

1 ENGROSSED SENATE AMENDMENT
TO
2 ENGROSSED HOUSE
BILL NO. 2280

By: Murphey of the House

and

Standridge of the Senate

[public health and safety - requiring Department of
Health to develop a classification system of
violations - effective date]

AUTHOR: Add the following Senate Coauthor: Pittman

AMENDMENT NO. 1. Page 1, strike the stricken title, enacting clause
and entire bill and insert

"An Act relating to the Continuum of Care and
Assisted Living Act; amending 63 O.S. 2011, Section
1-890.6, as amended by Section 2, Chapter 12, O.S.L.
2012 (63 O.S. Supp. 2015, Section 1-890.6), which
relates to violations; requiring State Department of
Health to develop certain system; directing certain
consideration; providing standards for certain
determinations; stipulating procedures for correcting
violations; specifying circumstances for fines;
clarifying applicability of violations; and providing
an effective date.

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

1 SECTION 1. AMENDATORY 63 O.S. 2011, Section 1-890.6, as
2 amended by Section 2, Chapter 12, O.S.L. 2012 (63 O.S. Supp. 2015,
3 Section 1-890.6), is amended to read as follows:

4 Section 1-890.6. A. The Continuum of Care and Assisted Living
5 Act shall not apply to residential care homes, adult companion
6 homes, domiciliary care units operated by the Department of Veterans
7 Affairs, the private residences of persons with developmental
8 disabilities receiving services provided by the Developmental
9 Disabilities Services Division of the Department of Human Services
10 or through the Home- and Community-Based Waiver or the Alternative
11 Disposition Plan Waiver of the Oklahoma Health Care Authority, or to
12 hotels, motels, boardinghouses, rooming houses, a home or facility
13 approved and annually reviewed by the United States Department of
14 Veterans Affairs as a medical foster home in which care is provided
15 exclusively to three or fewer veterans, or other places that furnish
16 board or room to their residents. The Continuum of Care and
17 Assisted Living Act shall not apply to facilities not charging or
18 receiving periodic compensation for services rendered and not
19 receiving any county, state or federal assistance.

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

1 C. Any person who has been determined by the Commissioner to
2 have violated any provision of the Continuum of Care and Assisted
3 Living Act or any rule promulgated hereunder shall be liable for an
4 administrative penalty of not more than Five Hundred Dollars
5 (\$500.00) for each day that the violation occurs.

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

11 a. no actual harm with the potential for minimal harm,

12 b. no actual harm with the potential for more than
13 minimal harm,

14 c. actual harm that is not immediate jeopardy, and

15 d. immediate jeopardy to resident health and safety.

16 2. Upon discovery of one or more violations, the Department
17 shall provide a statement of deficiencies containing the violations.

18 The continuum of care facility or assisted living center shall be
19 required to correct these violations and submit a plan of correction
20 that details how the facility or center will correct each violation,
21 ensure that the violation will not occur in the future and a period
22 to correct each violation not to exceed sixty (60) days.

23 3. No fine shall be assessed for any violation that is not
24 classified as actual harm or immediate jeopardy, unless the

1 continuum of care facility or assisted living center fails to
2 correct the violation within the period set forth in the accepted
3 plan of correction. Fines may be assessed at any time for any
4 violations that are classified as actual harm or immediate jeopardy.

5 4. Any new violation unrelated to the original violation and
6 not classified as actual harm or immediate jeopardy that is
7 discovered upon a re-visitation of a continuum of care facility or
8 assisted living center shall constitute a new action and shall not
9 be included in the original citation or assessment of fines or
10 penalties; provided, that a preexisting violation not corrected in
11 compliance with the approved plan of correction shall be considered
12 still in effect.

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

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

1 ENGROSSED HOUSE
2 BILL NO. 2280

By: Murphey of the House

3 and

4 Standridge of the Senate

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6
7 [public health and safety - requiring Department of Health to develop a
8 classification system of violations - effective date]
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11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 3. AMENDATORY 63 O.S. 2011, Section 1-890.6, as amended by
13 Section 2, Chapter 12, O.S.L. 2012 (63 O.S. Supp. 2015, Section 1-890.6), is amended to
14 read as follows:

15 Section 1-890.6 A. The Continuum of Care and Assisted Living Act shall not apply to
16 residential care homes, adult companion homes, domiciliary care units operated by the
17 Department of Veterans Affairs, the private residences of persons with developmental
18 disabilities receiving services provided by the Developmental Disabilities Services Division of
19 the Department of Human Services or through the Home- and Community-Based Waiver or
20 the Alternative Disposition Plan Waiver of the Oklahoma Health Care Authority, or to hotels,
21 motels, boardinghouses, rooming houses, a home or facility approved and annually reviewed
22 by the United States Department of Veterans Affairs as a medical foster home in which care
23 is provided exclusively to three or fewer veterans, or other places that furnish board or room
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1 to their residents. The Continuum of Care and Assisted Living Act shall not apply to facilities
2 not charging or receiving periodic compensation for services rendered and not receiving any
3 county, state or federal assistance.

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

8 C. Any person who has been determined by the Commissioner to have violated any
9 provision of the Continuum of Care and Assisted Living Act or any rule promulgated
10 hereunder shall be liable for an administrative penalty of not more than Five Hundred Dollars
11 (\$500.00) for each day that the violation occurs.

12 D. 1. The Department of Health shall develop a classification system of violations
13 which shall gauge the severity of the violation based on:

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

18 2. Upon discovery of one or more violations the Department shall provide an itemized
19 list containing said violations which shall include each of the fines to be assessed. The
20 continuum of care facility or assisted living center shall be given an opportunity to correct
21 these violations. If the violations are not corrected within the time limits set forth in the
22 accepted plan of correction, fines may then be assessed.
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1 3. Any subsequent violation discovered upon a revisitation of a continuum of care
2 facility or assisted living center as a result of a preexisting violation shall constitute a new
3 action and shall not be included in the original citation or assessment of fines or penalties;
4 provided, that if a preexisting violation has not been rectified the original assessment shall be
5 considered still in effect.

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

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

15 SECTION 4. NEW LAW A new section of law not to be codified in the Oklahoma
16 Statutes reads as follows:

17 The State Department of Health shall develop the classification system required in
18 Section 1-890.6 of Title 63 of the Oklahoma Statutes in consultation and coordination with the
19 Long-Term Care Facility Advisory Board as defined in Section 1-1923 of Title 63 of the
20 Oklahoma Statutes.

21 SECTION 5. This act shall become effective November 1, 2016.
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1 Passed the House of Representatives the 9th day of March, 2016.

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4 Presiding Officer of the House
5 of Representatives

6 Passed the Senate the ____ day of _____, 2016.

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8 _____
9 Presiding Officer of the Senate