate or maintain a continuum of care facility or assisted living center, or use in its name, logo, contracts, or literature the phrase "continuum of care facility" or "assisted living", nor imply that it is a continuum of care facility or assisted living center, nor hold itself out to be a continuum of care facility or assisted living center, unless that person first obtains a license as required by the Continuum of Care and Assisted Living Act.

Added by Laws 1997, c. 223, § 5, emerg. eff. May 20, 1997.

§63-1-890.6. Application of act - Bans of admission - Penalties.

A. The Continuum of Care and Assisted Living Act shall not apply to residential care homes, adult companion homes, domiciliary care units operated by the Department of Veterans Affairs, the private residences of persons with developmental disabilities receiving services provided by the Developmental Disabilities Services Division of the Department of Human Services or through the Home- and Community-Based Waiver or the Alternative Disposition Plan Waiver of the Oklahoma Health Care Authority, or to hotels, motels, boardinghouses, rooming houses, or other places that furnish board or room to their residents. The Continuum of Care and Assisted Living Act shall not apply to facilities not charging or receiving periodic compensation for services rendered and not receiving any county, state or federal assistance.

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

C. Any person who has been determined by the Commissioner to have violated any provision of the Continuum of Care and

Assisted Living Act or any rule promulgated hereunder shall be liable for an administrative penalty of not more than Five Hundred Dollars (\$500.00) for each day that such violation occurs.

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

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

Added by Laws 1997, c. 223, § 6, eff. July 1, 1998. Amended by Laws 1999, c. 214, § 3, eff. Nov. 1, 1999.

§63-1-890.8. Care and Services That May Be Delivered to Residents of Assisted Living Center - Resident with Condition Consistent With Facility's Discharge Criteria

A. Residents of an assisted living center may receive home care services and intermittent, periodic, or recurrent nursing care through a home care agency under the provisions of the Home Care Act.

B. Residents of an assisted living center may receive hospice home services under the provisions of the Oklahoma Hospice Licensing Act.

C. Nothing in the foregoing provisions shall be construed to prohibit any resident of an assisted living center from receiving such services from any person who is exempt from the provisions of the Home Care Act.

D. The assisted living center shall monitor and assure the delivery of those services. All nursing services shall be in accordance with the written orders of the personal or attending physician of the resident.

E. Notwithstanding the foregoing provisions, a resident of an assisted living center, or the family or legal representative of the resident, may privately contract or arrange for private nursing services under the orders and supervision of the personal or attending physician of the resident, private monitoring, private sitters or companions, personal domestic servants, or personal staff.

F. If a resident of an assisted living center develops a disability or a condition that is consistent with the facility's discharge criteria:

1. The personal or attending physician of a resident, a representative of the assisted living center, and the resident or the designated representative of the resident shall determine by and through a consensus of the foregoing persons any reasonable and necessary accommodations, in accordance with the current building codes, the rules of the State Fire Marshal, and the requirements of the local fire jurisdiction, and additional services required to permit the resident to remain in place in the assisted living center as the least restrictive environment and with privacy and dignity;

2. All accommodations or additional services shall be described in a written plan of accommodation, signed by the personal or attending physician of the resident, a representative of the assisted living center and the resident or the designated representative of the resident;

3. The person or persons responsible for performing, monitoring and assuring compliance with the plan of accommodation shall be expressly specified in the plan of accommodation and shall include the assisted living center and any of the following:

- a. the personal or attending physician of the resident,
- b. a home care agency,
- c. a hospice, or
- d. other designated persons;

The plan of accommodation shall be reviewed at least quarterly by a licensed health care professional.

4. If the parties identified in paragraph 1 of this subsection fail to reach a consensus on a plan of accommodation, the assisted living center shall give written notice to the resident, the legal representative or the resident or such persons as are designated in the resident's contract with the assisted living center, of the termination of the residency of the resident in the assisted living center in accordance with the provisions of the resident's contract with the assisted living center. Such notice shall not be less than thirty (30) calendar days prior to the date of termination, unless the assisted living center or the personal or attending physician of the resident determines the resident is in imminent peril or the continued residency of the resident places other persons at risk of imminent harm;

5. If any party identified in paragraph 1 of this subsection determines that the plan of accommodation is not being met, such party shall notify the other parties and a meeting shall be held between the parties within ten (10) business days to re-evaluate the plan of accommodation; and

6. Any resident aggrieved by a decision to terminate residency may seek injunctive relief in the district court of the county in which the assisted living center is located. Such action shall be filed no later than ten (10) days after the receipt of the written notice of termination.

G. Nothing in this section shall be construed to abrogate an assisted living center's responsibility to provide care for and oversight of a resident.

Added by Laws 2007, SB 738, c. 347, § 2, eff. November 1, 2007; Amended by Laws 2008, HB 2539, c. 22, § 1, eff. November 1, 2008.

§63-1-891. Supervision of nurse aide trainees.

Any assisted living facility that employs an individual who is in nurse aide training shall ensure that such individual is supervised by no less than a consulting nurse licensed to practice in this state.

Added by Laws 1999, c. 418, § 2, emerg. eff. June 10, 1999.

§63-1-894. Quality of care fees - Assessment upon repeal of federal requirements.

Upon repeal of a United States Congress or federal Health Care Financing Administration requirement to assess a quality of care fee, upon all licensed nursing home beds, such fee shall only be assessed upon nursing facilities that have a Medicaid contract with the state.

Added by Laws 2000, c. 340, § 25, eff. July 1, 2000.