

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1760

By: Garvin

AS INTRODUCED

An Act relating to long-term care; amending 63 O.S. 2021, Section 1-1939, which relates to liability to residents; modifying conditions for liability of nursing facility; updating statutory reference; updating statutory language; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2021, Section 1-1939, is amended to read as follows:

Section 1-1939. A. The owner and licensee ~~are~~ may be liable to a resident for any intentional or negligent act or omission of their agents or employees which injures the resident if the act or omission occurs within the scope of the employment or agency. In addition, any state employee that aids, abets, assists, or conspires with an owner or licensee to perform an act that causes injury to a resident shall be individually liable.

B. A resident may maintain an action under the Nursing Home Care Act for any other type of relief, including injunctive and declaratory relief, permitted by law.

1 C. Any damages recoverable under this section, including
2 minimum damages as provided by this section, may be recovered in any
3 action which a court may authorize to be brought as a class action.
4 The remedies provided in this section, are in addition to and
5 cumulative with any other legal remedies available to a resident.
6 Exhaustion of any available administrative remedies shall not be
7 required prior to commencement of suit hereunder.

8 D. Any waiver by a resident or the legal representative of the
9 resident of the right to commence an action under this section,
10 whether oral or in writing, shall be null and void, and without
11 legal force or effect.

12 E. Any party to an action brought under this section shall be
13 entitled to a trial by jury and any waiver of the right to a trial
14 by a jury, whether oral or in writing, prior to the commencement of
15 an action, shall be null and void, and without legal force or
16 effect.

17 F. A licensee or its agents or employees shall not transfer,
18 discharge, evict, harass, dismiss, or retaliate against a resident,
19 a resident's guardian, or an employee or agent who makes a report,
20 brings, or testifies in, an action under this section, or files a
21 complaint because of a report, testimony, or complaint.

22 G. Any person, institution, or agency, under the Nursing Home
23 Care Act, participating in good faith in the making of a report, or
24 in the investigation of such a report shall not be deemed to have

1 violated any privileged communication and shall have immunity from
2 any liability, civil or criminal, or any other proceedings, civil or
3 criminal, as a consequence of making such report. The good faith of
4 any persons required, or permitted to report cases of suspected
5 resident abuse or neglect under ~~this act~~ the Nursing Home Care Act
6 shall be presumed.

7 H. A facility employee or agent who becomes aware of abuse,
8 neglect, or exploitation of a resident prohibited by the Nursing
9 Home Care Act shall immediately report the matter to the facility
10 administrator. A facility administrator who becomes aware of abuse,
11 neglect, or exploitation of a resident shall immediately act to
12 rectify the problem and shall make a report of the incident and its
13 correction to the State Department of Health.

14 I. 1. The facility shall be responsible for reporting the
15 following serious incidents to the Department within twenty-four
16 (24) hours:

- 17 a. communicable diseases,
- 18 b. deaths by unusual occurrence, including accidental
19 deaths or deaths other than by natural causes, and
20 deaths that may be attributed to a medical device,
- 21 c. missing residents. In addition, the facility shall
22 make a report to local law enforcement agencies within
23 two (2) hours if the resident is still missing,
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1 d. situations arising where a rape or a criminal act is
2 suspected. Such situations shall also be reported to
3 local law enforcement immediately. The facility shall
4 make every effort to preserve the scene of the
5 suspected rape or crime until local law enforcement
6 has arrived, and

7 e. resident abuse, neglect, and misappropriation of the
8 property of a resident.

9 2. All other incident reports shall be made in accordance with
10 federal law.

11 3. All initial written reports of incidents or situations shall
12 be mailed to the Department within five (5) working days after the
13 incident or situation. The final report shall be filed with the
14 Department when the full investigation is complete.

15 SECTION 2. This act shall become effective November 1, 2024.

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