

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

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 15. Resident Rights and Responsibilities
310:663-15-4. Prohibited restrictions and fees [NEW]

SUMMARY:

This proposal adds OAC 310:663-15-4 as new rule to address requirements in statute related to a resident's freedom of choice in physician and pharmacist and prohibits any financial penalty or fee for their choice. This change enacts the authorizing statute at Title 63 O.S. Section 1-890.3(A)(8). This change enumerates the resident rights and defines the responsibilities to be observed by each facility and its staff.

AUTHORITY:

Oklahoma State Board of Health, Title 63 O.S. Section 1-104; Title 63 O.S. Section 1-890.3(A)(8).

COMMENT PERIOD:

October 3, 2016 through November 3, 2016. Interested persons may informally discuss the proposed rules with Michael Cook, Director, Long Term Care Service, Oklahoma State Department of Health; or may, before November 3, 2016, submit written comment to Michael Cook, Director, Long Term Care Service, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207, or by e-mail to MikeC@health.ok.gov; or may, at the hearing, ask to present written or oral views.

PUBLIC HEARING:

Pursuant to 75 O.S. § 303 (A), the public hearing for the proposed rulemaking in this chapter shall be on November 3, 2016, at the Oklahoma State Department of Health, 1000 Northeast Tenth Street, Oklahoma City, OK 73117-1207, in room 1102 beginning at 10:00 a.m. Those wishing to present oral comments should be present at that time to register to speak. The hearing will close at the conclusion of those registering to speak. Interested persons may attend for the purpose of submitting data, views or concerns, orally or in writing, about the rule proposal described and summarized in this Notice.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, on the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule. Business entities may submit this information in writing through November 3, 2016, to Michael Cook, Director, Long Term Care Service, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207, or by e-mail to MikeC@health.ok.gov.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from staff of the Long Term Care Service, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207, via electronic mail request to MikeC@health.ok.gov, or via agency website at www.health.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement is available at the location listed above for obtaining copies of the rule.

CONTACT PERSON:

Michael Cook, Director, Long Term Care Service, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207, or by e-mail to MikeC@health.ok.gov.

INITIAL RULE IMPACT STATEMENT

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

1. DESCRIPTION:

This proposal adds OAC 310:663-15-4 as new rule to address requirements in statute related to a resident's freedom of choice in physician and all other providers of medical services and supplies and prohibits any financial penalty or fee for their choice. This change enacts the authorizing statute at Title 63 O.S. Section 1-890.3(A)(8). This change enumerates the resident rights and defines the responsibilities to be observed by each facility and its staff.

2. DESCRIPTION OF PERSONS AFFECTED AND COST IMPACT RESPONSE:

Affected persons will be residents and their families as well as owners, operators, and staff of Assisted Living Centers. Residents and their families will benefit from unrestricted access to physicians and all other providers of medical services and supplies; this increased access may save them money. Owners, operators and staff of Assisted Living Centers will have increased responsibility for coordinating with resident choices. This increased coordination activity may cost operators in staff time and lost revenue. Cost impacts will be sought during the comment period.

3. DESCRIPTION OF PERSONS BENEFITING, VALUE OF BENEFIT AND EXPECTED HEALTH OUTCOMES:

Affected persons will be residents and their families as well as owners, operators, and staff of Assisted Living Centers. Residents and their families are expected to benefit from unrestricted access to physicians and all other providers of medical services and supplies. Maintaining access to current physicians and all other providers of medical services and supplies may reduce resident costs and eliminate resident and family stress associated with changing physicians and pharmacists. Comment on impacts will be sought during the comment period.

4. ECONOMIC IMPACT, COST OF COMPLIANCE AND FEE CHANGES:

These rules involve no additional fees. This rule change implements a change in the law which reads:

63 O.S. 1-890.3(A). *The State Board of Health shall promulgate rules necessary to implement the provisions of the Continuum of Care and Assisted Living Act. Such rules shall include, but shall not be limited to:*

.....
8. Enumeration of resident rights and responsibilities to be observed by each facility and its staff. Such resident rights shall include the freedom of choice regarding any personal attending physicians and all other providers of medical services and supplies without a financial penalty or fee charged by the assisted living center;

Public comment will be sought on cost impacts.

5. COST AND BENEFITS OF IMPLEMENTATION AND ENFORCEMENT TO THE AGENCY:

The cost to the Department to implement the amendments will be approximately \$4,000 to cover the costs of rule drafting, adoption, publication, distribution, and education. The proposed rules will be implemented and enforced by existing Department personnel and will have no anticipated effect on state revenues.

6. IMPACT ON POLITICAL SUBDIVISIONS:

There will be no impact on political subdivisions and it will not require their cooperation in implementing or enforcing the proposed amendment.

7. ADVERSE EFFECT ON SMALL BUSINESS:

There is no known adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act.

8. EFFORTS TO MINIMIZE COSTS OF RULE:

No less costly or non-regulatory methods have been identified.

9. EFFECT ON PUBLIC HEALTH AND SAFETY:

Public comment will be sought on any unanticipated effects on public health and safety outside of those described above.

10. DETRIMENTAL EFFECTS ON PUBLIC HEALTH AND SAFETY WITHOUT ADOPTION:

Public comment will be sought on any detrimental effects on public health and safety.

11. This rule impact statement was prepared on September 7, 2016. Modifications made subsequent to the publication of the Notice of Rulemaking Intent were made on: _____

[The date the rule impact statement was prepared and if modified, the date modified [75 O.S. §303.D.2(k)]

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SUBCHAPTER 15. RESIDENT RIGHTS AND RESPONSIBILITIES

310:663-15-4. Prohibited restrictions and fees

Residents shall have *the freedom of choice regarding any personal attending physicians and all other providers of medical services and supplies without a financial penalty or fee charged by the assisted living center* [Title 63 O.S. Section 1-890.3 (A)(8)].