

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 286

By: Rader

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5
6 AS INTRODUCED

7 An Act relating to certificate of need; amending 63
8 O.S. 2011, Section 1-851.1, as amended by Section 54,
9 Chapter 475, O.S.L. 2019 (63 O.S. Supp. 2020, Section
10 1-851.1), which relates to definitions used in the
11 Long-term Care Certificate of Need Act; providing
12 exception; repealing 63 O.S. 2011, Sections 1-880.1,
1-880.2, 1-880.3, 1-880.4, 1-880.5, 1-880.6, 1-880.7,
1-880.8, 1-880.9, 1-880.10 and 1-880.11, which relate
to certificate of need for psychiatric or chemical
dependency facility; and providing an effective date.

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

15 SECTION 1. AMENDATORY 63 O.S. 2011, Section 1-851.1, as
16 amended by Section 54, Chapter 475, O.S.L. 2019 (63 O.S. Supp. 2020,
17 Section 1-851.1), is amended to read as follows:

18 Section 1-851.1. For purposes of the Long-term Care Certificate
19 of Need Act:

- 20 1. "Board" means the State Board of Health;
- 21 2. "Commissioner" means the State Commissioner of Health;
- 22 3. "Department" means the State Department of Health;
- 23 4. "Long-term care facility" means:
- 24

- 1 a. a nursing facility or a specialized facility, as such
2 terms are defined by Section 1-1902 of this title,
3 except that a specialized facility shall not include
4 an intermediate care facility for individuals with
5 intellectual disabilities,
- 6 b. skilled nursing care provided in a distinct part of a
7 hospital as such term is defined by Section 1-701 of
8 this title,
- 9 c. the nursing care component of a continuum of care
10 facility, as such term is defined under the Continuum
11 of Care and Assisted Living Act, or
- 12 d. the nursing care component of a life care community as
13 such term is defined by the Long-term Care Insurance
14 Act;

15 5. "Disclosure statement" means a written statement by the
16 applicant which contains:

- 17 a. the full name, business address, and Social Security
18 number of the applicant, and all persons with
19 controlling interest as defined by the Long-term Care
20 Certificate of Need Act,
- 21 b. the full name and address of any legal entity in which
22 the applicant holds a debt or equity interest of at
23 least five percent (5%), or which is a parent company
24 or subsidiary of the applicant,

1 c. a description of the experience and credentials of the
2 applicant, including any past or present permits,
3 licenses, certifications, or operational
4 authorizations relating to long-term care facility
5 regulation,

6 d. a listing and explanation of any administrative, civil
7 or criminal legal actions against the applicant or any
8 person with a controlling interest which resulted in a
9 final agency order or final judgment by a court of
10 record including, but not limited to, final orders or
11 judgments on appeal related to long-term care in the
12 five (5) years immediately preceding the filing of the
13 application. Such actions shall include, without
14 limitation, any permit denial or any sanction imposed
15 by a state regulatory authority or the Centers for
16 Medicare and Medicaid Services, and

17 e. a listing of any federal long-term care agency and any
18 state long-term care agency outside this state that
19 has or has had regulatory responsibility over the
20 applicant;

21 6. "History of noncompliance" means three standard or complaint
22 surveys found to be at the substandard quality of care level when
23 the facility does not achieve compliance by date certain in a
24 nursing facility or specialized facility for persons with

1 Alzheimer's disease or related disorders. Additionally, "history of
2 noncompliance" for an intermediate care or specialized facility for
3 persons with intellectual disabilities means three consecutive
4 routine or complaint surveys that resulted in determinations that
5 the facility was out of compliance with two or more Conditions of
6 Participation in the Medicaid program within the preceding thirty-
7 six (36) months when the facility does not achieve compliance within
8 sixty (60) days;

9 7. "Person" means any individual, corporation, industry, firm,
10 partnership, association, venture, trust, institution, federal,
11 state or local governmental instrumentality, agency or body or any
12 other legal entity however organized; and

13 8. "Person with a controlling interest" means a person who
14 meets any one or more of the following requirements:

- 15 a. controls fifty percent (50%) or more of the common
16 stock of the corporate entity involved or controls
17 fifty percent (50%) or more of the interest in the
18 partnership involved,
- 19 b. controls a percentage of stock greater than any other
20 stockholder or equal to the other single largest
21 stockholder or controls a percentage of partnership
22 interest greater than any other partner or equal to
23 the other single largest partnership interest, or
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1 c. a managing member of a Limited Liability Company
2 (LLC).

3 SECTION 2. REPEALER 63 O.S. 2011, Sections 1-880.1, 1-
4 880.2, 1-880.3, 1-880.4, 1-880.5, 1-880.6, 1-880.7, 1-880.8, 1-
5 880.9, 1-880.10 and 1-880.11, are hereby repealed.

6 SECTION 3. This act shall become effective November 1, 2021.

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