

CONTINUUM OF CARE AND ASSISTED LIVING ACT

TITLE 63 OF THE OKLAHOMA STATUTES
Section 1-890 et seq.

As Amended in 2017

§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.

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;

4. "Continuum of care facility" means a home, establishment or institution providing nursing facility services as defined in Section 1-1902 of this title 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 this title; and

5. "Department" means the State Department of Health.

Added by Laws 1997, HB 2252, c. 223, § 2, emerg. eff. May 20, 1997; Amended by Laws 2007, SB 738, c. 347, § 1, eff. November 1, 2007 ([superseded document available](#)); Amended by Laws 2009, HB 1065, c. 53, § 1, eff. November 1, 2009 ([superseded document available](#)).

§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;¹
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. Provisions to prohibit facility staff from disclosing a resident's financial information to third parties without written consent of the resident or the designated representative of the resident;
7. 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;

¹ Oklahoma law (Title 74 O.S. § 324.11) addresses resident safety concerns present when assisted living centers house residents who are not capable of responding to emergency situations without physical assistance from staff of the facility or are not capable of self preservation.

G. 1. Notwithstanding anything to the contrary in the fire code and/or building code, as last adopted by the Oklahoma Uniform Building Code Commission, all facilities to be licensed as assisted living facilities, or additions to existing assisted living facilities, constructed after November 1, 2008, shall be constructed with the guidelines of the I-II building occupancies if at any time in their operation they house residents who are not capable of responding to emergency situations without physical assistance from staff of the facility or are not capable of self preservation.

2. Assisted living facilities licensed prior to July 1, 2008, may house residents who are not capable of responding to emergency situations without physical assistance from the staff or are not capable of self preservation under the following conditions: As part of the annual licensure renewal process, the facility shall disclose if any residents who reside in the facility are not capable of responding to emergency situations without physical assistance from staff or are not capable of self preservation, and the facility shall be required to install fire sprinkler protection and an alarm system within the facility in accordance with the building guidelines set forth in the building code for I-II facilities.

3. Assisted living facilities licensed to house six or fewer residents prior to July 1, 2008, shall be permitted to install 13D or 13R fire sprinkler protection in lieu of meeting I-II sprinkler requirements, with approval of the municipal fire marshal or compliance with local codes.

4. For purposes of this subsection:

a. the term "assisted living center" shall include an assisted living center licensed as such by the State Department of Health and the assisted living center component of a continuum care facility licensed by the State Department of Health, and

b. the terms "fire code" and "building code" shall be deemed to include:

(1) any and all appendices, commentary, amendments and supplements to, and replacements or restatements of the Codes, and

(2) any and all other laws, ordinances, regulations, codes or standards pertaining to assisted living center construction, occupancy and maintenance for the protection of lives and property from fire.

8. Enumeration of resident rights and responsibilities to be observed by each facility and its staff. Such resident rights shall include the freedom of choice regarding any personal attending physicians and all other providers of medical services and supplies without a financial penalty or fee charged by the assisted living center;

9. 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;

10. Provisions for the development of a consumer guide or similar resource to be posted on the Internet website of the State Department of Health to assist individuals and families in understanding the services provided by assisted living centers and to compare and select a facility; and

11. Provisions for posting results of routine inspections and any complaint investigations of each assisted living center on the Internet website of the Department. Such information shall be regularly updated to include the facility's plan of correction and to indicate when a violation of a licensing regulation was corrected by the facility.

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.

Historical Data

Laws 1997, HB 1540, c. 223, § 3, emerg. eff. May 20, 1997; Amended by Laws 2009, HB 1065, c. 53, § 2, eff. November 1, 2009 ([superseded document available](#)); Amended by Laws 2012, HB 2566, c. 199, § 1, eff. November 1, 2012 ([superseded document available](#)); Amended by Laws 2015, HB 1266, c. 31, § 1, eff. November 1, 2015 ([superseded document available](#)).

§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, a home or facility approved and annually reviewed by the United States Department of Veterans Affairs as a medical foster home

in which care is provided exclusively to three or fewer veterans, 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 the violation occurs.

D. 1. The State Department of Health shall develop a classification system of violations, taking into consideration the recommendations of the Long-Term Care Facility Advisory Board pursuant to Section 1-1923 of this title, which shall gauge the 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 revisit 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 compliance with the approved plan of correction shall be considered still in effect.

E. 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, HB 1540, c. 223, § 6, emerg. eff. July 1, 1998; Amended by Laws 1999, HB 1272, c. 214, § 3, eff. November 1, 1999 ([superseded document available](#)); Amended by Laws 2012, [SB 1210](#), c. 12, § 2, emerg. eff. April 5, 2012 ([superseded document available](#)). Amended by Laws 2016, [HB 2280](#), c. 240, § 1, eff. November 1, 2016 ([superseded document available](#)).

§63-1-1-890.7 Repealed by Laws 2003, HB 1545, c. 16, § 1

Added by Laws 1997, HB 1540, c. 223, § 7, emerg. eff. May 20, 1997; Repealed by Laws 2003, HB 1545, c. 16, § 1 ([repealed document available](#)).

§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. A resident of an assisted living center or the family or legal representative of the resident shall be required to

disclose any third-party provider of medical services or supplies prior to service delivery.

F. Any third-party provider of medical services or supplies shall comply with the provisions of subsection D of this section.

G. 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.

H. 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.

I. 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 ([superseded document available](#)); Amended by Laws 2013, HB 1745, c. 248, § 1, eff. November 1, 2013 ([superseded document available](#)).

§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.

§63-1-895. Informal Dispute Resolution Panel - Appointment of Members

A. Upon written request to the State Department of Health, an assisted living center as defined in the Continuum of Care and Assisted Living Act may choose to participate in an informal dispute resolution panel to be offered by the State Department of Health as an alternative to the informal dispute resolution process outlined in Sections 1-1914.3 through 1-1914.10 and Sections 1-1914.13 through 1-1914.16 of Title 63 of the Oklahoma Statutes.

B. The State Department of Health shall appoint the informal dispute resolution panel, to be comprised of the following impartial members:

1. A licensed administrator currently working in the assisted living industry;

2. A health professional currently working in an assisted living center;

3. Two representatives from the aging and disabled community who do not represent a state agency; and

4. A representative from the State Department of Health with experience in assisted living center surveys.

Added by Laws 2013, SB 592, c. 50, § 1, eff. November 1, 2013.

Section 1-1991 Effective November 1, 2017

63 O.S. Section 1-1991. Dementia Training

A. The State Board of Health shall promulgate rules that require all medical and direct care staff of nursing and specialized facilities, adult day care centers, assisted living centers and home health agencies licensed by the State Department of Health to complete, at a minimum, one (1) hour of in-service training per year in Alzheimer's- and dementia-related care.

B. The curricula for the training shall include, but not be limited to, learning ways to decode behavior messages, identifying common behavioral triggers and determining the types of positive communication that can take place between persons with Alzheimer's disease and professional caregivers.

C. The Board shall also promulgate rules establishing appropriate training requirements for support staff working in the facilities listed in subsection A of this section who do not provide direct care for patients.

Added by Laws 2017, [HB1620](#), c. 231, § 1, eff. November 1, 2017.