

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 673. ALZHEIMER'S DISEASE DEMENTIA AND OTHER FORMS OF DEMENTIA
SPECIAL CARE DISCLOSURE RULES

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 1. General Provisions

310:673-1-1 [AMENDED]

310:673-1-2 [AMENDED]

Subchapter 3. Standardized Disclosures and Reviews

310:673-3-1 [AMENDED]

310:673-3-2 [AMENDED]

310:673-3-3 [AMENDED]

310:673-3-4 [REVOKED]

310:673-3-5 [REVOKED]

310:673-3-6 [NEW]

310:673-3-7 [NEW]

SUMMARY:

The proposed amendments modify the procedure for completing the Alzheimer's Dementia and Other Forms of Dementia Disclosure Form in compliance with 63 O.S. § 1-879.2c. The addition of Section 310:673-3-6 is to provide consequences for violating the rules. The addition of Section 310:673-3-7 describes those required to receive a disclosure form.

AUTHORITY:

Commissioner of Health, Title 63 O.S. § 1-104.

COMMENT PERIOD:

January 17, 2023 through the close of the Department's normal business hours, 5 PM, on February 17, 2023. Interested persons may informally discuss the proposed rules with the contact person identified below; or may, through the close of the Department's normal business hours, 5 PM, on February 17, 2023, submit written comment to the contact person identified below, or may, at the hearing, ask to present written or oral views.

PUBLIC HEARING:

Pursuant to 75 O.S. § 303(A), the public hearing for the proposed rulemaking in this chapter shall be on February 17, 2023, at the Oklahoma State Department of Health Auditorium, 123 Robert S. Kerr Avenue, Oklahoma City, Oklahoma 73102 from 9:30 AM to 12:30 PM. The meeting may adjourn earlier if all attendees who signed up to comment have completed giving their comments. The alternate date and time in the event of an office closure due to inclement weather is February 21, 2023 in the Auditorium, from 9:30 AM to 12:30 PM. Those wishing to present oral comments should be present at that time to register to speak. The hearing will close at the conclusion of those registering to speak. Interested persons may attend for the purpose of submitting data, views or concerns, orally or in writing, about the rule proposal described and summarized in this Notice. Validated parking will be provided for the parking lot located at the east corner of Broadway and Robert S. Kerr Avenue, subject to availability.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, on the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule. Business entities may submit this information in writing through the close of the Department's normal business hours, 5 PM, on February 17, 2023, to the contact person identified below.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from the contact person identified below or via the agency website at www.ok.gov/health.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a rule impact statement is available through the contact person identified below or via the agency website at www.ok.gov/health.

CONTACT PERSON:

Audrey C. Talley, Agency Rule Liaison, Oklahoma State Department of Health, 123 Robert S. Kerr Avenue, Oklahoma City, OK 73102, phone (405) 426-8563, e-mail AudreyT@health.ok.gov.

INITIAL RULE IMPACT STATEMENT

(This document may be revised based on comment received during the public comment period.)

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 673. ALZHEIMER'S DISEASE DEMENTIA AND OTHER FORMS OF DEMENTIA
SPECIAL CARE DISCLOSURE RULES**

1. DESCRIPTION:

The proposed rule amends the required disclosure of information on special care provided to persons with Alzheimer's dementia and other forms of dementia, for entities subject to the Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act. The amendments modify the procedure for completing the disclosure form and revise the criteria requested on the form in compliance with 63 O.S. § 1-879.2c.

2. DESCRIPTION OF PERSONS AFFECTED AND COST IMPACT RESPONSE:

The facilities subject to the Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act will be required to complete the form. Over the duration of time, there is a minimal to no impact of cost.

3. DESCRIPTION OF PERSONS BENEFITING, VALUE OF BENEFIT AND EXPECTED HEALTH OUTCOMES:

The persons benefiting from the proposed changes are the individuals with an Alzheimer's dementia or other forms of dementia diagnosis receiving care from the applicable facilities.

4. ECONOMIC IMPACT, COST OF COMPLIANCE AND FEE CHANGES:

There are no costs associated with implementation.

5. COST AND BENEFITS OF IMPLEMENTATION AND ENFORCEMENT TO THE AGENCY.

There are no costs associated with implementation. The amended scope of disclosure will benefit the public receiving the disclosure statements.

6. IMPACT ON POLITICAL SUBDIVISIONS:

There will be no impact on political subdivisions and it will not require their cooperation in implementing or enforcing the proposed amendment.

7. ADVERSE EFFECT ON SMALL BUSINESS:

There is no known adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act.

8. EFFORTS TO MINIMIZE COSTS OF RULE:

There are no less costly means currently identified.

9. **EFFECT ON PUBLIC HEALTH AND SAFETY:**

An improved process for completing the disclosure form could lead to more informed placement selections for individuals with Alzheimer's dementia or other forms of dementia.

10. **DETRIMENTAL EFFECTS ON PUBLIC HEALTH AND SAFETY WITHOUT ADOPTION:**

There are no detrimental effects on public health and safety.

11. **PREPARATION AND MODIFICATION DATES:**

This rule impact statement was prepared on Tuesday, September 13, 2022.

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 673. ALZHEIMER'S DISEASE DEMENTIA AND OTHER FORMS OF DEMENTIA
SPECIAL CARE DISCLOSURE RULES**

SUBCHAPTER 1. GENERAL PROVISIONS

310:673-1-1. Purpose

This Chapter provides for the disclosure of information on special care provided to persons with Alzheimer's disease dementia and related disorders ~~other forms of dementia at facilities, homes and centers for entities~~ subject to the Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act and licensed by the Oklahoma State Department of Health. This rule is authorized under the following laws: the ~~Alzheimer's Disease Special Care Disclosure Act~~ Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act (63 O.S. Supp. 1998, Section 1-879.2a et seq.); and the Oklahoma Public Health Code (63 O.S. Supp. 1998, Section 1-104 et seq.); ~~and, the Administrative Procedures Act (75 O.S. Supp. 1998, Sections 250.1 through 323~~

310:673-1-2. Definitions

When used in this Chapter, the following words or terms shall have the following meaning unless the context of the sentence requires another meaning:

"Act" means the ~~Alzheimer's Disease Special Care Disclosure Act~~ Dementia and Other Forms of Dementia Special Care Disclosure Act.

"Department" means the Oklahoma State Department of Health.

"Provider" means ~~an entity licensed by the Department as one or more of the following:~~

- (A) ~~A nursing facility or specialized nursing facility under 63 O.S. Supp. 1998, Section 1-1901 et seq.;~~
- (B) ~~A residential care home under 63 O.S. Supp. 1998, Section 1-819 et seq.;~~
- (C) ~~An assisted living center or continuum of care facility under 63 O.S. Supp. 1998, Section 1-890.1 et seq; or~~
- (D) ~~An adult day care center under 63 O.S. Supp. 1998, Section 1-870 et seq.~~

"Special care provider facility" means ~~a provider that advertises, markets or otherwise promotes itself as providing care or treatment to persons with Alzheimer's disease or related disorders in a special unit or under a special program~~ any nursing facility, residential care facility, assisted living facility, adult day care center, continuum of care facility, or special care facility that publicly advertises, intentionally markets, or otherwise engages in promotional campaigns for the purpose of communicating that said facility offers care or treatment methods within the facility that distinguish it as being especially applicable to or suitable to persons with Alzheimer's dementia or other forms of dementia. [63:1-879.2c].

SUBCHAPTER 3. STANDARDIZED DISCLOSURES AND REVIEWS

310:673-3-1. Disclosure required and posting requirement

- (a) Before entering an agreement to offer care ~~or treatment or services~~ as a special care provider, each provider shall ~~file~~ submit a standardized disclosure form with the Department.
- (b) ~~Each special care provider shall include the standardized disclosure form with each license renewal application filed by the special care provider under applicable license laws and rules enforced by the Department.~~ When there is any change in the information on file with the department, an updated form shall be submitted to the department at the time the change is made.
- (c) ~~In addition to filing the disclosure with the Department, each special care provider shall provide the standardized disclosure to the State Long Term Care Ombudsman, and to any person seeking placement on behalf of a person with Alzheimer's disease or related disorders~~[63:1-879.2c.A.2] with the special care provider. During regular inspections by the Department, the facility shall provide a current disclosure

form for the Department to verify if the form is current and the services are provided to residents as described in the form.

(d) A current form shall be posted on the facility's website.

310:673-3-2. Description of standardized disclosure form

The standardized disclosure form requires the following:

- (1) A written description of the Alzheimer's disease special care unit's overall philosophy and mission as it relates to the needs of residents with Alzheimer's disease or related disorders special care unit, program, or facility's overall philosophy and mission as it relates to the needs of residents with Alzheimer's dementia or other forms of dementia;
- (2) The process and criteria for placement in, or transfer or discharge from, the unit, program, or facility;
- (3) The process used for assessment, establishment, and implementation of a patient-resident plan of care, as it relates to Alzheimer's dementia and other forms of dementia, including the method by which the plan evolves and is responsive to changes in the condition of the patient, the frequency of assessment, and how the facility will respond to changes in the condition of the resident;
- (4) Staff-to-resident ratios, staff training and continuing education that are in addition to all regularly prescribed training and are commensurate with Alzheimer's disease residents' needs for increased care and supervision the need for increased care and supervision for residents with Alzheimer's dementia and other forms of dementia;
- (5) The physical environment and design features appropriate to support the functioning of cognitively impaired adult residents;
- (6) The types and frequency of resident activities designed for residents with Alzheimer's dementia or other forms of dementia and descriptions of those therapeutic activities designed to address cognitive function and engage residents with varying stages of dementia;
- (7) The involvement of families in care planning and other aspects of care, and the availability of family support programs; and
- (8) The fees for care and any additional fees; and [63:1-879.2e.B].
- (9) Any accreditations or certifications issued to the facility related to the care and services provided to residents with Alzheimer's dementia or other forms of dementia. [63:1-879.2c.B].

310:673-3-3. Timeframes for Department review

A facility will be sent an electronic notification to the email provided within the disclosure form once it has been submitted to the electronic filing system. The Department shall review and verify the special care provider's standardized disclosure within timeframes applicable to the issuance or denial of the provider's license. disclosure forms for completeness and accuracy each time a form is submitted as required by law. During the regular inspection, the Department shall verify the disclosure form is current and the services provided match those described within the disclosure form.

310:673-3-4. Standardized disclosure changes [REVOKED]

~~Each special care provider shall submit for the Department's review any substantial change in the information originally submitted in the standardized disclosure form. Within thirty (30) days after receipt, the Department shall review and verify proposed changes or required filings.~~

310:673-3-5. Conditions to refuse to renew [REVOKED]

~~The Department may refuse to issue or refuse to renew a license for a special care provider, or take such other steps as appropriate, if the special care provider fails to:~~

- ~~(1) Submit a required standardized disclosure; or~~
- ~~(2) Correct inaccurate information reported in the standardized disclosure.~~

310:673-3-6. Violations of disclosure form requirements

A violation of any of the provisions in the Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act shall subject the offending facility to the notice and enforcement provisions for the facility's license.

310:673-3-7. Disclosures provided

- (a) The facility shall provide a current disclosure to any representative of a person with Alzheimer's dementia or other forms of dementia who is considering placement within a special care unit, program, or facility in addition to having a current disclosure form as required by 63 O.S. 1-879.2 c.
- (b) The Department shall provide a copy of the disclosure to the State Long-Term Care Ombudsman.