

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 663. CONTINUUM OF CARE AND ASSISTED LIVING**

"Unofficial Version"

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[Authority: Oklahoma State Board of Health; 63 O.S. 2001, Section 1-104; and Title 63 O.S. Section 1-890.1 et seq.]

[Source: Codified 6-25-1998]

SUBCHAPTER 1. GENERAL PROVISIONS

Section

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310:663-1-1. Purpose

This Chapter provides for the licensure of continuum of care facilities and assisted living centers under authority of the following laws: 63 O.S. Supp. 1997, Sections 1-890.1 et seq. (Continuum of Care and Assisted Living Act); and 75 O.S. Supp. 1997, Sections 250.1 through 323, (Administrative Procedures Act).

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-1-2. Definitions

When used in this Chapter, the following words or terms shall have the following meaning unless the context of the sentence requires another meaning:

"Abuse" means the willful infliction of injury, unreasonable

confinement, intimidation or punishment, with resulting physical harm, impairment or mental anguish.

"Act" means the Continuum of Care and Assisted Living Act, Title 63 O.S. Sections 1-890.1 et seq. of the Oklahoma Statutes.

"Assisted living center" means any home or establishment offering, coordinating or providing services to two (2) or more persons who:

- (A) are domiciled therein;
 - (B) are unrelated to the operator;
 - (C) by choice or functional impairments, need assistance with personal care or nursing supervision;
 - (D) may need intermittent or unscheduled nursing care;
 - (E) may need medication assistance; and
 - (F) may need assistance with transfer and/or ambulation;
- Intermittent nursing care and home health aide services may be provided in an assisted living facility by a home health agency [63:1-890.2(1)].

"Chemical restraint" means the use of a medication for the purpose of discipline, convenience, or in an emergency situation to control mood or behavior and not required to treat the resident's symptoms. Chemical restraint does not mean medication prescribed to maintain emotional stability.

"Commissioner" means the Commissioner of Health.

"Continuum of care facility" means a home, establishment or institution providing nursing facility services as defined in Section 1-1902 of Title 63 of the Oklahoma Statutes and one or both of the following:

- (A) assisted living center services as defined in the Continuum of Care and Assisted Living Act; and
- (B) adult day care center services as defined in Section 1-872 of Title 63 of the Oklahoma Statutes [63:1-890.2.4].

"Department" means the Oklahoma State Department of Health.

"Direct care staff" in an assisted living center means qualified nursing, activity, social and therapy staff employed by or under the direct supervisory control of the assisted living center.

"Intermittent or unscheduled nursing care" means skilled nursing care given by a licensed practical nurse or registered nurse that is not required twenty-four (24) hours a day.

"Misappropriation of resident's property" means the taking, secretion, misapplication, deprivation, transfer, or attempted transfer to any person not entitled to receive any property, real or personal, or anything of value belonging to or under the legal authority, or the taking of any action contrary to any duty imposed by federal or state law prescribing conduct relating to the custody or disposition of resident's property.

"Neglect" means a failure to provide goods and services necessary to avoid physical harm, mental anguish or mental illness.

"Personal care" means assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision of the physical and mental well-being of a person [63:1-1902.17] and includes assistance with toileting.

"Qualified nutritionist" is a Department approved person who holds a baccalaureate with major studies in food and nutrition, dietetics, or food service management; has one year experience in the dietetic service of a health care institution; and participates in continuing education annually.

"Representative" means an agent under a durable power of attorney for health care, or a court-appointed guardian or, if there is no court-appointed guardian, the parent of a minor, a relative, or other person, designated in writing by the resident.

"Resident" means anyone accepted for care through contractual agreement and who meets the admission criteria established pursuant to 310:663-3-2.

"Physical restraint" means any manual method or physical or mechanical device, material or equipment attached or adjacent to the resident's body that the resident cannot remove easily, that is not used for the purpose of therapeutic intervention or body alignment as determined by resident assessment and care planning, and which restricts the resident's desired freedom of movement and access to his or her body.

"Significant change" is defined as a major change in the resident's status that is not self limiting; affects more than one area of the resident's health status; and requires interdisciplinary review and/or revision of the care plan.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 24 Ok Reg 2007, eff 6-25-2007]

310:663-1-3. Purpose, authority and indoor tobacco smoke

(a) The purpose of this section is to establish a prevention program for several non-communicable diseases, which will improve the health of Oklahomans by eliminating exposure to secondhand tobacco smoke and its deadly effects. This section abates the public health nuisance of secondhand smoke under the authority of the Commissioner of Health as specified under Section 1-106(b)(1) of Title 63 of the Oklahoma Statutes. This section also further specifies how compliance with the Smoking in Public Places Act will be accomplished. [63 O.S. §§ 1-1521 *et seq.*]

(b) The Commissioner of Health has conducted a study and is recommending these measures to the Board of Health under his authority as stated in section 1-106 of the Public Health Code. [63 O.S. § 1-106] The Board has the authority to establish prevention programs for non-communicable disease and to promulgate rules for the control of causative or toxic substances, which can cause disease under section 1-502b of the Public Health Code. [63 O.S. § 1-502b] The Board is adopting this rule under its authority in sections 1-104 and 1-1526 of Title 63 of the Oklahoma Statutes. [63 O.S. §§ 1-104 & 1-1526]

(c) Smoking or possessing a lighted tobacco product is prohibited in a continuum of care or assisted living facility and within fifteen (15) feet of each entrance to a facility and of any air intakes; provided however, the facility may provide a smoking room not available to the public for use by residents

(d) An indoor smoking room may be provided if:

- (1) It is completely enclosed;

- (2) It is exhausted directly to the outside and maintained under negative pressure sufficient to prevent any tobacco smoke from entering non-smoking areas of the building;
- (3) It allows for visual observation of the residents from outside of the smoking room; and
- (4) The plans are reviewed and approved by the Department.
- (e) To enable better observation and supervision of residents who wish to smoke outside, a facility may designate a smoking area outside an entrance other than the main entrance which may be closer than fifteen (15) feet to the entrance providing consideration is given to minimizing the possibility of smoke entering the building.
- (f) The walkway to the main entrance shall also be smoke free.
- (g) No ashtray shall be located closer than fifteen (15) feet to an entrance, except in an indoor smoking room or a designated outdoor smoking area under paragraph "c" above.
- (h) Should construction requirements not be in agreement with this rule, the stricter rule shall apply.
- (i) The facility's tobacco use policy shall be clearly posted near the main entrance, and prospective residents or their legal representatives shall be notified of the policy prior to the residents' acceptance for admission.
- [Source: Added at 19 Ok Reg 2096, eff 7-1-2002]

310:663-1-4. Other provisions applicable to continuum of care facilities and assisted living centers

Continuum of care facilities and assisted living centers subject to the provisions of this chapter shall comply with the following Oklahoma statutes as applicable:

- (1) 63 O.S. Sections 1-879.2a et seq., Alzheimer's Disease Special Care Disclosure Act;
- (2) 59 O.S. Sections 367 et seq., Utilization of Unused Prescription Medications Act;
- (3) 63 O.S. Section 1-1909. (relating to documents and papers required to be displayed);
- (4) 63 O.S. Section 1-1945. (relating to Long Term Care Security Act definitions);
- (5) 63 O.S. Section 1-1946. (relating to registered sex offender or violent crime offender seeking placement in a long-term care facility - notification - facility's duty to determine registration status of applicants for care, residents, and employees);
- (6) 63 O.S. Section 1-1950.1. (relating to definitions - criminal arrest check on certain persons offered employment - exemptions);
- (7) 63 O.S. Section 1-1950.3. (relating to nurses aides - employment of persons not licensed);
- (8) 63 O.S. Section 1-1950.4. (relating to nurse aides - uniform employment application);
- (9) 63 O.S. Section 1-1950.4a. (relating to uniform employment application - penalty for false information);
- (10) 63 O.S. Section 1-1950.5. (relating to caregiver - compensation - definition); and

(11) 63 O.S. Section 1-1951. (relating to certified nurse aides).

[Source: Added at 24 Ok Reg 2007, eff 6-25-2007]

SUBCHAPTER 3. SERVICES AND CARE

Section

- 310:663-3-1. Service in an assisted living center
- 310:663-3-2. Admission criteria for assisted living center
- 310:663-3-3. Description of service in assisted living center
- 310:663-3-4. Appropriateness of placement in assisted living center
- 310:663-3-5. Involuntary termination of residency
- 310:663-3-6. Management of risk in assisted living center
- 310:663-3-7. Services and care specific to continuum of care facility
- 310:663-3-8. Food storage, preparation and service

310:663-3-1. Service in an assisted living center

(a) An assisted living center shall not care for any resident needing care in excess of the level that the assisted living center is licensed to provide or capable of providing.

(b) An assisted living center shall ensure that routines of care provision and service delivery are directed by the resident to the maximum extent possible.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-3-2. Admission criteria for assisted living center

(a) The assisted living center shall describe the population admitted or to be admitted based on the services provided to meet the following resident needs:

- (1) assistance with personal care;
- (2) nursing supervision;
- (3) intermittent or unscheduled nursing care;
- (4) medication administration;
- (5) assistance with cognitive orientation and care or service for Alzheimer's disease and related dementias; and
- (6) assistance with transfer or ambulation.

(b) The assisted living center's admission criteria shall be included in the assisted living center's application for license and the resident service contract.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-3-3. Description of service in assisted living center

(a) The assisted living center shall describe the service to be provided or arranged in the assisted living center with respect to the following services:

- (1) assistance with personal care meals, housekeeping and laundry;
- (2) nursing supervision during nursing intervention;
- (3) intermittent or unscheduled nursing care as defined in this chapter;
- (4) medication administration;

- (5) assistance with cognitive orientation;
- (6) any specialized service or unit for residents with Alzheimer's disease and related dementias, physical disabilities or other special needs that the facility intends to market;
- (7) assistance with transfer or ambulation;
- (8) planned programs for socialization, activities and exercise; and
- (9) provisions for evacuation of the building structure and staff to meet the evacuation needs of residents.

(b) The assisted living center's description of its services shall be included in the assisted living center's application for license and the resident service contract.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-3-4. Appropriateness of placement in assisted living center

(a) The assisted living center shall use the screening instrument specified in 310:663-5 to determine the appropriateness of the resident's placement in the assisted living center.

(b) The resident shall not be eligible for placement in the assisted living center under one (1) or more of the following circumstances:

- (1) The resident needs care or services that exceed the care or services available in the assisted living center;
- (2) The resident's physician determines that the resident requires physical or chemical restraints in situations other than emergencies;
- (3) The resident poses a threat to self or others; or
- (4) The assisted living center is unable to meet the resident's needs for privacy or dignity.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-3-5. Involuntary termination of residency

(a) **Termination of residency when inappropriately placed.** If a continuum of care facility or assisted living center finds pursuant to 310:663-3-4 (relating to appropriate placement) that a resident is inappropriately placed, the continuum of care facility or assisted living center shall inform the resident and/or the resident's representative if any. If voluntary termination of residency is not arranged, the continuum of care facility or assisted living center shall provide written notice to the resident and to the resident's representative, giving the resident thirty (30) days notice of the continuum of care facility's or assisted living center's intent to terminate the residency agreement and move the resident to an appropriate care provider. The thirty (30) day requirement shall not apply:

- (1) when emergency termination of the residency agreement is mandated by the resident's immediate health needs; or
- (2) when termination of the residency agreement is necessary for the physical safety of the resident or other residents.

(b) **Written notice of involuntary termination of residency for reasons of inappropriate placement.** The written notice of involuntary termination of residency for reasons of inappropriate

placement shall include:

- (1) A full explanation of the reasons for the termination of residency;
- (2) The date of the notice;
- (3) The date notice was given to the resident and the resident's representative; and,
- (4) The date by which the resident must leave the continuum of care facility or assisted living center.

(c) **Involuntary termination of residency for residents residing in Medicare or Medicaid certified beds of a continuum of care facility.** Residents residing in Medicare or Medicaid certified beds of a continuum of care facility shall be subject to the discharge requirements at 310:675-7-4 (Relating to nursing home resident transfer or discharge).

(d) **Involuntary termination of residency for reasons other than inappropriate placement.** Procedures for involuntary termination of residency for reasons other than inappropriate placement, by a continuum of care facility or assisted living center, are as follows:

(1) Written notice shall be provided to the resident, the resident's legal representative, the person responsible for payment of charges for the resident's care, if different from any of the foregoing, and the Department, at least thirty (30) days in advance of the termination of residency date.

(2) The written notice shall include:

(A) A full explanation of the reasons for the termination of residency;

(B) The date of the notice;

(C) The date notice was given to the resident and the resident's representative;

(D) The date by which the resident must leave the continuum of care facility or assisted living center; and

(E) Information that the resident, the resident's representative or person responsible for payment of the resident's care who is aggrieved by the continuum of care facility's or assisted living center's decision, may file within ten (10) Department business days of receipt of the facility notice a written or verbal request for a hearing with the Department by sending a letter to, or calling, the Hearing Clerk, Oklahoma State Department of Health, 1000 NE Tenth Street, Oklahoma City, OK 73117, telephone (405)271-1269.

(3) A continuum of care facility or assisted living center shall not involuntarily terminate a residency agreement for reasons other than inappropriate placement without following the procedures in this section.

(4) If a written or verbal request for a hearing is timely filed by an eligible aggrieved party, the Department shall convene a hearing within ten (10) Department business days of receipt of the request. The request may be in the form of a written or verbal request for hearing from the resident or the resident's representative. In the event that the resident is unable to write, a verbal request made to the hearing clerk

shall be sufficient. The Department shall reduce the verbal request to writing and send a copy to the resident. The request should state the reason for the termination of residency and attach a copy of the letter from the continuum of care facility or assisted living center.

(5) While waiting for the hearing, the continuum of care facility or assisted living center shall not terminate the residency agreement unless the termination was required by the Department or is an emergency situation. If the resident relocates from the continuum of care facility or assisted living center but wants to be readmitted, the Department may proceed with the hearing and the continuum of care facility or assisted living center shall be required to readmit the resident if the discharge is found not to meet the requirements of OAC 310:663.

(6) The Department shall provide the Administrative Law Judge and the space for the hearing. The parties, including the resident and the continuum of care facility or assisted living center, may be represented by counsel or may represent themselves. Continuum of care facilities or assisted living centers operating as a corporation or limited liability corporation shall be represented by counsel.

(7) The hearing shall be conducted at the Oklahoma State Department of Health building unless there is a request for the hearing to be held at the continuum of care facility or assisted living center or at another place. If the hearing is conducted at another location the parties are responsible for providing the hearing room. The Department shall maintain a record on the case in accordance with the Administrative Procedures Act.

(8) The hearing shall be conducted in accordance with the Administrative Procedures Act. The Administrative Law Judge's order shall include findings of fact, conclusions of law and an order as to whether or not the termination of the residency was according to law.

(9) If the Administrative Law Judge finds that the termination of residency was not according to law, the Department shall review, investigate and issue deficiencies as appropriate.

(10) If the termination of residency is according to law, the order shall give the continuum of care facility or assisted living center the right to terminate the residency agreement.

(11) The scope of the hearing may include:

- (A) Inadequate notice;
- (B) Discharge based on reason not stated in the law;
- (C) Sufficiency of the evidence to support the termination of residency; or
- (D) The finding of emergency.

(12) The Administrative Law Judge shall render a written decision within ten (10) Department business days of the close of the record.

(13) If the Administrative Law Judge sustains the decision of the continuum of care facility or assisted living center, the continuum of care facility or assisted living center may proceed with the termination of residency. If the Administrative Law

Judge finds in favor of the resident, the continuum of care facility or assisted living center shall withdraw its notice of intent to terminate the residency agreement. The decision of the Administrative Law Judge shall be final and binding on all parties unless appealed in accordance with the provisions of the Administrative Procedures Act.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 24 Ok Reg 2007, eff 6-25-2007]

310:663-3-6. Management of risk in assisted living center

(a) If a resident's preference or decision places the resident or others at risk or is likely to lead to an adverse consequence, the assisted living center shall advise the resident and the resident's representative of such risk or consequences.

(b) The assisted living center shall specify the cause for concern, discuss the concern with the resident and representative, if any, and attempt to negotiate a written agreement that minimizes risk and adverse consequences and offers alternatives while respecting resident preferences.

(c) The assisted living center shall document any lack of agreement and shall provide a copy to the resident and the resident's representative.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-3-7. Services and care specific to continuum of care facility

(a) Each continuum of care facility shall provide, coordinate or arrange care appropriate to the needs and capabilities of its residents.

(b) A continuum of care facility shall not care for any resident needing care in excess of the level that the continuum of care facility is licensed to provide.

(c) A continuum of care facility shall ensure the availability of care appropriate to a nursing facility or specialized facility and shall comply with the requirements of Title 63 O.S. Supp. 1997, Section 1-1901 et seq. and OAC 310:675.

(d) In addition to the care required in (c) of this Section, a continuum of care facility shall ensure the availability of at least one (1) of the following:

(1) service appropriate to an assisted living center operating in full compliance with the Act and OAC 310:663; or

(2) care appropriate to an adult day care center operating in compliance with the Title 63 O.S. Supp. 1997, Section 1-870 et seq. and OAC 310:605.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-3-8. Food storage, preparation and service

(a) **Use of Food Service Establishment rule.** Food shall be stored, prepared and served in accordance with Chapter 257 of this Title (relating to food service establishments) with the following additional requirements:

(b) **Ice.** Ice machines available to the residents, or the public, shall be a dispenser type, or have a locking enclosure.

(c) **Food.** A whole, intact, fruit or vegetable is an approved food source. The food supply shall be sufficient in quantity and variety to prepare menus for three (3) days. Leftovers that are potentially hazardous foods shall be used, or disposed of, within twenty-four hours. Non-potentially hazardous leftovers that have been heated or cooked may be refrigerated for up to forty-eight hours.

(d) **Milk, milk products and eggs**

(1) **Milk grade.** Only grade A pasteurized fluid milk, as defined by the Oklahoma Milk and Milk Products Act, Title 2, Section 7-401 through 7-421, shall be used for beverage and shall be served directly into a glass from a milk dispenser or container.

(2) **Powdered or evaporated milk.** Powdered or evaporated milk products approved under the U.S. Department of Health and Human Services' Grade "A" Pasteurized Milk Ordinance (2003 Revision), may be used only as additives in cooked foods. This does not include the addition of powdered or evaporated milk products to milk or water as a milk for drinking purposes. Powdered or evaporated milk products may be used in instant desserts and whipped products or for cooking. When foods, in which powdered or evaporated milk has been added, are not cooked the foods shall be consumed within twenty-four hours.

(3) **Milk Temperature.** Milk for drinking shall be stored at a temperature of 41° F. or below and shall not be stored in a frozen state.

(4) **Eggs.** Only clean, whole eggs with shell intact, pasteurized liquid, frozen, dry eggs, egg products and commercially prepared and packaged hard boiled eggs may be used.

All eggs shall be thoroughly cooked except pasteurized egg products or pasteurized in-shell eggs may be used in place of pooled eggs or raw or undercooked eggs.

(e) **Food service training.** All staff assisting in, or responsible for food service shall have attended a food service training program offered or approved by the Department.

(f) **Applicability.** This section shall only apply to food prepared or served by the continuum of care facility or assisted living center within the licensed continuum of care facility or assisted living center.

[Source: Added at 24 Ok Reg 2007, eff 6-25-2007]

SUBCHAPTER 5. RESIDENT ASSESSMENTS

Section

- 310:663-5-1. Assessments required
- 310:663-5-2. Timeframes for completing assessment
- 310:663-5-3. Description of resident assessment form
- 310:663-5-4. Conduct of assessment
- 310:663-5-5. Use of assessment

310:663-5-1. Assessments required

Each assisted living center shall use the admission and comprehensive assessment designated by the Department.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-5-2. Timeframes for completing assessment

(a) The assisted living center shall complete the admission assessment within thirty (30) days before, or at the time of, admission.

(b) The assisted living center shall complete the comprehensive assessment in accordance with the following:

- (1) within fourteen (14) days after admission of the resident;
- (2) once every twelve (12) months thereafter; and
- (3) promptly after a significant change in the resident's condition.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-5-3. Description of resident assessment form

(a) The admission assessment form shall include but not be limited to the following:

- (1) resident's identification;
- (2) disease diagnosis/infections;
- (3) mental health history, and mental retardation or developmental disability;
- (4) physical functioning which includes the numbers of persons needed to assist with activities of daily living;
- (5) incontinence;
- (6) medications;
- (7) special treatment and procedures;
- (8) cognitive function; and
- (9) signatures and dates.

(b) The comprehensive assessment includes the following information:

- (1) physical functional status;
- (2) mental functional status;
- (3) customary routine;
- (4) disease diagnosis;
- (5) oral/nutritional status;
- (6) medications;
- (7) devices and restraints;
- (8) special treatments;
- (9) skin condition;
- (10) psychosocial status;
- (11) sensory and physical impairments; and
- (12) medically defined conditions and prior medical history.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-5-4. Conduct of assessment

(a) The assessments shall be completed by appropriate participation of health professionals trained in the assessment process.

(b) All assessments must be coordinated and signed by a registered nurse or the resident's personal physician.

(c) The assisted living center shall ensure that each comprehensive assessment includes a personal interview between the resident and the person completing the form. If the resident is

mentally impaired, the assisted living center shall include in the interview at least one (1) of the persons listed in (d)(2) and (d)(3) of this section.

(d) The assisted living center shall maintain all assessments for five (5) years from the date of each assessment. The completed form shall be available upon request to the following:

- (1) the resident;
- (2) the resident's personal physician;
- (3) the resident's representative; and
- (4) the Department.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 17 Ok Reg 422, eff 11-1-99 (emergency); Amended at 17 Ok Reg 1605, eff 5-25-00]

310:663-5-5. Use of assessment

The assisted living center shall use the results of the resident's assessment for the following:

- (1) to assist in determining the appropriateness of the resident's placement in the assisted living center in compliance with 310:663-3; and
- (2) to develop a care plan for the resident, in consultation with the resident.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

SUBCHAPTER 7. PHYSICAL PLANT DESIGN

Section

310:663-7-1. General requirements

310:663-7-2. Privacy and independence

310:663-7-1. General requirements

(a) Each assisted living center shall comply with applicable construction and safety standards pursuant to Title 74 O.S. Sections 317 through 324.21.

(b) The design of the assisted living center shall be appropriate to the mental or physical disabilities of the residents to be served in the assisted living center.

(c) The design of the continuum of care facility or assisted living center shall include physical separation of residents receiving assisted living services from those receiving nursing facility services, including separate dining and common areas. The continuum of care facility or assisted living center shall provide separate wings or buildings with separate exterior entrances for residents receiving assisted living services and those receiving nursing facility services.

(d) Each assisted living center shall comply with the hot water standards set forth in Appendix A.

(e) On and after the effective date of this subsection, each assisted living center that undergoes design changes or construction and each newly licensed assisted living center shall be designed and constructed in conformity with requirements for accessibility to physically disabled persons as specified in Chapter 11 of the International Building Code, 2003 Edition,

published by the International Code Council.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 17 Ok Reg 422, eff 11-1-99 (emergency); Amended at 17 Ok Reg 1605, eff 5-25-00; Amended at 21 Ok Reg 2784, eff 7-12-2004]

310:663-7-2. Privacy and independence

Each assisted living center shall ensure privacy and independence for its residents, to include the following:

- (1) no more than two (2) residents shall occupy each sleeping room;
- (2) shower and bathing facilities shall not be occupied by more than one (1) resident at a time;
- (3) lockable doors on resident sleeping rooms or residences except in the case of documented contraindication;
- (4) no more than four (4) residents sharing toilet facilities;
- (5) no more than four (4) residents sharing bathing facilities, provided that the Department may approve more than four (4) residents per bathing facility based on documentation that the design of the bathing facility is appropriate to the special needs of each resident who uses the bathing facility;
- (6) provisions shall be made for each resident to control the temperature in the individual living unit through the use of a damper, register, thermostat, or other reasonable means that is under the control of the resident and that preserves resident privacy, independence and safety, provided that the Department may approve an alternate means based on documentation that the design of the temperature control is appropriate to the special needs of each resident who has an alternate temperature control; and
- (7) the resident shall have the right to use personal furnishings in the individual living unit.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 17 Ok Reg 422, eff 11-1-99 (emergency); Amended at 17 Ok Reg 1605, eff 5-25-00; Amended at 24 Ok Reg 2007, eff 6-25-2007]

SUBCHAPTER 9. STAFFING REQUIREMENTS

Section

- 310:663-9-1. Nurse
- 310:663-9-2. Medication staffing
- 310:663-9-3. Administrator
- 310:663-9-4. Dietary consultant
- 310:663-9-5. Staff qualifications
- 310:663-9-6. Minimum staff for services

310:663-9-1. Nurse

Each assisted living center shall provide adequate staffing as necessary to meet the services described in the assisted living center's contract with each resident and in compliance with the provisions of the Oklahoma Nursing Practice Act, 59 O.S. Supp. 1997 Section 567.1 et seq. Nurse staffing shall be provided or arranged: (1) registered nurse supervision of skilled nursing interventions;

- (2) documenting the resident's physician of choice;
- (3) documenting the resident's living will or "Do Not Resuscitate Order".

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-9-2. Medication staffing

(a) Each assisted living center shall provide or arrange qualified staff to administer medications based on the needs of residents. Medications shall be reviewed monthly by a registered nurse or pharmacist and quarterly by a consultant pharmacist.

(b) Unlicensed personnel administering medications shall have completed a training program that has been reviewed and approved by the Department.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-9-3. Administrator

Each assisted living center shall designate an administrator responsible for the operation of the assisted living center. The administrator shall hold at least one (1) of the following credentials:

- (1) a license issued by the State Board of Examiners for Nursing Home Administrators; or
- (2) a residential care home administrator's certificate of training from an institution of higher learning whose program has been reviewed by the Department; or
- (3) a nationally recognized assisted living certificate of training and competency for assisted living administrators that has been reviewed and approved by the Department.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-9-4. Dietary consultant

Each assisted living center shall use a licensed dietician or qualified nutritionist to develop the assisted living center's diet plan and address the needs of individuals with special diets.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-9-5. Staff qualifications

(a) All of the assisted living center's employees shall be subject to the requirements for criminal arrest checks applicable to nurses aides under 63 O.S. Supp. 1997, Section 1-1950.1.

(b) Each assisted living center shall ensure that staff members providing socialization, activity, and exercise services are qualified by training.

(c) Each assisted living center offering specialized units shall ensure that staff members are trained to meet the specialized needs of residents.

(d) Assisted living center direct care staff shall be trained in first aid and cardiopulmonary resuscitation.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-9-6. Minimum staff for services

(a) **Staffing.** The right number of trained staff shall be on duty, awake, and present at all times, 24 hours a day, 7 days a week, to

meet the needs of residents and to carry out all the processes listed in the continuum of care facility's, or assisted living center's, written emergency and disaster preparedness plan for fires and other natural disasters.

(b) **Limitations on one-person staffing.** A continuum of care facility or assisted living center that has only one direct care staff member on duty shall:

(1) Disclose the one-person staffing and the plan for dealing with urgent and emergent situations to residents and their representatives before admission or prior to one-person staffing if such staffing was not previously practiced by the continuum of care facility or assisted living center; and,

(2) Have in place a plan, approved by the Department, for dealing with urgent or emergent situations, including resident falls, during periods when the continuum of care facility or assisted living center has only one direct-care staff member on duty.

(c) **Units designed to prevent or limit access to areas outside the designated unit or program.** A continuum of care facility or assisted living center shall have a minimum of two staff members on duty and awake on all shifts if a continuum of care facility or assisted living center has a unit or program designed to prevent or limit access to areas outside the designated unit or program. A minimum of one direct care staff is required to be on duty and awake within the unit or program designed to prevent or limit access to areas outside the designated unit or program at all times.

[Source: Added at 18 Ok Reg 2533, eff 6-25-2001; Amended at 24 Ok Reg 2007, eff 6-25-2007]

SUBCHAPTER 11. QUALITY OF CARE

Section

310:663-11-1. Quality assurance committee

310:663-11-2. Quality assurance representatives

310:663-11-1. Quality assurance committee

Each assisted living center shall establish and maintain an internal quality assurance committee that meets at least quarterly. The committee shall:

- (1) monitor trends and incidents;
- (2) monitor customer satisfaction measures; and
- (3) document quality assurance efforts and outcomes.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-11-2. Quality assurance representatives

The quality assurance committee shall include at least the following:

- (1) registered nurse or physician if a medical problem is to be monitored or investigated;
- (2) assisted living center administrator;
- (3) direct care staff person or a staff person who has responsibility for administration of medications; and

(4) pharmacist consultant if a medication problem is to be monitored or investigated.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

SUBCHAPTER 13. RESIDENT CONTRACT

Section

310:663-13-1. Resident service contract
310:663-13-2. Contents of contract

310:663-13-1. Resident service contract

(a) Each assisted living center shall furnish to each resident a complete and understandable copy of the resident service contract.

(b) All rights, privileges and assurances guaranteed to residents under these rules or marketing materials are deemed incorporated in any contract between an assisted living center and a resident.

(c) The assisted living center shall ensure that the resident or the resident's representative, if any, is informed of all provisions of the resident service contract.

(d) The assisted living center shall provide all services that are specified in the resident's current service contract.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 24 Ok Reg 2007, eff 6-25-2007]

310:663-13-2. Contents of contract

Each resident service contract shall contain a clear statement of the following:

- (1) assisted living center's name and address;
- (2) admission criteria;
- (3) services provided by the assisted living center;
- (4) discharge criteria;
- (5) dispute resolution and grievance procedures;
- (6) charges for services;
- (7) a provision that the written contract constitutes the entire agreement between the resident and the assisted living center not excluding the marketing materials and the requirements of this Chapter;
- (8) term, renewal and cancellation of contract;
- (9) conformity with state law;
- (10) a provision in the event that a resident's condition merits transfer, the transfer shall be initiated within five (5) working days and progress on the transfer shall be noted in the resident's record.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

SUBCHAPTER 15. RESIDENT RIGHTS AND RESPONSIBILITIES

Section

310:663-15-1. Resident rights
310:663-15-2. Guardians and power of attorney
310:663-15-3. Complaints

310:663-15-1. Resident rights

Each assisted living center and its staff shall be familiar with

and shall observe all resident rights and responsibilities enumerated under Title 63 O.S. Section 1-1918.B.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 24 Ok Reg 2007, eff 6-25-2007]

310:663-15-2. Guardians and power of attorney

No owner, operator, administrator or employee of a continuum of care facility or assisted living center subject to the provisions of the Continuum of Care and Assisted Living Act, Nursing Home Care Act, or the Residential Care Act, shall be appointed power of attorney, durable power of attorney, guardian or limited guardian of a resident unless the owner, operator, administrator or employee is the spouse of the resident, or a relative of the resident within the second degree of consanguinity and is otherwise eligible for appointment.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 24 Ok Reg 2007, eff 6-25-2007]

310:663-15-3. Complaints

(a) **Procedures.** The continuum of care facility, or assisted living center, shall make available to each resident or the resident's representative a copy of the continuum of care facility's or assisted living center's complaint procedure. The continuum of care facility or assisted living center shall ensure that all employees comply with the continuum of care facility's or assisted living center's complaint procedure. The continuum of care facility's or assisted living center's complaint procedure shall include at least the following requirements.

(1) The continuum of care facility or assisted living center shall list in its procedures:

(A) The names, addresses and telephone numbers of continuum of care facility or assisted living center staff persons designated to receive complaints for the continuum of care facility or assisted living center;

(B) Notice that a good faith complaint made against the continuum of care facility or assisted living center shall not result in reprisal against the person making the complaint; and

(C) Notice that any person with a complaint is encouraged to attempt to resolve the complaint with the continuum of care facility's or assisted living center's designated complaint staff, that the person may submit a complaint to the Department or other entities without prior notice to the continuum of care facility or assisted living center.

(2) If a resident, resident's representative or continuum of care facility or assisted living center employee submits to the administrator or designated complaint staff a complaint concerning resident abuse, neglect or misappropriation of resident's property, the continuum of care facility or assisted living center shall comply with the Protective Services for Vulnerable Adults Act, Title 43A O.S. Sections 10-101 through 10-110 and OAC 310:663-19-1.

(b) **Posted complaint procedures.** Every continuum of care facility

or assisted living center shall conspicuously post for display in an area accessible to residents, employees and visitors, the continuum of care facility's or assisted living center's complaint procedure specified in paragraph (a) and a description, provided by the Department, of complaint procedures established under this rule and the name, address and telephone number of a person authorized by the Department to receive complaints. A copy of the complaint procedure shall also be given to each resident, the resident's representative, or where appropriate, the court appointed guardian.

[Source: Added at 24 Ok Reg 2007, eff 6-25-2007]

SUBCHAPTER 17. SURETY BONDS OR DEPOSITS

Section

- 310:663-17-1. Purpose of surety bonds or deposits
- 310:663-17-2. Net worth requirement
- 310:663-17-3. Consideration of arrangements
- 310:663-17-4. Errors and omissions policy
- 310:663-17-5. Fidelity bond
- 310:663-17-6. Preference of claims
- 310:663-17-7. Liability insurance
- 310:663-17-8. Projections
- 310:663-17-9. Impairment

310:663-17-1. Purpose of surety bonds or deposits

This Subchapter applies to any continuum of care facility or assisted living center with contractual obligations to provide an unlimited term of services based on a fixed, prepaid fee. This Subchapter is not applicable to continuum of care facilities or assisted living centers that do not have contractual obligations to provide an unlimited term of services based on a fixed, prepaid fee. This Subchapter establishes the amounts of assets needed to qualify for waivers and reductions of deposits and bonds for such continuum of care facilities or assisted living centers.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-17-2. Net worth requirement

(a) The continuum of care facility's or assisted living center's net worth shall be calculated as assets minus liabilities, plus fully subordinated debt.

(b) The continuum of care facility or assisted living center shall maintain cash or cash equivalents sufficient to meet its obligations as they become due.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-17-3. Consideration of arrangements

The financial requirements in OAC 310:663-17-4 through OAC 310:663-17-9 shall apply to a continuum of care facility or assisted living center that provides an unlimited term of services for a fixed prepaid fee, unless it demonstrates that a requirement does not apply. To decide if a requirement applies, the Department shall consider the continuum of care facility or assisted living

center's organizational structure, financial arrangements, fiduciary responsibilities, accounting controls and risk sharing arrangements.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-17-4. Errors and omissions policy

(a) Each continuum of care facility or assisted living center shall file evidence of an errors and omissions policy to protect residents financially from the continuum of care facility's or assisted living center's errors.

(b) The policy shall be no less than five hundred thousand dollars (\$500,000) annual aggregate for all claims made during the policy period.

(c) The policy shall remain in force for at least one (1) year after licensure ends.

(d) Such policy shall be issued by an entity licensed or approved by the Oklahoma Insurance Commissioner to issue errors and omissions policies in Oklahoma.

(e) Such policy shall be continuous in form, or renewed annually. If renewed annually, evidence of renewal shall be provided to the Department each year. The continuum of care facility or assisted living center shall ensure that the Department is notified of:

(1) any lapse in coverage; or

(2) termination of coverage at least thirty (30) days before termination.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-17-5. Fidelity bond

(a) The continuum of care facility or assisted living center shall provide evidence of fidelity coverage in addition to an errors and omissions insurance policy and other liability coverage. The named insured on the bond shall be the continuum of care facility or assisted living center. Insurance Services Office or Surety Association of America bond forms shall be acceptable. The fidelity bond shall be filed with the application.

(1) The bond shall be maintained through the term of licensure, and shall provide for discovery of losses at least one (1) year after termination or cancellation.

(2) The bond shall be executed by a surety company licensed by the Oklahoma Insurance Commissioner.

(3) The bond shall be continuous in form or may be renewed annually. If renewed annually, the continuum of care facility or assisted living center shall file evidence of renewal each year.

(4) Reimbursement to a continuum of care facility or assisted living center shall be from the first dollar of loss up to the full amount for which the person causing the loss is bonded.

(b) The amount of the bond shall be maintained at the greater of fifty thousand dollars (\$50,000) or ten (10) percent of the value of services the continuum of care facility or assisted living center provided in the prior calendar year, rounded to the nearest ten thousand dollars (\$10,000).

(c) The bond shall cover thefts, acts of dishonesty and embezzlement committed by the continuum of care facility's or assisted living center's employees, officers, directors or agents.

(d) The continuum of care facility or assisted living center shall ensure that the Department is notified of:

- (1) any lapse in coverage; or
- (2) termination of coverage at least thirty (30) days before termination.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-17-6. Preference of claims

(a) If either the errors and omissions insurance policy or the fidelity bond is insufficient to pay all claims against the continuum of care facility or assisted living center, then claims shall be satisfied proportionately.

(b) A health provider's claim has the same priority as a resident's claim, if the provider agrees not to assert claims against residents.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-17-7. Liability insurance

In addition to the errors and omissions insurance policy and the fidelity bond, each continuum of care facility or assisted living center shall have liability insurance coverage to protect the interests of residents.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-17-8. Projections

(a) The Department may require a continuum of care facility or assisted living center to submit updates of projections required by OAC 310:663-21-5(a)(9). Each update shall explain any significant variance between operating results and previously forecast amounts.

(b) The Department may request a revision of a financial projection that is inconsistent with the continuum of care facility's or assisted living center's historic performance.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-17-9. Impairment

(a) A continuum of care facility or assisted living center with less than the minimum required net worth shall be considered an impaired continuum of care facility or assisted living center.

(b) The Department shall determine the amount of impairment. The amount of impairment may be based on a financial statement made by a continuum of care facility or assisted living center or on an examination report. The Department shall require the continuum of care facility or assisted living center to eliminate the impairment within ninety (90) days. If the continuum of care facility or assisted living center does not eliminate the impairment, the Department may revoke the continuum of care facility's or assisted living center's license.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

SUBCHAPTER 19. ADMINISTRATION, RECORDS AND POLICIES

Section

- 310:663-19-1. Incident reports
- 310:663-19-2. Medication administration
- 310:663-19-3. Maintenance of records

310:663-19-1. Incident reports

(a) **Timeline for reporting.** All reports to the Department shall be made via facsimile or by telephone within one Department business day of the reportable incident's discovery. A follow-up report of the incident shall be submitted via facsimile or mail to the Department within five (5) Department business days after the incident. The final report shall be filed with the Department when the full investigation is complete, not to exceed ten (10) Department business days after the incident. Notifications to the Nurse Aide Registry using the ODH Form 718 must be made within one Department business day of the reportable incident's discovery.

(b) **Incidents requiring report.** Each continuum of care facility and assisted living center shall prepare a written incident report for the following incidents:

- (1) allegations and incidents of resident abuse;
- (2) allegations and incidents of resident neglect;
- (3) allegations and incidents of misappropriation of resident's property;
- (4) fires on the licensed real estate;
- (5) storm damage resulting in relocation of a resident from a currently assigned room;
- (6) deaths by unusual occurrence, including accidental deaths or deaths other than by natural causes;
- (7) residents missing from the continuum of care facility or assisted living center upon determination by the continuum of care facility or assisted living center that the resident is missing;
- (8) utility failure for more than 4 hours;
- (9) incidents occurring at the continuum of care facility or assisted living center, on the continuum of care facility or assisted living center grounds or during continuum of care facility or assisted living center sponsored events, that result in fractures, head injury or require treatment at a hospital;
- (10) reportable diseases and injuries as specified by the Department in OAC 310:515 (relating to communicable disease and injury reporting); and,
- (11) situations arising where a criminal act is suspected. Such situations shall also be reported to local law enforcement.

(c) **Incidents involving another provider.** Each continuum of care facility and assisted living center shall promptly refer incidents involving another provider, including a hospice or home health agency, to the certification or licensure agency having jurisdiction over the provider.

(d) **Reports to the Department.** Each continuum of care facility and assisted living center shall report to the Department those

incidents specified in 310:663-19-1(b). A continuum of care facility or assisted living center may use the Department's Long Term Care Incident Report Form.

(e) **Licensing boards.** Each continuum of care facility and assisted living center shall report allegations and incidents of resident abuse, neglect, or misappropriation of resident's property by licensed personnel to the appropriate licensing board within five (5) business days.

(f) **Notification of nurse aide registry.** Each continuum of care facility and assisted living center shall report allegations and occurrences of resident abuse, neglect, or misappropriation of resident's property by nurse aide to the Nurse Aide Registry by submitting a completed "Notification of Nurse Aide Abuse, Neglect, Mistreatment or Misappropriation of Property" form (ODH Form 718), which requires the following:

- (1) facility/center name, address and telephone;
- (2) facility type;
- (3) date;
- (4) reporting party name or administrator name;
- (5) employee name and address;
- (6) employee certification number;
- (7) employee social security number;
- (8) employee telephone number;
- (9) termination action and date (if applicable);
- (10) other contact person name and address; and
- (11) the details of the allegation or occurrence of abuse, neglect, or misappropriation of resident property.

(g) **Content of incident report.**

- (1) The preliminary report shall at the minimum include:
 - (A) who, what, when, and where; and
 - (B) measures taken to protect the resident(s) during the investigation.
- (2) The follow-up report shall at the minimum include:
 - (A) preliminary information;
 - (B) the extent of the injury or damage if any; and
 - (C) preliminary findings of the investigation.
- (3) The final report, at the minimum, include preliminary and follow-up information and:
 - (A) a summary of investigative actions;
 - (B) investigative findings and conclusions based on findings;
 - (C) corrective measures to prevent future occurrences; and
 - (D) if items are omitted, why the items are omitted and when they will be provided.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 24 Ok Reg 2007, eff 6-25-2007]

310:663-19-2. Medication administration

(a) Each assisted living center shall adopt written procedures to ensure safe administration of medications.

- (1) Medications shall be administered only on a physician's order.
- (2) The person responsible for administering medications shall

personally prepare the dose, observe the swallowing of oral medication, and record the medication. Medications shall be prepared within one hour prior to administration.

(3) An accurate written record of medications administered shall be maintained. The medication record shall include:

(A) The identity and signature of the person administering the medication.

(B) The medication administered within one hour of the scheduled time.

(C) Medications administered as the resident's condition may require (p.r.n.) are recorded immediately, including the date, time, dose, medication, and administration method.

(D) Adverse reactions or results.

(E) Injection sites.

(F) An individual inventory record shall be maintained for each Schedule II medication prescribed for a resident.

(G) Medication error incident reports.

(4) A resident's adverse reactions shall be reported at once to the attending physician.

(b) An assisted living center may maintain nonprescription drugs for dispensing from a common or bulk supply if all of the following are accomplished.

(1) The assisted living center shall have and follow a written policy and procedure to assure safety in dispensing and documenting medications given to each resident.

(2) The assisted living center shall maintain records which document the name of the medication acquired, the acquisition date, the amount and the strength received for each medication maintained in bulk.

(3) Only a licensed nurse, physician, pharmacist, certified medication aide or medication aide technician may dispense for administration these medications and only upon a physician's written order for as needed or nonscheduled dosage regimens. The physician's written order shall be maintained in the resident's clinical record.

(4) Bulk medications shall be stored in the medication area and not in resident rooms.

(5) The assisted living center shall maintain records of all bulk medications that are dispensed on an individual signed medication administration record.

(6) The assisted living center shall maintain the original label on the container as it comes from the manufacturer or on the unit-of-use or blister package.

(7) The assisted living center shall establish in its policy and procedure the maximum size of packaging and shall ensure that each resident receives the correct dosage. The assisted living center shall not acquire nor maintain a liquid medication in a package size that exceeds 16 fluid ounces.

(8) An assisted living center shall have only oral analgesics, antacids, and laxatives for bulk dispensing. No other category of medication shall be maintained as bulk medication.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 17 Ok Reg 2069, eff 6-12-00; Amended at 24 Ok Reg 2007, eff 6-25-2007]

310:663-19-3. Maintenance of records

(a) There shall be an organized, accurate, clinical record, typewritten, electronic, or legibly written with pen and ink, for each resident admitted. The resident's record shall document all services provided.

(b) Each resident's records shall be retained for at least five years after the resident's transfer, discharge or death. Destruction of records shall be done in a manner to preserve resident confidentiality.

(c) Records for the previous twelve (12) months of operation, whether original, electronic, or microfilm copies, shall be maintained in such form as to be legible and readily available upon request of the attending physician, the continuum of care facility or assisted living center and any person authorized by law to make such a request. Records more than twelve (12) months old, whether original, electronic, or microfilm copies, shall be maintained in such form as to be legible and available within seventy-two (72) hours upon request of the attending physician, the continuum of care facility or assisted living center, and any person authorized by law to make such a request.

(d) Information contained in each resident's record shall be confidential and disclosed only to the resident, persons authorized by the resident, and persons authorized by law or rule.

(e) Resident records shall be filed and stored to protect against loss, destruction, or unauthorized use.

(f) The Department shall be informed in writing within five business days of discovery whenever any resident's records are defaced, or destroyed, before the end of the required retention period.

(g) If a continuum of care facility or assisted living center ceases operation, the Department shall be notified within five business days of the arrangements for preserving the resident's record. The record shall be preserved for the required time and the information in the records shall be available to the health professionals or facilities assuming care of the resident so that continuity of care is available.

(h) If the ownership of the continuum of care facility or assisted living center changes, the new licensee shall have custody of original or true and correct copies of all records required by this section for all current residents and the records shall be available to the former licensee and other authorized persons.

(i) Incident reports required in 310:663-19-1. shall be retained, filed and stored to protect against loss, destruction, or unauthorized use for a period of two (2) years. Destruction of incident reports shall be done in a manner to preserve resident confidentiality.

[Source: Added at 24 Ok Reg 2007, eff 6-25-2007]

SUBCHAPTER 21. APPLYING FOR A LICENSE

Section

- 310:663-21-1. Application required
- 310:663-21-2. Deadlines for filing
- 310:663-21-3. Where to file
- 310-663-21-4. Filing fees
- 310:663-21-5. Description of application forms

310:663-21-1. Application required

(a) Each continuum of care facility or assisted living center shall apply for a license on forms provided by the Department.

(b) The person or entity responsible for providing or arranging all required services and care shall be the applicant for establishment of the continuum of care facility or assisted living center and for the license.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 17 Ok Reg 422, eff 11-1-99 (emergency); Amended at 17 Ok Reg 1605, eff 5-25-00]

310:663-21-2. Deadlines for filing

(a) The application for establishment of a continuum of care facility or assisted living center shall be filed at or before the time when the application for an initial license is filed. Provided, however, that an application for establishment is not required in conjunction with the transfer of ownership or operation of a facility or center that is currently licensed under the Act and OAC 310:663.

(b) The license application shall be filed in accordance with the following deadlines.

(1) The application for an initial license of a new continuum of care facility or assisted living center shall be filed at least thirty (30) days before beginning operations.

(2) The application for an initial license, following a transfer of ownership or operation, shall be filed at least thirty (30) days before the final transfer. In the case of the appointment of a receiver as operator, this thirty (30) day advance filing requirement may be waived if the Department finds that an emergency exists which threatens the welfare of the residents. If an emergency is found to exist, the receiver shall file the license application before beginning operation of the assisted living center or continuum of care facility.

(3) The application for renewal of the license of an existing continuum of care facility or assisted living center, with no transfer of ownership or operation, shall be filed by the renewal date specified on the existing license. Each initial license shall be effective for one hundred eighty (180) days from the issue date. The renewal license shall be issued for a period of twelve (12) months from the date of issue. Provided that licenses may be issued for a period of more than twelve (12) months, but not more than twenty-four (24) months, for the license period immediately following the effective date of this provision in order to permit an equitable distribution of license expiration dates to all months of the year.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 17 Ok Reg 422, eff 11-1-99 (emergency); Amended at 17 Ok Reg 1605, eff

5-25-00; Amended at 22 Ok Reg 2436, eff 7-11-2005]

310:663-21-3. Where to file

The application and the filing fees required under the Act and OAC 310:663-21-4 shall be delivered or mailed to the Department. The effective date of filing shall be the date the application and required fees are received by the Department.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 16 Ok Reg 137, eff 10-14-98 (emergency); Amended at 16 Ok Reg 2519, eff 6-25-99]

310:663-21-4. Filing fees

(a) Each application to establish a continuum of care facility or assisted living center shall be accompanied by a non-refundable application fee of Ten Dollars (\$10.00) for each bed included in the maximum bed capacity at such facility or center. The maximum application fee for each facility or center shall be One Thousand Dollars (\$1000.00). The application fee for establishment of a facility or center shall be in addition to the license fee required under the Act and OAC 310:663-21-4(b).

(b) Each application for an initial license or for an annual renewal license to operate an assisted living center or a continuum of care facility shall be accompanied by a non-refundable license fee. The license fee shall be in the amount set in the Act.

(c) The application and license fees shall be paid by check to the Oklahoma State Department of Health.

(d) The fee for a license renewal following an initial license, or for a license amendment to reflect a change in bed capacity, shall be prorated based on the number of days remaining until the current license expires, and, in the case of a change in bed capacity, the number of beds being added.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 16 Ok Reg 137, eff. 10-14-98 (emergency); Amended at 16 Ok Reg 2519, eff 6-25-99; Amended at 22 Ok Reg 2436, eff 7-11-2005]

310:663-21-5. Description of application forms

(a) The application for establishment of a continuum of care facility or assisted living center requests the following:

(1) a description of the assisted living center or continuum of care facility and its operations, including the types and hours of staff, and maximum occupancy;

(2) a description of the types of residents to be served;

(3) a description of service to be offered, including any specialized services or units;

(4) scaled and dimensioned architectural floor plans, life safety plans, and building code analysis, for an existing structure;

(5) scaled and dimensioned architectural floor plans and specifications for new construction; and

(6) contact person's name, address and telephone number.

(b) The application for an initial license of a continuum of care facility or assisted living center requests the following:

- (1) a description of the assisted living center or continuum of care facility and its operations, including the types and hours of staff, and maximum occupancy;
 - (2) a description of the types of residents to be served;
 - (3) a description of service to be offered, including any specialized services or units;
 - (4) forms of all resident service contracts;
 - (5) contact person's name, address and telephone number;
 - (6) evidence of the applicant's financial resources;
 - (7) evidence that the State Fire Marshal or authorized representative has inspected and approved the assisted living center or continuum of care facility;
 - (8) a description of the procedure for receiving and resolving resident grievances and disputes; and
 - (9) financial projections if the applicant is subject to the requirements of 310:663-17.
- (c) The application to renew a license requests:
- (1) any changes in the information provided in OAC 310:663-21-5(b).
 - (2) a summary of the resident grievance and dispute resolution activities for the preceding twelve (12) months.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 16 Ok Reg 137, eff. 10-14-98 (emergency); Amended at 16 Ok Reg 2519, eff 6-25-99; Amended at 17 Ok Reg 422, eff 11-1-99 (emergency); Amended at 17 Ok Reg 1605, eff 5-25-00]

SUBCHAPTER 23. APPROVING OR DISAPPROVING ESTABLISHMENT, AND ISSUING OR DENYING A LICENSE

Section

- 310:663-23-1. Timeframes for review
 310:663-23-2. Transfer of license or approval to establish
 310:663-23-3. Denial or disapproval of application

310:663-23-1. Timeframes for review

The Department shall approve or disapprove the application for establishment, or issue or deny a license within thirty (30) days after receipt of application. This timeframe may be extended by ninety (90) days upon the mutual agreement of the applicant and the Department.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 17 Ok Reg 422, eff 11-1-99 (emergency); Amended at 17 Ok Reg 1605, eff 5-25-00]

310:663-23-2. Transfer of license or approval to establish

No establishment shall be approved and no license shall be issued to any person other than the person making application. An approval to establish a continuum of care facility or assisted living center or a license shall not be transferred in whole or part to another person.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 17 Ok Reg 422, eff 11-1-99 (emergency); Amended at 17 Ok Reg 1605, eff 5-25-00]

310:663-23-3. Denial or disapproval of application

(a) An application for establishment or licensure may be disapproved or denied for failure to meet any of the standards in the Act or OAC 310:663.

(b) Within ten (10) days after disapproval or denial, the Department shall send written notice to the applicant. The notice of disapproval or denial shall include a statement of the deficiencies on which disapproval or denial was based and a notice of the opportunity for hearing if applicable.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 17 Ok Reg 422, eff 11-1-99 (emergency) ; Amended at 17 Ok Reg 1605, eff 5-25-00]

SUBCHAPTER 25. INSPECTIONS AND INVESTIGATIONS

Section

310:663-25-1. Periodic inspections

310:663-25-2. Investigations

310:663-25-3. Outcome standards

310:663-25-4. Notice of violation, plans of correction, and right to hearing

310:663-25-1. Periodic inspections

(a) The Department shall inspect each continuum of care facility or assisted living center through an unannounced inspection at least once each fifteen (15) months, with a statewide average of twelve (12) months for all continuum of care facilities and assisted living centers.

(b) Prior to the termination of an initial license, the Department shall fully and completely inspect the assisted living center or continuum of care facility and, if it meets the applicable requirements for licensure, shall issue a license. If the Department finds that the continuum of care facility or assisted living center does not meet the requirements, the initial license may be extended once for a period not to exceed one hundred twenty (120) days from the expiration date of the initial license.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-25-2. Investigations

The Department whenever it deems necessary shall inspect, survey and evaluate each continuum of care facility or assisted living center to determine compliance with applicable licensure requirements.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-25-3. Outcome standards

To the extent allowed in this Chapter, if an assisted living center provides or arranges skilled nursing care, the Department shall assess the quality of that care against applicable standards of practice specified in Appendix B.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 24 Ok

Reg 2007, eff 6-25-2007]

310:663-25-4. Notice of violation, plans of correction, and right to hearing

(a) **Notice of Violation.** If upon survey or investigation the Department finds that the continuum of care facility or assisted living center is in violation of the Act or this Chapter, the Department shall provide written notice of the violation to the continuum of care facility or assisted living center.

(b) **Plan of Correction.**

(1) A continuum of care facility or assisted living center shall submit a plan of correction within ten (10) Department business days after receipt of notice of violation. Failure to timely submit a plan of correction shall be subject to the penalties provided in Title 63 O.S. Section 1-890.6.

(2) An acceptable plan of correction shall:

(A) Address how corrective action will be accomplished for those residents found to have been affected by the deficient practice.

(B) Address how the continuum of care facility or assisted living center will identify other residents having the potential to be affected by the same deficient practice. Plans of correction specific to residents identified on the deficiency statement are acceptable only where the deficiency is determined to be unique to that resident and not indicative of a possible systemic problem.

(C) Address what measures will be put into place or systemic changes made to ensure that the deficient practice will not recur.

(D) Indicate how the continuum of care facility or assisted living center plans to monitor its performance to make sure that corrections are sustained. The continuum of care facility or assisted living center shall develop a plan for ensuring that correction is achieved and sustained. The actions taken to correct the deficient practice must be evaluated for its effectiveness. The plan of correction shall be incorporated into the quality assurance system. At the revisit, the monitoring records may be reviewed to determine the earliest date of compliance. If there is no evidence of evaluation of the correction, the earliest correction date will be the date of the revisit. The continuum of care facility or assisted living center is not required to provide quality assurance minutes for the purposes of this section.

(E) Include dates when corrective action will be completed for each violation. The corrective action completion dates shall not exceed sixty (60) calendar days from receipt of notice of violation.

(F) Be signed by the administrator.

(3) Upon written request from the continuum of care facility or assisted living center, the Department may extend the time period within which the violations are to be corrected where correction involves substantial structural

improvement. Such request shall be provided to the Department within the timeline specified at 310:663-25-4(b)(1) (relating to submission within ten (10) Department business days) or prior to expiration of the correction time originally approved. The burden of proof shall be on the licensee to show good cause for not being able to comply with the timeline in 310:663-25-4(b)(2)(E) (relating to correction within sixty (60) days).

(4) The Department shall provide written notice of the acceptance or rejection of a plan of correction within ten (10) Department business days. If the Department fails to provide notice of acceptance or rejection within the required time frame, notice will be provided as soon as time permits and any delay on the Department's part will result in a day for day off-set in any per diem penalty. If the Department finds that the plan of correction does not meet the requirements for an acceptable plan of correction as specified in this section the Department shall provide notice of the rejection and the reason for the rejection to the continuum of care facility or assisted living center. The continuum of care facility or assisted living center shall have ten (10) Department business days after receipt of the notice of rejection in which to submit an amended plan. If the amended plan is not timely submitted, or if the amended plan is rejected, the Department shall give notice of intent to pursue penalties, as provided in Title 63 O.S. Section 1-890.6., or notice of intent to conduct a revisit to determine if violations continue.

(5) Acceptance of the plan of correction by the Department does not absolve the continuum of care facility or assisted living center of the responsibility for compliance should the implementation not result in correction and compliance. Acceptance indicates the Department's acknowledgment that the continuum of care facility or assisted living center indicated a willingness to make timely corrections.

(6) If the violation has been corrected prior to submission and approval of a plan of correction, the continuum of care facility or assisted living center may submit a report of correction in place of a plan of correction. The report of correction shall address those requirements specified in this section.

(7) If a continuum of care facility or assisted living center desires to contest any Department action under this section, it shall send a written request for a hearing to the Hearing Clerk, Oklahoma State Department of Health, 1000 NE Tenth Street, Oklahoma City, OK 73117. The request for hearing shall be submitted within ten (10) Department business days of receipt of notice of the contested action.

(c) **Right to Hearing.** The Department shall notify the continuum of care facility or assisted living center in writing of the Department's intent to take remedial action, to impose an administrative penalty, or to take action against the license issued under the act, and of the rights of the continuum of care

facility or assisted living center under this section, including without limitation the right to a hearing.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 24 Ok Reg 2007, eff 6-25-2007]

SUBCHAPTER 27. REPORTS AND FILINGS

Section

310:663-27-1. Application form changes

310:663-27-2. Department review

310:663-27-1. Application form changes

Any substantial change in the information originally reported in the license application shall be submitted to the Department for review.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-27-2. Department review

Within thirty (30) days after receipt, the Department shall approve or deny proposed changes or required filings.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

SUBCHAPTER 29. TERMINATING AND CONTINUING SERVICES

Section

310:663-29-1. Terminating contracts

310:663-29-2. Notice of voluntary closure

310:663-29-1. Terminating contracts

A continuum of care facility or assisted living center shall notify a resident, the resident's representative, and a member of the resident's family at least thirty (30) days before terminating or not renewing the resident's contract. Notification to family members of the termination of resident's contract shall only occur with the written permission of the resident or the resident's representative.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-29-2. Notice of voluntary closure

(a) **Timeline for notice of intent to close.** A continuum of care facility or assisted living center shall notify all residents, their representatives, and the Department in writing at least ninety (90) days before any of the following:

- (1) voluntary cessation of business; or
- (2) closure of all or part of a continuum of care facility or assisted living center.

(b) **Contents of notice.** The notice of closure shall state:

- (1) the proposed date of closing;
- (2) the reason for closing;
- (3) an offer to assist the resident in securing an alternative placement;
- (4) advise the resident or resident's representative on available housing alternatives and that where the resident is

unable to choose an alternative placement and is not under guardianship, the Department shall be notified of the need for relocation assistance;

(5) the facility shall comply with all applicable laws and regulations until the date of closing, including those related to transfer or discharge of residents.

(c) **Final notice of closure.** Following the move-out of the last resident, the continuum of care facility or assisted living center shall provide the Department, in writing, the following:

(1) the effective date of closure based on the discharge date of the last resident;

(2) a list of residents transferred or discharged and the location to where they relocated, whether another continuum of care facility or assisted living center or alternative placement; and

(3) the plan for storage of resident records pursuant to 310:663-19-3(g)(relating to preservation of resident records) and the name, address and phone number of the person responsible for the records.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 24 Ok Reg 2007, eff 6-25-2007]

SUBCHAPTER 31. SUSPENDING OR WITHDRAWING A LICENSE

Section

310:663-31-1. Conditions to revoke or suspend

310:663-31-2. Suspended license

310:663-31-3. Revoked license

310:663-31-1. Conditions to revoke or suspend

The Department may revoke or suspend a license issued to a continuum of care facility or assisted living center, or take such other steps as appropriate, if the continuum of care facility or assisted living center is not in compliance with the Act or OAC 310:663.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-31-2. Suspended license

(a) While a continuum of care facility's or assisted living center's license is suspended, the continuum of care facility or assisted living center shall not enroll, advertise or solicit additional business.

(b) The order suspending the license shall specify the period of suspension and conditions to be met for reinstatement.

(c) A continuum of care facility or assisted living center's license shall not be suspended without cause. Within ten (10) days of suspension, the Department shall send written notice to the applicant. The notice of suspension shall include a statement of the deficiencies on which the suspension was based and notice of the opportunity for hearing.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-31-3. Revoked license

(a) The continuum of care facility or assisted living center shall conduct no business except as may be essential to the orderly conclusion of its affairs when a continuum of care facility's or assisted living center's license is revoked. The Department may order such operations as needed to afford residents a practical opportunity for care and services.

(b) To reinstate a license after revocation, the continuum of care facility or assisted living center shall follow the procedures for an initial application specified at OAC 310:663-21.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

Appendix A. HOT WATER USE

	Bathing	Resident Use Dietary	Laundry
Gallons (per hr. & bed)	6 1/2	4	4 1/2
Temperature	115° F. (46° C.)	*120° F. (49° C.)	**160° F. (7° C.)

 * Rinse water temperature at automatic warewashing equipment shall be 180° (82.1° C.).

** Required temperature of 160°F (70° C.) in the laundry area is that measured in the washing machine and shall be supplied so that temperature may be maintained over the entire wash and rinse period. Attention is called to the fact that control of bacteria in laundry processing is dependent upon a number of inter-related factors such as detergent, bleach, number of rinses and temperature. In most instances, maximum overall economies with acceptable results can be achieved with the use of 160° F. (70° C.) water. Lesser temperature may require excessive bleaching or other chemical treatment that would be damaging to fabrics.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

**APPENDIX B. REFERENCE LIST FOR STANDARDS OF PRACTICE
(Referring to OAC 310:663-25-3. Outcome Standards)**

"Physical Examination and Health Assessment" - Third Edition - Carolyn Jarvis

"Medical-Surgical Nursing Assessment and Management of Clinical Problems" - Fifth Edition - Lewis, Heitkemper and Dirksen (Mosby)

"Handbook of Geriatric Nursing" - Second Edition - Lippincott, Williams and Wilkins

"Clinical Nursing Skills - Basic To Advanced Skills" - Fifth Edition - Smith, Duell and Martin

Oklahoma Board of Nursing Guidelines and Position Statements:

"A Decision-Making Model for Determining RN/LPN Scope of Practice Model - Model for Scope of Nursing Practice Decisions"

"Abandonment Statement"

"Advanced Practice Nurses with Prescriptive Authority Exclusionary Formulary"

"Delegation of Nursing Functions to Unlicensed Persons"

"Guidelines for Employment of Individuals Enrolled in or Non-Licensed Graduates of Nursing Education Programs"

"Guidelines for the Registered Nurse in Administering, Managing and Monitoring Patients Receiving Analgesia/Anesthesia by Catheter Techniques"

"Issuance of Temporary Licenses for RNs and LPNs"

"Licensure Verification and Photocopying of Nursing Licenses"

"Patient Assessment Guidelines"

"Refresher Course Policy"

"Wound Debridement by Licensed Nurses Guideline"

Standards of the American Nurses Association and Specialty Nursing Organizations:

"Nursing: Scope and Standards of Practice" Pub# 03SSNP - 2004

"Scope and Standards for Nurse Administrators" (Second Edition); Pub#03SSNA - 2004

"Scope and Standards of Diabetes Nursing Practice" (2nd

Edition); Pub# DNP23 - 2003

"Scope and Standards of Forensic Nursing Practice" Pub# ST-4 - 1997

"Scope and Standards of Gerontological Nursing Practice" 2nd Edition; Pub# GNP21 - 2001

"Scope and Standards of Hospice and Palliative Nursing Practice" Pub# HPN22 - 2002

"Scope and Standards of Neuroscience Nursing Practice" Pub# NNS22 - 2002

"Scope and Standards of Nursing Informatics Practice" Pub# NIP21 - 2001

"Scope and Standards of Psychiatric-Mental Health Nursing Practice" Pub# PMH-20 - 2000

"Statement on the Scope and Standards for the Nurse Who Specializes in Developmental Disabilities and/or Mental Retardation" Pub# 9802ST - 1998

"Statement on the Scope and Standards of Oncology Nursing Practice" Pub# MS-23 - 1996

[Source: Revoked and Reenacted at 24 Ok Reg 2007, eff 6-25-2007]