

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 783

By: Hicks

AS INTRODUCED

An Act relating to long-term care; requiring certain regulation of intermediate care facilities for individuals with intellectual disabilities with sixteen or fewer beds (ICFs/IID-16); directing State Department of Health to enforce certain federal laws and regulations; requiring administrator of ICF/IID-16 to meet certain qualifications; directing promulgation of rules; amending 63 O.S. 2021, Section 1-1902, which relates to definitions used in the Nursing Home Care Act; modifying definitions; excluding ICFs/IID-16 from certain definition; amending 63 O.S. 2021, Section 330.51, which relates to long-term care administrators; modifying definitions; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-899.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The State Department of Health shall regulate intermediate care facilities for individuals with intellectual disabilities with sixteen or fewer beds (ICFs/IID-16) as distinct facilities and shall

1 not regulate ICFs/IID-16 under the Nursing Home Care Act or any  
2 other act that governs a different type of facility.

3 B. The State Department of Health shall enforce applicable  
4 federal laws and regulations governing intermediate care facilities  
5 for individuals with intellectual disabilities (ICFs/IID) and hired  
6 or contracted staff of ICFs/IID including, but not limited to,  
7 regulations of the Centers for Medicare and Medicaid Services.

8 C. The administrator of an ICF/IID-16 shall meet the  
9 qualifications of Section 3 of this act.

10 D. The State Commissioner of Health shall promulgate rules to  
11 implement this section with input from experienced professionals  
12 currently working in ICFs/IID-16 in this state. Such rules may  
13 include but not be limited to licensure, licensure fees, staffing,  
14 quality of resident care, minimum standards for facilities,  
15 inspections, penalties, and violations. Such rules shall be  
16 separate and distinct from rules regulating facilities under the  
17 Nursing Home Care Act or any other act that governs a different type  
18 of facility.

19 SECTION 2. AMENDATORY 63 O.S. 2021, Section 1-1902, is  
20 amended to read as follows:

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

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

1           2. "Access" means the right of a person to enter a facility to  
2 communicate privately and without unreasonable restriction when  
3 invited to do so by a resident. The state or local "ombudsman", as  
4 that term is defined by the Aging Services Division of the  
5 Department of Human Services pursuant to the Older Americans' Act,  
6 42 U.S.C.A., Section 3001 et seq., as amended, and a case manager  
7 employed by the Department of Mental Health and Substance Abuse  
8 Services or one of its contract agencies shall have right of access  
9 to enter a facility, communicate privately and without unreasonable  
10 restriction with any resident who consents to the communication, to  
11 seek consent to communicate privately and without restriction with  
12 any resident, and to observe all areas of the facility that directly  
13 pertain to the patient care of the resident without infringing upon  
14 the privacy of the other residents without first obtaining their  
15 consent;

16           3. "Administrator" means the person licensed by ~~the State of~~  
17 ~~Oklahoma~~ this state who is in charge of a facility. An  
18 administrator must devote at least one-third (1/3) of such person's  
19 working time to on-the-job supervision of the facility; provided,  
20 that this requirement shall not apply to an administrator of an  
21 intermediate care facility for individuals with intellectual  
22 disabilities with sixteen or fewer beds (ICF/IID-16), in which case  
23 the person licensed by the state may be in charge of more than one  
24 such ICF/IID-16 facility, if such facilities are located within a

1 circle that has a radius of not more than fifteen (15) miles, the  
2 total number of facilities and beds does not exceed six facilities  
3 and sixty-four beds, and each such ICF/IID-16 facility is supervised  
4 by a qualified professional. The facilities may be free-standing in  
5 a community or may be on campus with a parent institution. The  
6 ICF/IID-16 facility may be independently owned and operated or may  
7 be part of a larger institutional operation;

8 4. "Advisory Board" means the Long-Term Care Facility Advisory  
9 Board;

10 5. "Adult companion home" means any home or establishment,  
11 funded and certified by the Department of Human Services, which  
12 provides homelike residential accommodations and supportive  
13 assistance to three or fewer adults with intellectual or  
14 developmental disabilities;

15 6. "Board" means State Board of Health;

16 7. "Commissioner" means State Commissioner of Health;

17 8. "Department" means the State Department of Health;

18 9. "Facility" means a nursing facility and a specialized home;  
19 provided, u this term shall not include a residential care home ~~or~~, u an  
20 adult companion home;

21 10. "Nursing facility" means a home, an establishment or an  
22 institution, a distinct part of which is primarily engaged in  
23 providing:

- a. skilled nursing care and related services for residents who require medical or nursing care,
- b. rehabilitation services for the rehabilitation of injured, disabled, or sick persons, or
- c. on a regular basis, health-related care and services to individuals who because of their mental or physical condition require care and services beyond the level of care provided by a residential care home and which can be made available to them only through a nursing facility.

"Nursing facility" does not mean, for purposes of Section 1-851.1 of this title, a facility constructed or operated by an entity described in paragraph 7 of subsection B of Section 6201 of Title 74 of the Oklahoma Statutes or the nursing care component of a continuum of care facility, as such term is defined under the Continuum of Care and Assisted Living Act, to the extent that the facility constructed or operated by an entity described in paragraph 7 of subsection B of Section 6201 of Title 74 of the Oklahoma Statutes contains such a nursing care component;

11. a. "Specialized facility" means any home, establishment, or institution which offers or provides inpatient long-term care services on a twenty-four-hour basis to a limited category of persons requiring such services, including but not limited to a facility providing

1 health or habilitation services for individuals with  
2 intellectual or developmental disabilities, ~~but~~.

3 b. Specialized facility does not mean, ~~for~~:

4 (1) for purposes of Section 1-851.1 of this title, a  
5 facility constructed or operated by an entity  
6 described in paragraph 7 of subsection B of  
7 Section 6201 of Title 74 of the Oklahoma Statutes  
8 or the nursing care component of a continuum of  
9 care facility, as such term is defined under the  
10 Continuum of Care and Assisted Living Act, to the  
11 extent that the facility constructed or operated  
12 by an entity described in paragraph 7 of  
13 subsection B of Section 6201 of Title 74 of the  
14 Oklahoma Statutes contains such a nursing care  
15 component, or

16 (2) an intermediate care facility for individuals  
17 with intellectual disabilities with sixteen or  
18 fewer beds (ICF/IID-16);

19 12. "Residential care home" means any home, establishment, ~~or~~  
20 institution licensed pursuant to the provisions of the Residential  
21 Care Act other than a hotel, motel, fraternity or sorority house, ~~or~~  
22 college or university dormitory, which offers or provides  
23 residential accommodations, food service, ~~and~~ supportive assistance  
24 to any of its residents or houses any resident requiring supportive

1 assistance. The residents shall be persons who are ambulatory and  
2 essentially capable of managing their own affairs, but who do not  
3 routinely require nursing care; provided, the term "residential care  
4 home" shall not mean a hotel, motel, fraternity or sorority house,  
5 or college or university dormitory, if the facility operates in a  
6 manner customary to its description and does not house any person  
7 who requires supportive assistance from the facility in order to  
8 meet an adequate level of daily living;

9 13. "Licensee" means the person, a corporation, partnership, or  
10 association who is the owner of the facility which is licensed by  
11 the Department pursuant to the provisions of the Nursing Home Care  
12 Act;

13 14. "Maintenance" means meals, shelter, and laundry services;

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

16 16. "Owner" means a person, corporation, partnership,  
17 association, or other entity which owns a facility or leases a  
18 facility. The person or entity that stands to profit or lose as a  
19 result of the financial success or failure of the operation shall be  
20 presumed to be the owner of the facility. Notwithstanding the  
21 foregoing, any nonstate governmental entity that has acquired and  
22 owns or leases a facility and that has entered into an agreement  
23 with the Oklahoma Health Care Authority to participate in the  
24 nursing facility supplemental payment program ("UPL Owner") shall be

1 deemed the owner of such facility and shall be authorized to obtain  
2 management services from a management services provider ("UPL  
3 Manager"), and to delegate, allocate and assign as between the UPL  
4 Owner and UPL Manager, compensation, profits, losses, liabilities,  
5 decision-making authority and responsibilities, including  
6 responsibility for the employment, direction, supervision and  
7 control of the facility's administrator and staff;

8 17. "Personal care" means assistance with meals, dressing,  
9 movement, bathing or other personal needs or maintenance, or general  
10 supervision of the physical and mental well-being of a person, who  
11 is incapable of maintaining a private, independent residence, or who  
12 is incapable of managing his person, whether or not a guardian has  
13 been appointed for such person;

14 18. "Resident" means a person residing in a facility due to  
15 illness, physical or mental infirmity, or advanced age;

16 19. "Representative of a resident" means a court-appointed  
17 guardian or, if there is no court-appointed guardian, the parent of  
18 a minor, a relative, or other person, designated in writing by the  
19 resident; provided, that any owner, operator, administrator or  
20 employee of a facility subject to the provisions of the Nursing Home  
21 Care Act, the Residential Care Act, or the Group Homes for the  
22 Developmentally Disabled or Physically Handicapped Persons Act shall  
23 not be appointed guardian or limited guardian of a resident of the  
24 facility unless the owner, operator, administrator or employee is



1 the spouse of the resident, or a relative of the resident within the  
2 second degree of consanguinity and is otherwise eligible for  
3 appointment; and

4 20. "Supportive assistance" means the service rendered to any  
5 person which is less than the service provided by a nursing facility  
6 but which is sufficient to enable the person to meet an adequate  
7 level of daily living. Supportive assistance includes but is not  
8 limited to housekeeping, assistance in the preparation of meals,  
9 assistance in the safe storage, distribution, and administration of  
10 medications, and assistance in personal care as is necessary for the  
11 health and comfort of such person. Supportive assistance shall not  
12 include medical service.

13 SECTION 3. AMENDATORY 63 O.S. 2021, Section 330.51, is  
14 amended to read as follows:

15 Section 330.51. For the purposes of Section 330.51 et seq. of  
16 this title, and as used herein:

17 1. "Board" means the Oklahoma State Board of Examiners for  
18 Long-Term Care Administrators;

19 2. "Long-term care administrator" means a person licensed or  
20 certified as a nursing facility administrator, an assisted living  
21 facility administrator, a residential care facility administrator,  
22 or an adult day care center administrator pursuant to Section 330.51  
23 et seq. of this title. A long-term care administrator must devote  
24 at least one-half (1/2) of such person's working time to on-the-job  
25

1 supervision of a long-term care facility; provided, that this  
2 requirement shall not apply to an administrator of an intermediate  
3 care facility for individuals with intellectual disabilities with  
4 sixteen or fewer beds (ICF/IID-16), in which case the person  
5 licensed by the state may be in charge of more than one ICF/IID-16,  
6 if such facilities are located within a circle that has a radius of  
7 not more than fifteen (15) miles, and the total number of facilities  
8 and beds does not exceed six facilities and sixty-four beds. The  
9 facilities may be free-standing in a community or may be on campus  
10 with a parent institution. The ICF/IID-16 may be independently  
11 owned and operated or may be part of a larger institutional  
12 ownership and operation;

13 3. "Nursing facility administrator" means a person licensed by  
14 ~~the State of Oklahoma~~ this state to perform the duties of an  
15 administrator serving in a skilled nursing or nursing ~~or ICF/IID~~  
16 facility or intermediate care facility for individuals with  
17 intellectual disabilities (ICF-IID) with seventeen or greater beds;

18 4. "Assisted living facility administrator" means a person  
19 licensed or certified by ~~the State of Oklahoma~~ this state to perform  
20 the duties of an administrator serving in an assisted living  
21 facility;

22 5. "Residential care facility administrator" means a person  
23 licensed or certified by ~~the State of Oklahoma~~ this state to perform  
24 the duties of an administrator serving in a residential care

1 facility or an intermediate care facility for individuals with  
2 intellectual disabilities with sixteen or fewer beds (ICF/IID-16);

3 6. "Adult day care center administrator" means a person  
4 licensed or certified by ~~the State of Oklahoma~~ this state to perform  
5 the duties of an administrator serving in an adult day care center;  
6 and

7 7. "Nursing home", "rest home" and "specialized home" shall  
8 have the same meaning as the term "nursing facility" as such term is  
9 defined in the Nursing Home Care Act; "assisted living center" and  
10 "continuum of care facility" shall have the same meaning as such  
11 terms are defined in the Continuum of Care and Assisted Living Act;  
12 "home" and "residential care home" shall have the same meaning as  
13 the terms are used in the Residential Care Act; and "adult day care  
14 center" and "center" shall have the same meaning as such terms are  
15 used in the Adult Day Care Act.

16 SECTION 4. This act shall become effective November 1, 2023.

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