



Oklahoma State Department of Health  
Creating a State of Health

January 15, 2009

The Honorable Brad Henry  
Governor of Oklahoma  
State Capitol Building  
2300 N. Lincoln Blvd., Room 212  
Oklahoma City, OK 73105

Dear Governor Henry:

Pursuant to O.S. 63-1-1923.D.5. of the Nursing Home Care Act, I submit the enclosed annual report of activities from the Long-Term Care Facility Advisory Board.

The 2009 Annual Report summarizes our activities for the improvement of services, care, and treatment to Oklahoma residents of nursing and specialized facilities, intermediate care facilities for persons with mental retardation, continuum of care and assisted living centers, residential care homes and participants in adult day care centers.

Respectfully,

Wendell Short, Chair  
Long-Term Care Facility Advisory Board

- c: Representative Chris Benge, Speaker of the House of Representatives  
Senator Glenn Coffee, Senate President Pro Tempore  
Terri White, MSW, Commissioner, Oklahoma Department of  
Mental Health & Substance Abuse Services  
Michael Fogarty, CEO, Oklahoma Health Care Authority  
Howard H. Hendrick, Director, Oklahoma Department of Human Services  
Terry Cline, Ph.D. Commissioner of Health

# LONG TERM CARE FACILITY ADVISORY BOARD

## 2009 ANNUAL REPORT

**PURPOSE:** The Long-Term Care Facility Advisory Board is authorized by Section 1-1923 of the Oklahoma Nursing Home Care Act {63 O.S. §§ 1-1900 et seq.}. The Advisory Board, consisting of twenty-seven (27) members, is appointed by the Governor and functions as a professional advisory body to the State Commissioner of Health.

As part of their routine activities, the Advisory Board serves as an advisory body to the Department for the development and improvement of services to and care and treatment of residents of facilities subject to the provision of the Nursing Home Care Act, homes subject to the provision of the Residential Care Act and facilities subject to the provisions of the Adult Day Care Act; reviews, makes recommendations regarding and approves in its advisory capacity the system of standards developed by the Department; evaluates and reviews the standards, practices and procedures of the Department regarding the administration and enforcement of the provisions of the Nursing Home Care Act, the Residential Care Act and the Adult Day Care Act , and the quality of services and care and treatment provided to residents of facilities and residential care homes and participants in adult day care centers. The Advisory Board may make recommendations to the Department as necessary and appropriate.

The Advisory Board annually publishes a report of its activities and any recommendations for the improvement of services and care in long-term care facilities. The annual report is prepared for the Governor, the State Commissioner of Health, the State Board of Health, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the chief administrative officer of each agency affected by the report.

**SERVICES:** Long-Term Care facilities provide the following services in Oklahoma:

- Nursing Facilities provide 24-hour skilled care and related services for residents who require medical or nursing care.
- Intermediate Care Facilities for the Mentally Retarded (ICF/MR) provide care designed to meet the needs of persons with mental retardation and who require special health and rehabilitation
- Assisted Living Centers provide assistance with personal care, medications and ambulation. The center may also provide nursing supervision and information or unscheduled nursing care. The assisted living center cannot provide 24-hour skilled nursing care as is provided in a nursing facility.
- Continuum of Care Facilities combine the services of a nursing facility with an assisted living center and/or an adult day care.
- Residential Care Homes offer or provide residential accommodations, food service and supportive assistance. A residential care home may provide assistance with meals, dressing, bathing and other personal needs, and it may assist in the administration of medication. However, it cannot provide medical care.

- Adult Day Care Centers provide basic day care services to unrelated impaired adults for more than four (4) hours in a twenty-four-hour period.

**PROVIDERS:** At the end of 2009, there were six hundred and sixty-two (662) long-term care facilities operating in Oklahoma.

- Nursing Facilities – 325
- Adult Day Care Centers – 39
- Assisted Living Centers – 132
- Intermediate Care Facilities for the Mentally Retarded (ICF/MR) – 86
- Residential Care Homes – 80

**ACTIVITIES:** The Long-Term Care Facility Advisory Board met on a quarterly basis during 2009 to evaluate and review the standards and practices of the Department in administration and enforcement of the provisions of the Nursing Home Care Act, the Residential Care Act and the Adult Day Care Act. The Board received reports on emerging health care issues in long-term care facilities; nursing facility transfer forms; rule and regulation review; implementation of the Certified Nurse Aide Career Ladder Program (sponsored by OSDH); and emergency health registry (Invisible Bracelet).

**RECOMMENDATIONS:** At the January 7, 2009 meeting, the Advisory Board reviewed and recommended the Board of Health approve the following amendments to Chapter 675, Nursing and Specialized Facilities and Chapter 677, Nurse Aide Training and Certification of the Oklahoma Administrative Code.

- Amendments to Chapter 675 addressed Department course approval requirements; ownership disclosure requirements; removal of language regarding filing a notice of change to the certification of tax compliance; reductions in the application review burden of the Department; and fees for registration as a feeding assistant. The benefit to residents of long-term care facilities is a more diverse and stimulating activities program. Facility owners and Department staff benefit from reduced times for initial and renewal license application reviews. Facilities, residents and families benefit from increased facility staff availability for direct patient care; and reduced hours per survey where duplicative rules or time intensive rules were reduced or eliminated.
- Amendments to Chapter 677 increased fees associated with certain initial and renewal certifications for Home Health, Residential Care, Adult Day Care, Developmentally Disabled, and Medication aides. The public benefits by having regulated entities pay for a greater portion of their costs of regulation thereby reducing the re-allocation of funds from other public health services.

## **COMMITTEE REPORTS:**

A. The Medical Directors Best Practices Subcommittee was formed at the November 14, 2008 regular meeting to discuss emerging health care issues in Long-Term Care Facilities and assess ways to disseminate educational material to Medical Directors of Long-Term Care Facilities. The committee met three (3) times during 2009.

Recommendations made to the Advisory Board for improvement in performance indicators were:

- Offer provider education related to Quality Measures/Quality Indicators (QM/QI).
- Distribute information on quality and deficiency priorities to medical directors of all skilled nursing facilities/nursing facilities (SNF/NF) in Oklahoma.
- Engage consumers on quality improvement.
  - Provide outreach to consumers to encourage use of the Centers of Medicaid and Medicare Services (CMS) Nursing Home Compare website
- Establish community-wide based performance indicators (e.g. Oklahoma Foundation for Medical Quality)

The subcommittee will continue its work in 2010

B. Chairman Wendell Short formed an Ad Hoc Committee for rule and regulation review at the January 7, 2009 regular Long Term Care Facility Advisory Board meeting to review rules and regulations, to evaluate a need for fees, survey protocol, survey frequency and a more efficient way of operating. The committee met four times during 2009.

At the October 14<sup>th</sup> meeting of the Advisory Board, the following Proposal for Consideration was submitted to the Advisory Board, which included guiding principles that the Department should use to explore and refine the fee proposals for future consideration.

Proposal for Consideration of the Broad Review Ad Hoc Committee  
to the Long Term Care Advisory Board  
Changes to the October 2, 2009, Draft are Highlighted Page 1 of 2 October 13, 2009, Draft.

The current budget status for the State of Oklahoma presents great challenges for prioritization of funding for the State. The committee provides the following statement of intent for the Boards consideration:

- ❖ The inspection of long term care facilities should be maintained and funding provided to support the mandates specified in statute and rule.
- ❖ Long term funding of the licensure and inspection program should migrate to a fee structure consistent with the cost of program operations as established in the Department's budget analysis tool.

- ❖ Changes to licensure fee must consider providers' ability to absorb the increased cost and their potential impact on resident services.
- ❖ Initial licensure fees should be set at a rate to recover the cost of issuance of the initial license and inspection.
- ❖ The Department should explore the use of expedited service fees.
- ❖ Revolving funds should be created for each long term care facility type with dedicated appropriations in the budget for each. For example:

There is hereby created in the State Treasury a revolving fund for the State Department of Health, to be designated the "Adult Day Care Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Department pursuant to the Adult Day Care Act. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department for the purpose of implementing the Adult Day Care Act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment. In addition to Adult Day Care, revolving funds should be created for Residential Care, Continuum of Care and Assisted Living, and Nursing and Specialized facilities.

- ❖ Change all facilities to bi-annual licensure with corresponding adjustments to fees.
  - ❖ To more accurately reflect the cost of inspection, amend the Residential Care Act to reflect per bed licensure fees, and the Adult Day Care Act to reflect a per participant licensure fees.
  - ❖ To facilitate workload planning and distribution, amend the Nursing Home Care and Adult Day Care Acts to allow year round nursing home and adult day care license renewal vs. expiration of all licenses on one day.
  - ❖ The Department should explore the research and reliability for establishing survey frequencies based on survey outcomes and inspection history.
  - ❖ The Department should continue to work to identify efficiencies in licensure and survey as embodied in:
    - Online application renewal procedures
    - Electronic forms processing and distribution
    - Inspection QA programs to identify and train for efficiencies and consistency
- Proposal for Consideration of the Broad Review Ad Hoc Committee to the Long Term Care Advisory Board Changes to the October 2, 2009, Draft are Highlighted Page 2 of 2 October 13, 2009, Draft
- Business Process Analysis: To see the *Request for Proposals* go here, <http://www.dcs.state.ok.us/Solicitations.nsf> and click on "Open Solicitations" and search for **Bid Number: 0900000036**

❖ **The Department should explore and refine the following fee proposal:**

- Fees would be increased by a rate per year over ten years at which time fees are expected to be equal to the costs of the facility licensure and inspection program. Ten years is proposed because of the increases required to cover the program costs are very large.
- With the phase in approach, fees will remain lower than the actual cost of providing the services until the increases are fully implemented in the tenth year.
- To prevent the need for future large fee increases, the fee language in law and rule would include an automatic fee escalator that is tied to the Consumer Price Index. The fee escalator will not go into effect until after the tenth year of increases.
- The Board of Health may waive collection of an automatic increase in a given year if it determines other revenues, including appropriated state general revenue funds, have increased sufficiently to make the funds generated by the automatic adjustment unnecessary in that year.
- In conjunction with adoption of the fee increase schedule and with supporting appropriations to cover program costs, the following standards will apply to the Department:
  - All immediate jeopardy complaints will be investigated within 2 days, complaints alleging actual harm within 10 days and all others within 30 days;
  - All revisits will be conducted within sixty days;
  - Initial surveys will be conducted within 30 days of request;
  - Annual surveys will be conducted on the mandated statutory schedule;
  - Initial and renewal licenses will be issued within 30 days of submission of a complete application.

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The Advisory Board received and discussed this report. No Advisory Board action was taken on this proposal. The Department's staff indicated their intention to use these guidelines in drafting rules for later consideration by the Advisory Board. This will continue to be explored and remain a topic for discussion and action in 2010.

Rule change language from this committee was also presented at this meeting regarding Chapters 677 and 675. These addressed medication services, 310:675-9-9.1, (10); nursing service change regarding director of nursing, certified medication aide, and in-service requirements, 310:675-13-5, (f), and (i); general requirements, 310:677-13-1; deemed to meet state certification requirements, 310:677-13-2; competency and practice standards, 310:677-13-6; and certification and recertification, 310:677-13-8. The Advisory Board voted and approved these amendments for development to be presented to the State Board of Health.

**NEW AD HOC COMMITTEE 2010:**

Chairman Wendell Short formed a new ad hoc committee at the October 14<sup>th</sup> Advisory Board meeting to examine updating of the rules and requirements for Subchapter 21, Specialized Facilities or Units for Residents with Alzheimer’s Disease or Related Dementias. They will coordinate with the recommendations from the legislative task force on Alzheimer’s care. They will begin work in 2010.

**AGENDAS:**

The meeting agenda items addressed various aspects of the long-term care industry. The Long-Term Care Facility Advisory Board allocated time at each regular meeting to discuss other long-term care issues that may become the responsibility of this Board at some future date.

**BOARD OFFICERS:**

Advisory Board Officers for 2010 were elected at the October 14, 2009 Board meeting. Elected officers were Wendell Short, Chair; Kay Parsons, Vice-Chair; and Margaret Wallace, Secretary-Treasurer.

**VACANCIES:**

At year’s end, there were ten vacancies on the Long-Term Care Facility Advisory Board.

**MEETING SCHEDULE FOR 2010**

The 2010 regular meetings are scheduled on January 13, April 14, July 14, and October 13, 2010.