

THE HOUSE OF REPRESENTATIVES  
Tuesday, April 17, 2007

Committee Substitute for  
ENGROSSED  
Senate Bill No. 738

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 738 - By:  
MORGAN of the Senate and BLACKWELL of the House.

( public health and safety – Continuum of Care and Assisted Living Act -  
assisted living center residents - codification -  
effective date )

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

1 SECTION 1. AMENDATORY 63 O.S. 2001, Section 1-890.2, is amended to  
2 read as follows:

3 Section 1-890.2 As used in the Continuum of Care and Assisted Living Act:

- 4 1. "Assisted living center" means any home or establishment offering, coordinating  
5 or providing services to two or more persons who:
- 6 a. are domiciled therein,
  - 7 b. are unrelated to the operator,
  - 8 c. by choice or functional impairments, need assistance with personal  
9 care or nursing supervision,
  - 10 d. may need intermittent or unscheduled nursing care,
  - 11 e. may need medication assistance, and

1 f. may need assistance with transfer and/or ambulation.  
2 ~~Intermittent nursing care and home health aide services may be provided in an~~  
3 ~~assisted living facility by a home health agency;~~

- 4 2. "Board" means the State Board of Health;  
5 3. "Commissioner" means the Commissioner of Health; and  
6 4. "Continuum of care facility" means a home, establishment or institution  
7 providing nursing facility services as defined in Section 1-1902 of ~~Title 63 of the~~  
8 ~~Oklahoma Statutes~~ this title and one or both of the following:

- 9 a. assisted living center services as defined in the Continuum of Care and  
10 Assisted Living Act, and  
11 b. adult day care center services as defined in Section 1-872 of ~~Title 63 of~~  
12 ~~the Oklahoma Statutes~~ this title.

13 SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma  
14 Statutes as Section 1-890.8 of Title 63, unless there is created a duplication in  
15 numbering, reads as follows:

16 A. Residents of an assisted living center may receive home care services and  
17 intermittent, periodic, or recurrent nursing care through a home care agency under the  
18 provisions of the Home Care Act.

19 B. Residents of an assisted living center may receive hospice home services under  
20 the provisions of the Oklahoma Hospice Licensing Act.

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

1 C. Nothing in the foregoing provisions shall be construed to prohibit any resident of  
2 an assisted living center from receiving such services from any person who is exempt  
3 from the provisions of the Home Care Act.

4 D. The services may be arranged or coordinated by the assisted living center or  
5 privately by the resident, or the designated or legal representative of the resident. To  
6 the extent the assisted living center arranges or coordinates the services, the assisted  
7 living center shall monitor and assure the delivery of those services. All nursing services  
8 shall be in accordance with the written orders of the personal or attending physician of  
9 the resident.

10 E. Notwithstanding the foregoing provisions, a resident of an assisted living center,  
11 or the family or legal representative of the resident, may privately contract or arrange for  
12 private nursing services under the orders and supervision of the personal or attending  
13 physician of the resident, private monitoring, private sitters or companions, personal  
14 domestic servants, or personal staff.

15 F. The assisted living apartment of the resident shall be considered the resident's  
16 domicile.

17 G. If a resident of an assisted living center develops a disability or condition  
18 requiring additional services or accommodations:

19 1. The resident, the designated or legal representative of the resident, the personal  
20 or attending physician of the resident, and a representative of the assisted living center  
21 shall determine by and through a consensus of the foregoing persons any reasonable and  
22 necessary accommodations and additional services required to permit the resident to

1 remain in place in the assisted living center as the least restrictive environment and  
2 with privacy and dignity;

3 2. All accommodations or additional services shall be described in a written plan of  
4 accommodation, signed by the personal or attending physician of the resident, a  
5 representative of the assisted living center, and the resident or the legal representative  
6 of the resident;

7 3. A person responsible for performing, monitoring, and assuring compliance with  
8 the plan of accommodation shall be expressly specified in the plan of accommodation and  
9 may include:

- 10 a. assisted living center staff,
- 11 b. the personal or attending physician of the resident,
- 12 c. a home care agency,
- 13 d. hospice, or
- 14 e. other designated persons;

15 4. If the parties identified in paragraph 1 of this subsection fail to reach a  
16 consensus on a plan of accommodation, the assisted living center shall give written notice  
17 to the resident, the legal representative of the resident, or persons designated in the  
18 resident's contract with the assisted living center, of the termination of the residency of  
19 the resident in the assisted living center in accordance with the provisions of the  
20 resident's contract with the assisted living center. Notice shall not be less than thirty  
21 (30) calendar days prior to the date of termination, unless the assisted living center or  
22 the personal or attending physician of the resident determines the resident is in

1 imminent peril or the continued residency places other persons at risk of imminent  
2 harm; and

3 5. Any resident aggrieved by a decision to terminate residency may seek injunctive  
4 relief in the district court of the county in which the assisted living center is located.  
5 Such action shall be filed no later than ten (10) days after the receipt of the written  
6 notice of termination.

7 SECTION 3. This act shall become effective November 1, 2007.

8 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 04-16-07 - DO  
9 PASS, As Amended.