

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 677. NURSE AIDE TRAINING AND CERTIFICATION**

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

- 310:677-1-2. Definitions [AMENDED]
- 310:677-1-3. Applicability [AMENDED]
- 310:677-1-6. Temporary emergency waiver [AMENDED]
- 310:677-3-1. Categories of training programs [REVOKED]
- 310:677-3-2. Approved programs [AMENDED]
- 310:677-3-3. Application [AMENDED]
- 310:677-3-4. Program requirements [AMENDED]
- 310:677-3-5. Training program review and approval [AMENDED]
- 310:677-3-6. Closing an approved nurse aide training and competency examination program [AMENDED]
- 310:677-3-7. Criminal ~~arrest~~ history background checks [AMENDED]
- 310:677-3-9. Requirements for administration of the competency examination [AMENDED]
- 310:677-3-10. Content of the competency examination [AMENDED]
- 310:677-3-12. Failure to complete the competency examination [AMENDED]
- 310:677-3-13. Training program to inform trainee of renewal requirements [NEW]
- 310:677-5-1. Establishment of registry [REVOKED]
- 310:677-5-2. Registry operation [AMENDED]
- 310:677-5-4. Automatic removal from registry [AMENDED]
- 310:677-5-5. Denial, suspension, withdrawal, and nonrenewal of certification [AMENDED]
- 310:677-7-1. Right to a hearing [AMENDED]
- 310:677-7-2. Hearing [REVOKED]
- 310:677-7-3. Petition and hearing [AMENDED]
- 310:677-7-4. Orders [AMENDED]
- 310:677-9-1. General requirements [AMENDED]
- 310:677-9-2. Deemed to meet state certification requirements [AMENDED]
- 310:677-9-4. Curriculum [AMENDED]
- 310:677-9-5. Competency ~~and skills~~ examination [AMENDED]
- 310:677-11-1. General requirements [AMENDED]
- 310:677-11-2. Deemed to meet state certification requirements [AMENDED]
- 310:677-11-4. Curriculum [AMENDED]
- 310:677-11-5. Competency ~~and skills~~ examination [AMENDED]
- 310:677-13-1. General requirements [AMENDED]
- 310:677-13-3. Instructor qualifications [AMENDED]
- 310:677-13-4. Curriculum [AMENDED]
- 310:677-13-5. Competency ~~and skills~~ examination [AMENDED]
- 310:677-13-7. Skills and functions [AMENDED]
- 310:677-13-8. Certification and ~~recertification renewal~~ [AMENDED]
- 310:677-15-1. Deemed to meet state certification requirements [AMENDED]
- 310:677-15-4. Competency ~~and skills~~ examination [AMENDED]
- 310:677-15-5. Recertification- [REVOKED]
- 310:677-17-1. Deemed to meet state certification requirements [AMENDED]
- 310:677-17-4. Competency ~~and skills~~ examination [AMENDED]
- 310:677-17-5. Recertification [REVOKED]
- 310:677-19-1. Deemed to meet state certification requirements [AMENDED]

310:677-19-4. Competency and skills examination [AMENDED]

310:677-19-5. Recertification-[REVOKED]

SUMMARY:

The proposed rule amendments clarify and streamline requirements for current and initial nurse aides. The amendments include: conformed definitions to statutory definitions; updated legal citations; deleted references to specific form numbers; clarified references to the scope of the rules by referring to those who are subject to the rules as an "entity"; clarified "form" refers to the written application; deleted reference to "subsequent waivers"; edited "Application" and "Program requirements" provisions to clarify and remove redundancy in the text; added "immediately" to indicate when notification of closing a training and examination program is due to the Department; changed criminal "arrest" to criminal "history background"; clarified and removed redundancy in the administration and content of the competency examination; and added requirement to inform trainee of renewal requirements; edited and removed redundancy in the registry operations of the rules; and edited text to move the text to the most relevant sections in the rules.

AUTHORITY:

Commissioner of Health, Title 63 O.S. §§ 1-104, 1-819 et seq., 1-890.1 et seq., 1-1901 et seq., 1950.1 through 1-1950.4, 1-1951 and 1-1960 et seq.

COMMENT PERIOD:

January 17, 2023 through the close of the Department's normal business hours, 5 PM, on February 17, 2023. Interested persons may informally discuss the proposed rules with the contact person identified below; or may, through the close of the Department's normal business hours, 5 PM, on February 17, 2023 submit written comments to the contact person identified below, 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 February 17, 2023 at the Oklahoma State Department of Health Auditorium, 123 Robert S. Kerr Avenue, Oklahoma City, Oklahoma 73102 from 9:30 AM to 12:30 PM. The meeting may adjourn earlier if all attendees who signed up to comment have completed giving their comments. The alternate date and time in the event of an office closure due to inclement weather is February 21, 2023 in the Auditorium, from 9:30 AM to 12:30 PM. 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. Validated parking will be provided for the parking lot located at the east corner of Broadway and Robert S. Kerr Avenue, subject to availability.

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 February 17, 2023, to the contact person identified below.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from the contact person identified below or via the agency website at www.ok.gov/health.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a rule impact statement is available through the contact person identified below or via the agency website at www.ok.gov/health.

CONTACT PERSON:

Audrey C. Talley, Agency Rule Liaison, Oklahoma State Department of Health, 123 Robert S. Kerr Avenue, Oklahoma City, OK 73102, phone (405) 426-8563, e-mail AudreyT@health.ok.gov.

INITIAL RULE IMPACT STATEMENT

(This document may be revised based on comment received during the public comment period.)

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 677. NURSE AIDE TRAINING AND CERTIFICATION

1. **DESCRIPTION:**

The proposed rule amendments clarify and streamline requirements for current and initial nurse aides. The amendments include: conformed definitions to statutory definitions; updated legal citations; deleted references to specific form numbers; clarified references to the scope of the rules by referring to those who are subject to the rules as an "entity"; clarified "form" refers to the written application; deleted reference to "subsequent waivers"; edited "Application" and "Program requirements" provisions to clarify and remove redundancy in the text; added "immediately" to indicate when notification of closing a training and examination program is due to the Department; changed criminal "arrest" to criminal "history background"; clarified and removed redundancy in the administration and content of the competency examination; and added requirement to inform trainee of renewal requirements; edited and removed redundancy in the registry operations of the rules; and edited text to move the text to the most relevant sections in the rules.

2. **DESCRIPTION OF PERSONS AFFECTED AND COST IMPACT RESPONSE:**

There are no internal or external persons affected monetarily by the proposed changes.

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

Nurse aides and training programs will benefit from clarification of requirements and there are no expected negative health outcomes.

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

There are no internal or external economic impacts, costs of compliance or fee changes by the proposed changes.

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

There are no costs associated with implementation.

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:**

There are no less costly means currently identified.

9. **EFFECT ON PUBLIC HEALTH AND SAFETY:**

No effect on public health and safety is expected.

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

There are no detrimental effects on public health and safety.

11. PREPARATION AND MODIFICATION DATES:

This rule impact statement was prepared on Monday, November 21, 2022.

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 677. NURSE AIDE TRAINING AND CERTIFICATION**

SUBCHAPTER 1. GENERAL PROVISIONS

310:677-1-2. Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. The singular includes the plural as necessary.

"Abuse" means ~~any intentional physical or mental injury or sexual assault on a resident of a facility; by any person.~~ the willful infliction of injury, unreasonable confinement, intimidation or punishment, with resulting physical harm, impairment or mental anguish. [63 O.S. ~~1994~~ 2019 § 1-1902].

"Certified medication aide" means a certified nurse aide who has passed a Department approved program for administering medications.

"Client" means an individual receiving services from a home care agency or employer.

"Clinical skills observer" means a registered nurse, qualified intellectual disability professional, licensed practical nurse, registered pharmacist or other qualified professional who has at least one (1) year experience and has successfully completed a Department approved clinical skills observer training program.

"Commissioner" or **"Commissioner of Health"** means the Oklahoma State Commissioner of Health, the chief executive officer of the Department.

"Deemed" means meeting specified requirements to qualify for other categories of nurse aide certification.

"Department" means the *State Department of Health*. [63 O.S. ~~1994~~ 2019, § 1-1902~~(7)~~(8)].

"Direct supervision" means a licensed nurse or other qualified individual actually observes a trainee performing tasks.

"Educational based program" means a nurse aide training and competency examination program sponsored by a State approved educational entity including, but not limited to, vocational technical schools, schools of higher learning or State certified educational facilities.

"Employer" means any of the following entities: facilities, agencies or programs including, but not limited to, nursing facilities, specialized facilities, residential care homes, adult day care centers, assisted living centers, or a nurse registry or a home care agency.

"Employer based program" means a nurse aide training and competency examination program sponsored by, or offered in, a nursing facility, a residential care home, an adult day care center, a home care agency, or a specialized facility.

"Entity" means the provider of a Department-approved nurse aide training and competency evaluation program including but not limited to an employer based or an educational based program provider.

"Examination" means a competency examination that includes a written or oral portion and/or a clinical skills portion.

"Health related services" means those services provided to patients, clients, or residents that include but are not limited to the following: personal hygiene, transferring, range of motion, supervision or assistance in activities of daily living, basic nursing care such as taking temperature, pulse or respiration, positioning, incontinent care, identification of signs and symptoms of disease, and behavior management.

"ICF/IID" means an Intermediate Care Facility for Individuals with Intellectual Disabilities.

"Inservice education" means activities intended to assist the nurse aide to acquire, maintain, and/or increase competence in fulfilling the assigned responsibilities specific to the employer's expectations.

"Instructor" means a qualified professional who teaches in an approved training program.

"Licensed health professional" means a physician, dentist, podiatrist, chiropractor, physician assistant, nurse practitioner, pharmacist, physical, speech, or occupational therapist, registered nurse, licensed practical nurse, licensed social worker or licensed registered dietician.

"Licensed nurse" means a registered nurse or a licensed practical nurse that is currently licensed by the Oklahoma Board of Nursing.

"Misappropriation of property" means the taking, 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 control of a resident or client without the effective consent of the resident or client or other appropriate 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 a resident's/client's property.

"Mistreatment" means a negligent act or personal wrong against a resident or client which causes the resident or client actual physical pain, discomfort or mental anguish. This type of personal wrong does not necessarily have to present external or visible signs of existence but does not include actions which are unavoidable.

"Neglect" means ~~a failure to provide adequate medical or personal care or maintenance which results in physical or mental injury to a resident.~~ failure to provide goods and/or services necessary to avoid physical harm, mental anguish, or mental illness. [63 O.S. ~~1994~~ 2019, §1-1902-]-

"Orientation" means the training for a particular job activity given to a new employee.

"Performance record" means a list of the major duties and skills to be learned in a nurse aide training program and the trainee's performance of each.

"Qualified professional" means an individual qualified to perform training and skills testing in an approved nurse aide training and competency program.

"Reciprocity" means the process that allows a certified nurse aide from another state to be listed in the Department's nurse aide registry.

"Reconsideration" means a process that allows an applicant to obtain reconsideration of an adverse decision on an application by submission of clarifying materials to the original decision-making body.

"Registry" means a Department maintained list of individuals who have successfully completed a nurse aide training and competency examination program or a competency examination program approved by the Department or who have been deemed or waived to meet the requirements.

"Specialized facility" *means any home, establishment, or institution which offers or provides inpatient long-term care services on a twenty-four-hour basis to a limited category of persons requiring such services, including but not limited to a facility providing health or habilitation services for [individuals with intellectual or developmental disabilities].* [~~63:1-1902(11)~~ 63 O.S. 2019, §1-1902(11)]

"Supervised practical training" means training in a laboratory or other setting in which the trainee demonstrates knowledge while performing tasks on an individual.

"Trainee" means an individual who is enrolled in and has begun, but has not completed, a nurse aide training program.

"Trainer" means a qualified person who teaches in a nurse aide training and competency examination program.

"Training and competency examination program" means a program approved by the Department to teach and evaluate individuals to work as a nurse aide.

"Waiver" means a process that allows an individual with acceptable qualifications to be placed in the Department's registry without meeting other required qualifications.

310:677-1-3. Applicability

(a) This Chapter shall apply to specified employers, nurse aides, certified medication aides and other unlicensed employees providing health related services, and training and competency evaluation programs.

(b) An employer shall not use an individual as a nurse aide unless the employer has consulted the Oklahoma Nurse Aide Registry to determine whether the individual is listed on the nurse aide registry and whether the individual has no confirmed findings of abuse, neglect or misappropriation of patient/resident/client property.

(c) The Department shall grant an exception to the nurse aide training requirements in OAC 310:677-9-4 for home health aides, OAC 310:677-11-4 for long term care aides, OAC 310:677-13-4 for certified medication aides, OAC 310:677-15-3 for ICF/IID care aides, OAC 310:677-17-3 for residential care aides and OAC 310:677-19-3 for adult day care aides, and allow an individual to sit for the competency examination if the individual submits all information specified on the Training Exception Application (~~ODH Form 832~~), which requires the following:

- (1) Individual's full name and personal identifying information;
- (2) Telephone number and address to include street, city, state, and zip code;
- (3) Copy of official transcript documenting classroom and clinical training equal to or greater than the classroom and clinical training as prescribed in OAC 310:677-9-4, OAC 310:677-11-4, OAC 310:677-13-4, OAC 310:677-15-3, OAC 310:677-17-3 and OAC 310:677-19-3; and
- (4) Type of nurse aide training to be excepted.

(d) The Department shall grant to a graduate of an approved practical or registered nurse program located in the United States a waiver to be placed on the nurse aide registry if the following criteria are met:

(1) The individual submits all information specified on the Department's Nurse Aide Training and Competency Evaluation Program Waiver Application (~~ODH Form 844~~), which requires the following:

- (A) Individual's full name and personal identifying information;
- (B) Telephone number and address to include street, city, state, and zip code;
- (C) Photocopy of diploma from an approved practical or registered nurse program;
- (D) Type of nurse aide training and competency testing requesting to be waived; and
- (E) Identification of all states, territories and districts of the United States and other countries where the individual has practiced or been licensed, certified or registered as a nurse; and

(2) The individual does not have a denied, revoked or suspended license or certificate or an administrative penalty or disciplinary action imposed by the Oklahoma Board of Nursing or similar agency in another state, territory or district of the United States or in another country, to be evidenced by the individual's attestation.

(e) The Department shall allow a graduate of an approved practical or registered nurse program located outside the United States a training exception and shall be authorized to sit for a nurse aide competency examination if the following criteria are met:

(1) The individual submits the Foreign Graduate Training Exception Application (~~ODH Form 843~~), which requires the following:

- (A) Individual's full name;
- (B) Telephone number and address to include street, city, state, and zip code;
- (C) The location outside of the United States where the individual received their nursing education and licensing examination if applicable;
- (D) The type of nurse aide training requesting to be excepted;
- (E) Documentation verifying legal entry and resident status in the United States including but not limited to a photocopy of a Social Security Card, Visa, Green Card or naturalization papers; and
- (F) A photocopy of a certified, translated diploma and transcript in English; and

(2) The individual does not have a denied, revoked or suspended license or certificate or an administrative penalty or disciplinary action imposed by the Oklahoma Board of Nursing or similar agency in another state, territory or district of the United States, to be evidenced by the individual's attestation.

(f) An individual who has not completed an approved Oklahoma Nurse Aide Training program and is submitting an application to be included on the Oklahoma Nurse Aide Registry as a certified nurse aide shall submit the following nonrefundable fee with the required completed application:

(1) Deeming Application, fifteen dollar (\$15.00) fee applicable to each of the following deeming applications except (A) of this paragraph;

- (A) Home Health Aide deemed to Long Term Care Aide (~~ODH Form 755~~) with no fee required;
- (B) Home Health Aide deemed to ICF/IID Care Aide (~~ODH Form 836~~);
- (C) Home Health Aide deemed to residential Care Aide (~~ODH Form 837~~);
- (D) Home Health Aide deemed to Adult Day Care Aide (~~ODH Form 838~~);
- (E) Long Term Care Aide deemed to ICF/IID Care Aide (~~ODH Form 830~~);
- (F) Long Term Care Aide deemed to Residential Care Aide, (~~ODH Form 831~~);
- (G) Long Term Care Aide deemed to Adult Day Care Aide, (~~ODH Form 839~~);
- (H) ICF/IID Care Aide deemed to Residential Care Aide (~~ODH Form 834~~); and
- (I) ICF/IID Care Aide deemed to Adult Day Care Aide (~~ODH Form 835~~);
- (2) Home Health Aide Reciprocity Application (~~ODH Form 735~~), \$15.00 fee;
- (3) Training Exception Application (~~ODH Form 832~~), or Foreign Graduate Training Exception Application (~~ODH Form 843~~), \$15.00 fee; or
- (4) Nurse Aide Training and Competency Evaluation Program Waiver Application (~~ODH Form 844~~), \$15.00 fee.
- (5) The fees specified in (1) through (4) of this subsection apply to applications for home health aides, certified medication aides, ICF/IID care aides, residential care aides, and adult day care aides. A fee shall not be charged on an application requesting certification as a long term care aide only.
- (g) An individual who has previously completed a Department approved Nurse Aide Training and Competency Evaluation Program and is unable to renew certification may obtain approval to take a retest by filing a Certified Nurse Aide Retest Application (~~ODH Form 841~~) if any of the following criteria are met:
 - (1) The individual did not provide eight (8) hours of nursing or health related services for compensation during the twenty-four (24) months prior to expiration of the certification;
 - (2) The individual did not provide eight (8) hours of nursing or health related services for compensation up to twenty-four (24) months after expiration; or
 - (3) The individual's nurse aide certification has been expired for over two (2) years but less than three (3) years.
 - (4) A Certified Nurse Aide Retest Application (~~ODH Form 841~~) submitted by a home health aide, ICF/IID care aide, residential care aide, or adult day care aide shall be accompanied by a fifteen dollar (\$15.00) nonrefundable fee.
 - (5) An individual who fails the approved retest shall be required to retrain before taking any subsequent retests.
- (h) An individual may request a duplicate or amended certification card by submitting a Duplicate or Amended Nurse Aide Card Application (~~ODH Form 738~~) with a nonrefundable ten dollar (\$10.00) fee. A fee shall not be charged on an application requesting a duplicate or amended long term care aide certification card.

310:677-1-6. Temporary emergency waiver

- (a) **Purpose.** This section implements temporary emergency waivers authorized in 63:1-1950.3(A)(2) for nursing facilities, specialized facilities, continuum of care facilities, assisted living centers, adult day care centers, and residential care homes.
- (b) **Eligibility for waiver.** ~~A facility, center or home~~ An entity is eligible to receive a waiver if it:
 - (1) Makes diligent efforts to recruit and retain certified nurse aides, to be evidenced by one or more of the following:
 - (A) Employment advertisements;
 - (B) Competitive salaries;
 - (C) Retention incentives; or
 - (D) Recruitment incentives; and
 - (2) Has not been cited with a deficiency or violation that:

- (A) Was identified by the department during an investigation or inspection conducted on or after the effective date of this section; and
 - (B) Relates to one or more of the following areas of noncompliance:
 - (i) Failure to develop and implement policies and procedures that prohibit mistreatment, neglect, abuse and misappropriation of property;
 - (ii) Failure to implement infection control procedures;
 - (iii) Failure to ensure that staff observe resident rights and responsibilities;
 - (iv) Failure to comply with criminal history background checks in 63:1-1950.1;
 - (v) Failure of a nurse aide to perform proficiently on nursing or personal care services;
 - (vi) Incompetence of a nurse aide; or
 - (vii) Failure to conduct performance appraisals or training as required for nurse aides; and
 - (C) Is associated with one or both of the following aggravating circumstances:
 - (i) The deficiency or violation has not been corrected within required time frames; and/or
 - (ii) The deficiency or violation is based on activity or inactivity of an uncertified nurse aide that caused a resident serious injury, harm, impairment or death.
- (c) **Process.** This subsection specifies the process to obtain a waiver.
- (1) ~~A facility, center or home~~ An entity shall submit a written request on an application form made available by to the Department. ~~The form shall require written application, at minimum, shall include:~~
 - (A) Identifying information for the facility;
 - (B) ~~Documentation that the facility complies with the eligibility requirements specified in OAC 310:677-1-6(b);~~
 - ~~(C)~~ Numbers of certified nurse aides, uncertified nurse aides, and other direct care staff persons projected to be employed by the facility during the effectiveness of the waiver;
 - ~~(D)~~(C) A narrative describing the reasons why the facility is unable to meet the staffing requirements of 63:1-1950.3, the means by which uncertified nurse aides shall be trained and evaluated during the waiver, and the anticipated duration of the waiver, not to exceed six months; and
 - ~~(E)~~(D) An attestation of the truth of the information provided in the application.
 - (2) If the Department finds that an application is incomplete, the Department shall advise the applicant in writing and offer an opportunity to submit additional or clarifying information.
 - (3) Within thirty days after receipt of a completed request for a waiver, the Department shall approve or disapprove the request and send written notice of the decision to the ~~facility, center or home~~ entity.
 - (4) The Department shall provide notice to the Office of the Oklahoma Long Term Care Ombudsman established under section 307(a)(12) of the Older Americans Act of 1965 of the Department's action on each waiver application.
 - (5) The ~~facility, center or home~~ entity shall notify residents, clients or participants (or, where appropriate, the guardian or legal representative) and members of their immediate families of the Department's action on the waiver application. A copy of the notice shall be posted in an easily accessible and conspicuous place in the ~~facility, center or home~~ entity.
 - (6) ~~Upon denial, An an applicant who disagrees with the Department's disapproval of the waiver application may file a written petition requesting review by an administrative law judge in an individual proceeding under~~ may appeal the Department's decision within thirty days of receipt, pursuant to the Oklahoma Administrative Procedures Act.
 - (7) A non-refundable fee of one hundred dollars (\$100) shall be included with the initial application for waiver.
 - (8) A non-refundable fee of seventy-five dollars (\$75) shall be included with an application for subsequent waiver under paragraph (d)(3) of this section.
- (d) **Conditions for obtaining waiver.** ~~The following additional conditions apply.~~
- (1) ~~To remain eligible for a waiver, the facility must continue after November 1, 2004 to comply with the substantive training limitations specified in 63:1-1950.3(A)(1), (B), (C) and (D).~~

~~(2) A waiver approved by the Department is effective for the period specified by the Department and not to exceed six months, unless sooner withdrawn by the Department for failure to meet eligibility requirements.~~

~~(3) If a facility, center or home applies for a subsequent waiver it shall submit another application for waiver in accordance with (c) of this section and include the following additional information on each uncertified nurse aide employed during the preceding waiver period:~~

~~(A) Name and date of birth;~~

~~(B) Date the facility began using the person as a nurse aide;~~

~~(C) Date the person entered training and competency evaluation; and~~

~~(D) Date the person completed training and competency evaluation, or, if training and evaluation have not been completed, the person's status at the time of application and the projected date when evaluation will be completed.~~

SUBCHAPTER 3. NURSE AIDE TRAINING AND COMPETENCY EXAMINATION PROGRAM

310:677-3-1. Categories of training programs [REVOKED]

~~The Department shall approve training and competency evaluation programs including, but not limited to, educational based programs and employer based programs.~~

310:677-3-2. Approved programs

(a) The Department shall approve a nurse aide training and/or competency examination program that meets the criteria for a State approved program.

(b) An entity seeking approval ~~of a nurse aide training and/or competency examination program~~ shall file the appropriate application form (ODH 743) and, ~~for training programs other than long term care aide,~~ a non-refundable application fee of one hundred dollars (\$100.00). There is no application fee for long-term care aide training, ~~or long term care aide competency evaluation,~~ programs.

(c) The Department's approval of a program shall not be transferable or assignable.

310:677-3-3. Application

(a) ~~An entity which desires to sponsor a nurse aide training and competency examination program~~ shall file an application ~~for approval on the forms prescribed~~ provided by the Department.

(b) An entity may not operate a ~~No~~ nurse aide training and competency examination program ~~shall be operated, and no trainee shall be solicited or enrolled, until prior to the approval of the Department has approved the program.~~

(c) The application ~~requires the following information~~ will include:

(1) Name and address for the entity sponsoring the program and for the contact person for the program;

(2) The location of the administrative office of the program and the location where records are maintained;

(3) A program plan that follows the curriculum established by the Department including, but not limited to:

(A) Program objectives;

(B) A breakdown of the curriculum into clock hours of classroom/lecture, laboratory and supervised clinical instruction;

(4) A Skills Performance Checklist, documenting the date the nurse aide trainee successfully demonstrated all those basic nursing skills and personal care skills that are generally performed by nurse aides and the signature of the instructor that observed the successful demonstration of the skills. The skills must include the basic nursing skills and personal care skills listed in 42 Code of Federal Regulations (CFR) 483.152 (b)(2) and (3);

- (5) A Training Verification Form;
- (6) A description of the program's standards for classroom and skills training facilities including, but not limited to:
 - (A) Heat and cooling systems;
 - (B) Clean and safe conditions;
 - (C) Adequate space to accommodate all trainees;
 - (D) Adequate lighting;
 - (E) Proper equipment and furnishings;
 - (F) The specific location of the classroom and lab if known at the time of the application; and
- (7) Position descriptions and education and experience requirements for training supervisors and instructors, and the program's procedure for ensuring that supervisors and instructors satisfy such descriptions and requirements.
- ~~(d) The entity shall file an application for each program with a non-refundable application fee.~~
- (e) A training and competency examination program shall not be offered by or in a facility which, within the previous two years:
 - (1) has operated under a registered nurse staffing waiver under Section 1819(b)(4)(C)(ii)(II) or Section 1919(b)(4)(C)(ii) of the Social Security Act; or
 - (2) has been assessed a penalty that has been determined, after opportunity for hearing, to be due and payable in an amount of not less than \$5,000;
 - (3) had a license revoked, a Medicare or Medicaid certification terminated, a denial of payment for new admissions imposed, a temporary manager appointed, or was closed or had residents transferred pursuant to an emergency action by the Department; or
 - (4) was found to have provided substandard quality of care. ~~For the purpose of this Section, "substandard quality of care" means one or more deficiencies related to participation requirements under 42 CFR 483.13, Resident Behavior and Facility Practices, 42 CFR 483.15, Quality of Life, or 42 CFR 483.25, Quality of Care.~~ The deficient practice must constitute immediate jeopardy which has caused or is likely to cause serious injury, harm, impairment, or death to an individual resident or a very limited number of residents receiving care in a facility; or deficient practice that results in actual harm to residents' physical, mental and psychosocial well-being and occurs as a pattern affecting more than a very limited number of residents or widespread affecting a large number or all of the facility's residents; or deficient practice that results in potential for more than minimal physical, mental and /or psychosocial harm to residents' that is widespread and affects the entire facility population.
- (f) The Department may waive for a period not to exceed two years the imposition of (e) of this Section and allow the offering of a training and competency evaluation program in, but not by, a facility upon the written request of the facility if:
 - (1) The Department determines that no other such program is offered within a round-trip travel time of one hour from the facility;
 - (2) The facility has no deficiencies that constitute substandard quality of care at the time of the request and has no deterioration in care that results in substandard quality of care during the waiver period; ~~and~~
 - (3) The Department provides notice of such determination and assurances to the Oklahoma Long Term Care Ombudsman-; ~~and~~
 - (4) The penalty or remedy was not related to the quality of care provided to residents.
- ~~(g) The Department may waive for a period not to exceed two years the imposition of (e)(2) and (e)(3) of this Section and allow the offering of a training and competency evaluation program in, but not by, a facility upon the written request of the facility if the penalty or remedy was not related to the quality of care provided to residents.~~

310:677-3-4. Program requirements

- (a) Before the Department approves a nurse aide training and competency examination program or a competency examination program, the Department shall determine whether the nurse aide training and competency examination program or the competency examination program meets the minimum requirements.
- (b) The Department shall not approve, ~~or shall withdraw approval,~~ of an employer based program when the employer has been assessed the following penalties or actions by the Department:
- (1) License suspended or revoked or had a conditional license issued.
 - (2) An administrative money penalty of five thousand dollars (\$5,000) or more for deficiencies cited under state licensure.
 - (3) ~~Closed or had its residents or clients transferred pursuant to the Department's action.~~
 - (4) Enforcement actions based on the Department's authority under Medicare and Medicaid certification programs, except for facilities certified as Intermediate Care Facilities for individuals with intellectual disabilities.
 - (5)(4) For Intermediate Care Facilities for Individuals with Intellectual Disabilities, repeated enforcement actions based on the Department's authority.
- (c) The Department may withdraw approval of a nurse aide training and competency examination program sponsored by an entity when the following occurs:
- (1) The entity has been determined by the Department to have a competency examination failure rate greater than fifty (50) per cent during a calendar year.
 - (2) The entity no longer meets, at a minimum, the following requirements to be a certified program:
 - (A) The training program falls below the required clock hours of training; or
 - (B) The curriculum does not include ~~at least the subjects specified under 310:677-9-4 Home Health Aides, 310:677-11-4 Long Term Care Aides, 310:677-13-4 Certified Medication Aides, 310:677-15-3 ICF/IID Care Aides, 310:677-17-3 Residential Care Aides, and or 310:677-19-3 Adult Day Care Aides~~ the minimum requirements specified in rule;
 - (C) ~~A minimum of 16 hours of specified training for Long Term Care Aides is not provided prior to direct contact with residents;~~
 - (D) ~~At least sixteen (16) hours of supervised practical training under the direct supervision of a registered nurse or a licensed practical nurse. The sixteen (16) hours does not include the administration of the skills examination.~~
 - (3) ~~The entity uses an uncertified individual as a nurse aide for longer than four months. To use an uncertified individual as a nurse aide for four months or less, an entity must have a temporary emergency waiver approved pursuant to 63 O.S. Section 1-1950.3~~ closed or had its residents or clients transferred pursuant to the Department's action.
 - (4) The onsite ~~review~~ survey determines the training program is out of compliance with the requirements of 63 O.S. Section 1-1950.1, 1-1950.3 or 1-1951, or OAC 310:677.
- (d) The Department shall withdraw approval of a nurse aide training and competency evaluation program if:
- (1) The entity refuses to permit the Department to make unannounced visits; or
 - (2) The entity falsifies records of competency or training.
- (e) Withdrawal of approval shall be for a period of two (2) years or until the Department is assured through review that the entity complies with the requirements.
- (f) If the Department withdraws approval of a nurse aide training and competency examination program, the Department shall: notify the entity in writing of the reason(s) for the withdrawal.
- (1) ~~Notify the entity in writing, indicating the reason for withdrawal of approval.~~
 - (2) ~~Allow the trainees who have started a training and competency examination program to complete the program or allow the trainees who have started the program to transfer to another approved program.~~
- (g) The Department shall allow the trainees who have started a training and competency examination program to complete the program, or allow the trainees who have started the program to transfer to another approved program.

~~(g)~~ (h) A program entity may request reconsideration of the Department's decision in accordance to Chapter 2 of this Title and appealed according to the Administrative Procedures Act.

(h)(i) The entity shall notify the trainee in writing, that successful completion of the nurse aide training and competency examination program shall result in the individual being listed in the Department's nurse aide registry and shall retain a copy of such notice, signed by the trainee, in the trainee's file.

~~(i) A trainee shall not perform any services for which the trainee has not been trained and found proficient by an instructor.~~

310:677-3-5. Training program review and approval

(a) Within 30 days after receipt of an application for a program that is not currently approved, the Department shall determine if the application is complete and consistent. If the application is incomplete or inconsistent, the Department shall advise the applicant in writing and offer an opportunity to submit additional information. Within 30 days after completeness, the Department shall approve or disapprove the application. If the action is to disapprove, the Department shall advise the applicant in writing of the specific reasons for the disapproval, and shall offer the applicant an opportunity to demonstrate compliance.

(b) Each program is subject to site visits by the Department. Approved programs shall be evaluated by the Department every two years.

(c) An approved program shall ~~notify~~ complete an application notifying the Department ~~in writing before making substantive changes to the program prior to making any changes that would affect the program's requirements and/or the Department's approval of the program. Substantive changes shall include but not be limited to:~~

- ~~(1) A change in location of the administrative offices of the training program;~~
- ~~(2) A change in the requirements or procedures for selection of instructors;~~
- ~~(3) A change in the curriculum;~~
- ~~(4) A different legal entity sponsoring the program; or~~
- ~~(5) A change in location of the class, clinical training site, or laboratory.~~

310:677-3-6. Closing an approved nurse aide training and competency examination program

(a) When an entity decides to close a nurse aide training and competency examination program, it shall:

(1) Immediately Notify notify the Department ~~at least sixty (60) days in advance, in writing, stating the reason, of its plan to close, and date of intended closing, the location where its records will be stored, and the plan for its currently enrolled trainees; and~~

(2) Continue the program until the classes for currently enrolled trainees are completed.

~~(b) The entity shall notify the Department of its plan to safeguard the program records.~~

310:677-3-7. Criminal ~~arrest~~ history background checks

(a) An employer based program shall complete the State required criminal ~~arrest~~ history background check. The record of the finding shall be maintained by the employer. These records shall be destroyed after one (1) year from the end of employment of the person to whom such records relate. [63:1-1950.3(H) 1950.1(E)]

(b) A non-employer based program shall notify trainees that if a criminal ~~arrest~~ history background check reveals a cause which bars employment in a health care entity, then the trainee shall be withdrawn from the training program.

(c) If a non-employer based training program does not require an OSBI criminal ~~arrest~~ history background check as part of the admission requirements to the training program, the training program shall provide the trainee with written notification of 63:1-1950.1 as part of the training program application.

310:677-3-9. Requirements for administration of the competency examination

- (a) The competency examination shall be administered and evaluated only by a Department approved entity which shall be periodically monitored by the Department.
- (b) Each approved examination entity must provide the Department with the following:
 - (1) Written job analysis studies to determine the pool of test questions.
 - (2) Test question validation studies.
 - (3) Capabilities of providing competency results in the proper format for compatibility with the Department's nurse aide registry within thirty (30) days of scoring.
 - (4) Assurances that the written and skills testing process are not compromised.
- (c) Each approved examination entity shall provide the examinee with the following:
 - (1) The notice showing pass/fail results.
 - (2) The notice shall specify the areas of failure to the nurse aide.
- (d) The Department shall withdraw approval of a testing entity when it allows one or more of the following:
 - (1) Disclosure of the competency examination.
 - (2) Allowing another entity not approved by the Department to score the competency examination.
 - (3) Tampering with the competency examination.
 - (4) The competency examination was administered by a non-qualified individual.
- (e) If the Department permits the competency examination is to be proctored by facility qualified entity personnel, the procedures adopted by the entity must ensure that the competency examination:
 - (1) Is secure from tampering.
 - (2) Is standardized and scored by a testing, educational, or other organization approved by the Department.
 - ~~(1)(3) The test results must be~~ Is transmitted to the scoring entity immediately after completion of the written or oral and skills examination.
 - ~~(2) A record of successful completion of the competency examination must be included in the nurse aide registry within 30 days of the date the individual is found to be competent. Competency is determined by a passing score on the written or oral examination and skills examination.~~
 - ~~(3) If the competency evaluation is to be proctored by facility personnel and the entity chooses to delay the administration of the written or oral examination and/or skills examination after completion of the training which will delay certification, this information shall be provided in writing in the training program application and signed by the trainee.~~
- (f) If the competency evaluation is to be proctored by facility personnel and the entity chooses to delay the administration of the written or oral examination and/or skills examination after completion of the training which will delay certification, this information shall be provided in writing in the training program application and signed by the trainee.
- (g) The Department may revoke the approval of an entity to proctor the nurse aide competency examination if the Department finds evidence of impropriety, including evidence of tampering by facility staff.
- ~~(f)(h)~~ (h) The trainee may sit for the written or oral examination and skills examination at a different location than where training was completed if the testing entity is provided with a Training Verification Form.

310:677-3-10. Content of the competency examination

- (a) ~~The competency examination shall include a written or oral examination portion of the competency examination, in English, which shall:~~
 - (1) Allow a nurse aide to choose between a written and an oral examination.
 - (2) Address each requirement specified in the minimum curriculum prescribed by the Department.
 - (3) Be developed from a pool of test questions, only a portion of which is used in any one (1) examination.
 - (4) Use a system that prevents disclosure of both the pool of test questions and the individual competency examination results.

- (5) If oral, the examination portion shall be read from a prepared text in a neutral manner.
- (b) The skills examination portion of the competency examination shall:
 - (1) Consist of randomly selected items drawn from a pool of tasks generally performed by nurse aides except as provided in section 9-5 (b).
 - (2) Be performed in an entity in which the individual will function as a nurse aide or a similar laboratory setting.
 - (3) Be administered and evaluated by a qualified clinical skills observer.
- ~~(c) The Department shall permit the skills examination to be proctored by qualified entity personnel if the Department finds that the procedure adopted by the testing entity ensures that the competency examination:

 - (1) Is secure from tampering.
 - (2) Is standardized and scored by a testing, educational, or other organization approved by the Department.
 - (3) Is transmitted to the scoring entity immediately after completion of the skills examination. A record of successful completion of the skills examination must be included in the Nurse Aide Registry within 30 days of the date the individual is found to be competent or has passed the skills examination.~~
- ~~(d) The Department shall revoke the approval of any entity to proctor the nurse aide competency examination if the Department finds evidence of impropriety, including evidence of tampering by facility staff.~~

310:677-3-12. Failure to complete the competency examination

If an individual does not complete the competency examination successfully, the individual shall be notified by the testing entity of, at least, the following:

- (1) The areas which the individual did not pass.
- (2) That the individual may retake the examination a total of ~~three~~ two times without further training.

310:677-3-13. Training program to inform trainee of renewal requirements

(a) Training programs shall inform the long term care aide, home health aide, ICF/IID care aide, residential care aide, and adult care aide that they shall complete a new nurse aide training and competency examination or competency examination if, upon applying for renewal of certification, the nurse aide has not provided at least eight (8) hours of nursing or health related services for compensation during the previous twenty four (24) months.

SUBCHAPTER 5. NURSE AIDE REGISTRY

310:677-5-1. Establishment of registry [REVOKED]

~~The Department shall, in addition to fulfilling the responsibilities assigned under 63 O.S. Section 1-1951.D., provide a written or verbal response to the public and employers about the registry status of a certified nurse aide or nurse aide trainee.~~

310:677-5-2. Registry operation

- (a) The Department shall maintain overall operation of the registry.
- ~~(b) Only the Department may place in the registry findings of abuse, neglect, mistreatment or misappropriation of property.~~
- ~~(c) The nurse aide registry shall indicate which individuals:

 - (1) Successfully completed a nurse aide training and competency examination;
 - (2) Were given a training exception to bypass training requirements and sit for the competency examination;~~

- ~~(3) Had the nurse aide training and competency examination program requirements waived; or~~
- ~~(4) Were placed on the Oklahoma Nurse Aide Registry via reciprocity from another state.~~
- (d) A home health aide, long term care aide, ICF/IID care aide, residential care aide, and adult day care aide shall renew individual certification once every two (2) years. The individual certified as a home health aide, ICF/IID care aide, residential care aide, or adult day care aide shall file a Recertification Renewal Application (ODH Form 717). The individual certified as a long term care aide shall file a Recertification Renewal Application for Long Term Care Aide (ODH Form 840). Each recertification renewal application requires:
 - (1) Personal identifying and contact information for the applicant;
 - (2) ~~Documentation that the applicant has provided at least eight (8) hours of nursing or health related services for compensation during the preceding 24 months. On and after July 1, 2008, the documentation shall consist of one of the following:~~
 - ~~(A) A statement signed by the administrator or the administrator's representative for the licensed nursing facility, specialized facility, residential care home, home health or home care agency, adult day care center, assisted living center, continuum of care facility, Oklahoma Department of Veterans Affairs nursing facility, or Oklahoma correctional facility where the applicant provided services;~~
 - ~~(B) A statement signed by a physician or nurse under whose supervision the applicant provided services; or~~
 - ~~(C) A check stub, IRS Form W-2 or similar proof of wages paid to the applicant by a licensed nursing facility, specialized facility, residential care home, home health or home care agency, adult day care center, assisted living center, continuum of care facility, Oklahoma Department of Veterans Affairs nursing facility, or Oklahoma correctional facility; and~~
 - (3) An oath of truthfulness and completeness to be signed by the applicant, affirming that the applicant completed at least eight (8) hours of nursing or health related services for compensation during the preceding 24 months.
- (3) Upon request of the Department, the applicant shall produce documentation of at least eight (8) hours of nursing or health related services performed for compensation during the preceding 24 months.
- ~~(e) (c) A home health aide, ICF/IID care aide, residential care aide, or adult day care aide shall pay a ten dollar (\$10.00) fee for the processing and renewal of certifications and for replacement of a wallet card for change of name or other reason.~~

310:677-5-4. Automatic removal from registry

- (a) ~~The Department shall automatically remove any nurse aide from the Department's automated telephone system the day after certification expires, if the nurse aide failed to request renewal of certification by the day the certification expires.~~
- ~~(b) If any nurse aide requests renewal of certification and there has been a continuous period of twenty-four (24) consecutive months during none of which the individual provided nursing or health related services for monetary compensation, the individual shall complete a new training and competency evaluation or a new competency evaluation program, whichever option they choose, to become recertified. The Department shall automatically remove any nurse aide from the Nurse Aide Registry if there has been a continuous period of twenty four (24) consecutive months during which the nurse aide has not provided at least eight (8) hours of nursing or health related services for compensation. The nurse aide shall produce documentation of work upon request for renewal of certification.~~
- ~~(c) The aide shall not be removed from the registry if the individual's registry notation has a pending or permanent finding of abuse, neglect, mistreatment, or misappropriation of property.~~
- ~~(d) If a nurse aide has been removed from the registry due to failure to renew certification and no more than forty eight (48) months have passed since the date of the last renewal, and the nurse aide cannot produce documentation of at least eight (8) hours of nursing or health related services for compensation, the nurse aide shall complete a new nurse aide training and competency evaluation program or just the competency evaluation, both the written and skills examination. This will be the choice of the nurse aide.~~

~~(e)~~ A nurse aide may renew certification for up to forty-eight months from the date of the last renewal, if the nurse aide is able to produce documentation of eight (8) hours of nursing or health related services for compensation within twenty-four (24) months after expiration.

~~(f)~~ If the nurse aide failed to renew certification for more than forty-eight months since the last renewal, and is unable to produce documentation of compensated employment providing nursing or health related services, the nurse aide shall complete a new nurse aide training and competency evaluation program to be reinstated in the registry.

~~(g)~~ (b) The Department shall review when requested and may grant an exception in removing any nurse aide from the nurse aide registry pursuant to OAC 310:677-5-4(b) if the nurse aide has completed a practical or registered nursing education program after certification and files with the Department a waiver application form, which requires the following information at minimum:

- (1) Individual's full name;
- (2) Telephone number and address to include street, city, state, and zip code;
- (3) Photocopy of Social Security card;
- (4) Photocopy of a diploma from an approved practical or registered nurse program; and
- (5) Type of nurse aide certification requesting to be waived.

~~(h)~~ (c) ~~Upon receipt of the waiver application form, the~~ The Department shall must verify the following information:

- (1) The nurse aide/LPN/RN student has completed a practical or registered nursing education program after certification;
- (2) The individual is in good standing with the Oklahoma Board of Nursing, ~~or~~ and the individual does not have confirmation of abuse, neglect or misappropriation of patient/resident/client property;
- (3) The individual is not a subject of a current ongoing investigation by the Oklahoma Board of Nursing or the Oklahoma Attorney General or other known legal entity; and
- (4) The individual has no restrictions preventing sitting for the nursing board exam.

~~(i)~~ (d) The Department shall automatically remove a nurse aide from the nurse aide registry and place them in the archive database if there has been a continuous period of forty-eight (48) consecutive months in which the nurse aide has not applied for renewal of certification, ~~unless the individual's registry notation has a pending or permanent finding of abuse, neglect, mistreatment, or misappropriation of property.~~ The individual shall complete a new nurse aide training and competency examination to be reinstated in the registry. However, a nurse aide with a pending or permanent finding of abuse, neglect, mistreatment, or misappropriation of property shall not be removed from the registry.

~~(j)~~ (e) The Department shall review and may grant an exception to place an individual, who failed to renew certification, back on the registry if the individual can produce documentation of continuous employment for the past forty-eight (48) months in a hospital, the Advantage Program through the Department of Human Services, or an entity that does not require certification of nurse aides.

310:677-5-5. Denial, suspension, withdrawal, and nonrenewal of certification

(a) The Department may deny, suspend, withdraw or not renew certification of a nurse aide based on the aide's noncompliance with 63 O.S. Sections 1-1950.3, 1-1950.4a, 1-1950.5, 1-1951, or this Chapter.

~~(a)~~(b) Grounds for certification action against a certified nurse aide may include:

- (1) Intentionally providing false or misleading information to a training program, a facility, or the Department;
- (2) Failing to provide care as ordered by a health care professional or required in the plan of care, with resulting actual harm that is either life threatening or has a negative outcome for the resident;
- (3) Altering or falsifying medical records;
- (4) Removing medical records or other documentation pertaining to resident care from the employment setting without authorization;
- (5) Altering or falsifying certified nurse aide identification cards;

(6) Representing oneself as a certified nurse aide without supervision by a licensed health Professional and providing services that are not included in a Department approved nurse aide training and competency evaluation program.

~~(b)(c) The Department may deny, suspend, withdraw or not renew certification of a nurse aide based on the aide's noncompliance with 63 O.S. Section 1-1950.3, 1-1950.4a, 1-1950.5 or 1-1951, or OAC 310:677. The Department shall notify the aide of the intent to deny, suspend, withdraw or not renew certification. The notice shall cite the specific reasons for the action and offer the aide an opportunity to demonstrate compliance. Prior to the effectiveness of the denial, suspension, withdrawal, or nonrenewal of certification, the Department shall offer the aide an opportunity for a hearing.~~

(c) The suspension of a certificate shall be effective for ~~not less than~~ at least six months; ~~and a~~ A denial, withdrawal or nonrenewal of a certification shall be effective for ~~not less than~~ at least one year. The Department shall specify the duration of the denial, suspension, withdrawal or nonrenewal of certification ~~in excess of the minimums~~ based on the seriousness of the underlying violation and the likelihood that the aide will maintain compliance in the future.

SUBCHAPTER 7. HEARINGS

310:677-7-1. Right to a hearing

(a) Before the registry is notified that a finding of client or resident abuse, neglect, mistreatment or misappropriation of a client's or resident's property has been made against a certified nurse aide or nurse aide trainee, the Department shall offer the certified nurse aide or nurse aide trainee an opportunity for a hearing. If the certified nurse aide or nurse aide trainee fails to request a hearing in writing within thirty (30) days from the date of the notice, the Department shall include on the registry a finding of client or resident abuse, neglect, mistreatment or misappropriation of a client's or resident's property against the certified nurse aide or nurse aide trainee.

(b) If the certified nurse aide or nurse aide trainee requests a hearing before the Department completes its investigation, a hearing will not be scheduled until the Department completes its investigation.

310:677-7-2. Hearing [REVOKED]

~~(a) **Conducting the hearing.** The hearing shall be conducted in accord with this subchapter and Chapter 2 of this Title.~~

~~(b) **Investigation when hearing requested.** If the certified nurse aide or nurse aide trainee requests a hearing before the Department completes its investigation, the investigation shall be completed before a hearing is conducted.~~

310:677-7-3. Petition and hearing

(a) **Petition.** ~~If~~ After the certified nurse aide or nurse aide trainee requests a hearing, ~~an individual proceeding shall be commenced upon the filing of a petition by the Department against a certified nurse aide or nurse aide trainee which states the facts supporting the allegation~~ the Department shall file a petition which states the facts supporting the allegation.

(b) **Notice of hearing.** All parties shall be given notice of the date, time and place of the hearing. The notice of hearing shall include a copy of the petition.

(c) **Time.** The hearing shall be scheduled at least fifteen (15) working days after the certified nurse aide or nurse aide trainee has received notice of the hearing.

(d) **Conducting the hearing.** The hearing shall be conducted in accordance with this Subchapter and Chapter 2 of this Title.

310:677-7-4. Orders

(a) **Authority.** The Administrative Law Judge shall issue a decision within fifteen (15) working days following the close of the hearing record. The decision shall include Findings of Fact and Conclusions of Law separately stated.

- (b) **Delegation.** The Commissioner of Health may delegate the authority to issue a final decision in these matters as specified in OAC 310:002-3-6.
- (c) **Registry notification.** The decision shall direct the nurse aide registry to ~~include~~ place the findings as they relate to the against the certified nurse aide or nurse aide trainee onto the registry. The decision shall direct the nurse aide registry to accept and add to the registry ~~include a~~ any statement submitted by the certified nurse aide or nurse aide trainee disputing the final decision ~~if the certified nurse aide or nurse aide trainee chooses to submit such statement~~. The statement of the certified nurse aide or nurse aide trainee shall be submitted to the nurse aide registry within thirty (30) days after the decision is issued.
- (d) **Notice.** Each party and attorney of record shall be mailed a copy of the Final Order. The Department shall transmit a copy of the Final Order to the nurse aide registry when the Order is mailed.
- (e) **Appeal.** An appeal of the Final Order shall be perfected under the Administrative Procedures Act.

SUBCHAPTER 9. HOME HEALTH AIDES

310:677-9-1. General requirements

- (a) The home care agency shall:
 - (1) Complete an annual performance review of each home care aide and provide at least twelve (12) hours of in-service training each calendar year.
 - (2) Have in-service education generally supervised by a registered nurse who has at least two (2) years nursing experience with at least one (1) year of which shall be in the provision of home care.
 - (3) Ensure that all certifications are current and not expired.
- (b) An individual may apply for placement in the nurse aide registry by reciprocity from another State if the individual is listed on another State registry as a certified home care nurse aide and does not have a notation of confirmed abuse, neglect, mistreatment, or misappropriation of property.
- (c) The training program shall inform the trainee that a home care aide shall complete a new nurse aide training and competency examination or competency examination if, upon applying for renewal of certification, the nurse aide has not provided at least eight (8) hours of nursing or health related services for compensation in the previous twenty-four (24) months. ~~Failure to renew within the certification period will result in the individual's name being removed from the automated telephone system.~~

310:677-9-2. Deemed to meet state certification requirements

- (a) The Department shall deem a certified home care aide to meet the nurse aide certification requirements for the following employers after successful completion of at least sixteen (16) hours of documented orientation specific to the employer's population. ~~Documentation of the sixteen hours of orientation shall be submitted to the Department to enter the certified nurse aide's name in the registry as being certified in that category.~~ The employers to which this requirement applies are the following:
 - (1) Residential care.
 - (2) Adult day care.
 - (3) Specialized facility.
- (b) An individual who is listed in the nurse aide registry as a long term care aide may be employed by a home care agency upon successful completion of a Department approved home care skills examination and at least sixteen (16) hours of orientation specific to the employer's population. The individual will be placed on the registry as being certified as a Home Health Aide after successfully passing the examination.

310:677-9-4. Curriculum

- (a) The home care aide training program ~~shall~~ curriculum must include:
 - (1) At least seventy-five (75) hours of training or the equivalent.

- (2) At least sixteen (16) hours of classroom training before beginning any supervised practical training.
- (3) At least sixteen (16) hours of supervised practical training.
- (b) The home care aide training program shall include, but is not limited to, the following subject areas:
 - (1) Communication skills.
 - (2) Observation, reporting and documentation of client status and the care or services furnished.
 - (3) Taking and recording temperature, pulse, and respiration;
 - (4) Basic infection control procedures.
 - (5) Basic elements of body functioning and changes in body function that must be reported to the aide's supervisor.
 - (6) Maintenance of a clean, safe, and healthy environment.
 - (7) Recognizing an emergency and necessary emergency procedures.
 - (8) The physical, emotional, and developmental needs of, and ways to work with, the populations served by the home care agency, including the need for respect for the client, and the client's privacy and property.
 - (9) Appropriate and safe techniques in personal hygiene and grooming including but not limited to the following: bed bath, sponge, tub or shower bath, shampoo, sink, tub, or bed, nail and skin care, oral hygiene and toileting and elimination.
 - (10) Safe transfer techniques and ambulation.
 - (11) Normal range of motion and positioning.
 - (12) Adequate nutrition and fluid intake;
 - (13) Any other task that the home care agency may choose to have the home care aide perform.

310:677-9-5. Competency and skills examination

- (a) The written or oral examination and skills examination shall be administered by a registered nurse.
- (b) The skills examination portion shall include at least the following:
 - (1) Taking and recording temperature, pulse, and respiration.
 - (2) Appropriate and safe techniques in personal hygiene and grooming.
 - (3) Safe transfer techniques and ambulation.
 - (4) Normal range of motion and positioning.

SUBCHAPTER 11. LONG TERM CARE AIDES

310:677-11-1. General requirements

- (a) The facility shall:
 - (1) Complete a performance review of every nurse aide at least once every twelve (12) months and provide two (2) hours of inservice training specific to their job assignment each month.
 - (2) Have in-service education generally supervised by a registered nurse who has at least two (2) years nursing experience with at least one (1) year of which shall be in the provision of long term care services.
 - (3) Ensure that each nurse aide certification is current and not expired.
- (b) An individual may apply for listing in the nurse aide registry by reciprocity from another State and the Department may approve such application if the individual is listed in another State registry as a certified long term care aide and does not have a notation of abuse, neglect, mistreatment, or misappropriation of property.
- (c) ~~The training program shall inform the trainee that a long term care aide shall complete a new nurse aide training and competency examination program or competency examination if, upon applying for renewal of certification, the nurse aide has not provided at least eight (8) hours of nursing or health related services for compensation during the previous twenty four (24) months.~~

~~(d)~~ The training program shall inform a trainee that the trainee shall not perform any resident services until the trainee has completed the required sixteen (16) hours of training identified in 310:677-11-4 and the aide shall not perform services for which they have not trained and been found proficient by the instructor.

310:677-11-2. Deemed to meet state certification requirements

(a) The Department shall deem a certified long term care aide to meet the nurse aide certification requirements for the following employers after successful completion of at least sixteen (16) hours of documented orientation specific to the employer's population. ~~Documentation of the sixteen (16) hours shall be submitted to the Department and the certified nurse aides name will be entered in the registry as being certified in that category.~~ This requirement shall apply to the following employers:

- (1) Residential care.
- (2) Adult day care.
- (3) Specialized facility.

(b) A home care aide may be employed by a long term care facility following at least sixteen (16) hours of training in the following areas:

- (1) Resident rights.
- (2) Caring for the resident when death is imminent.
- (3) Care of the cognitively impaired resident.
- (4) Avoiding the need for restraints in accordance with current professional standards.
- (5) The minimum data set, care plans and the interdisciplinary team.

(c) Documentation of the sixteen (16) hours of training shall indicate time spent in each area, be signed by the nurse aide and the instructor and be kept in the nurse aide's personnel file. Documentation shall also be submitted to the Department to place the certified home care aide on the registry as a certified long term care aide.

310:677-11-4. Curriculum

(a) The training program for long term care aides shall include:

- (1) At least, seventy-five (75) hours of training or the equivalent.
- (2) At least sixteen (16) hours of training in the following areas prior to any direct contact with a resident that is documented and signed by the nurse aide trainee:
 - (A) Communication and interpersonal skills.
 - (B) Infection control.
 - (C) Safety and emergency procedures, including the Heimlich maneuver.
 - (D) Promoting a resident's independence.
 - (E) Respecting a resident's rights.
- (3) At least sixteen (16) hours of supervised practical training that is documented and signed by the nurse aide trainee.

(b) The long term care aide training program shall include the subjects specified in paragraphs (b)(2) through (7) of 42 CFR 483.152(b); including:

- (1) Basic nursing skills;
- (2) Personal care skills;
- (3) Mental health and social service needs;
- (4) Care of cognitively impaired residents;
- (5) Basic restorative services; and
- (6) Residents' Rights.

(c) Pursuant to 63 O.S. 1-1951(A)(3), the long term care aide training program shall *include a minimum of ten (10) hours of training in the care of Alzheimer's patients.*

310:677-11-5. Competency ~~and skills~~ examination

- (a) The competency examination must comply with 42 CFR 483.154, and is addressed under OAC 310:677-3-9 and OAC 310:677-3-10.
- ~~(b) The skills examination shall:

 - (1) Consist of a demonstration of randomly selected items drawn from a pool of tasks generally performed by long term care aides. This pool shall include all of the personal care skills.
 - (2) Be performed in a facility or laboratory setting comparable to the setting in which the individual shall function as a long term care aide.
 - (3) Be administered and evaluated by a registered nurse with at least one (1) year experience in providing care for the elderly or the chronically ill of any age and a qualified clinical skills observer.~~

SUBCHAPTER 13. CERTIFIED MEDICATION AIDES

310:677-13-1. General requirements

- (a) An individual shall be able to read, write, and speak English and be certified in good standing as a home health aide, a long term care aide, or a ICF/IID care aide listed in the Department's Nurse Aide Registry, prior to admission to a State approved certified medication aide training program. The Department shall make available an attestation form that training programs may use for admission to certified medication aide training.
- (b) A certified medication aide shall complete at least eight (8) hours of continuing education every twelve (12) months, excluding the first year of certification, from a State approved program. A record of successful completion shall be kept in the certified medication aide's personnel file.
- (c) An employer shall not use as a certified medication aide any individual who does not comply with 63 O.S. Section 1-1950.3(E), OAC 310:677, and the employer's policies and procedures.
- (d) A certified medication aide shall renew certification every 12 months. ~~Recertification~~ Renewal requires the following:
 - (1) Documentation of completion of at least eight (8) hours of continuing education every twelve (12) months, excluding the first year after certification as a medication aide. Classroom and supervised practical training hours completed by a CMA in a Department-approved advanced training program may count towards the eight required hours of continuing education;
 - (2) Current certification as a long term care aide, home health aide or ICF/IID care aide. CMAs may also be certified in the other two (2) categories in addition to the required certification as a long term care aide, home health aide and ICF/IID care aide; and
 - (3) Current listing in the nurse aide registry.
- (e) The Department shall approve certified medication aide training programs that meet the requirements of OAC 310:677-13-3 through 13-5, and OAC 310:677-13-9.
- (f) The Department shall review, approve or disapprove a Certified Medication Aide Continuing Education Program application and notify the entity of its action within thirty (30) days of the request or receipt of additional information from the applicant.
- (g) The following words or terms when used in this subchapter shall have the following meaning unless the context clearly indicates otherwise:
 - (1) "Stable diabetes" means diabetes associated with a blood glucose level consistently between 80 and 140 milligrams per deciliter (mg/dl) fasting and less than or equal to 180 mg/dl after a meal, and/or a Hemoglobin A1c (HbA1c) at or below 7.0 within the last three months.
 - (2) "Unstable diabetes" means:
 - (A) A non-acutely ill person with blood glucose levels more than three times over a six week period that are under 80 mg/dl or more than 140 mg/dl fasting, or more than 180 mg/dl two hours after a meal;
 - (B) A person with diabetes who has prescriptions for both insulin and glucagon;
 - (C) A person with Type I diabetes who experiences hypoglycemia unawareness;
 - (D) A person who is newly diagnosed with diabetes and for whom insulin is prescribed; or

(E) A person who has been previously diagnosed with diabetes and now requires insulin administration for management. They may be considered stable again when their glucose is maintained in the stable range specified in subsection (g)(1) of this section, which may include maintaining an HbA1c at or below 7.0.

(3) "Newly diagnosed" means a person who now has a diagnosis of either Type I or Type II diabetes, has a new prescription for insulin, has not been diagnosed with diabetes in the past and who does not have stable diabetes.

310:677-13-3. Instructor qualifications

(a) Each training program instructor shall be qualified as a physician, licensed nurse, pharmacist, respiratory therapist, speech therapist, or certified diabetes educator ~~who may teach within her or his area of expertise or scope of practice~~. Each instructor shall have one year of experience in ~~her or his~~ their area of expertise. The program shall designate a registered nurse as the training program supervisor if a licensed practical nurse serves as an instructor.

(b) Other personnel from the health professions may supplement the instructor within their area of expertise or scope of practice, as required by the curriculum and approved by the Department.

310:677-13-4. Curriculum

(a) The certified medication aide training program shall include a minimum of forty (40) hours of ~~combined~~ classroom and supervised practical training with a minimum of sixteen (16) hours of supervised practical training.

(b) The certified medication aide training shall include, but is not limited to each of the following subject areas:

(1) Preparation and administration of medication.

(A) Documentation of medication administration.

(B) Proper medication storage procedures.

(i) Scheduled controlled substances.

(ii) Internal and external medications.

(C) Purposes of medications.

(D) Oral medications.

(E) Topical medications.

(F) Eye, ear, and nose medications.

(G) Vaginal medications.

(H) Rectal medications.

(I) Oral inhalants.

(J) Transdermal medications.

(K) Medical terminology, symbols, and abbreviations.

(L) The rights of medication administration, including the right patient, drug, date, time, dosage, route and form.

(M) Controlled drug procedures.

(N) Recognizing appropriate situations requiring assistance of the charge nurse.

(O) Drug-reference sources.

(P) Vital sign measurement with drug administration.

(Q) Medication labeling.

(2) Observe, report, and document resident's status.

(A) Blood pressure measurement and documentation.

(B) Drug to drug interactions.

(C) Drug to food interactions, and medication timed to coincide with meals.

(3) Principles of safety.

(A) Infection control techniques.

(B) Principles of positioning for medication administration.

- (4) Knowledge of measurement systems.
 - (A) Distinguish weight and volume measurements.
 - (B) Decimal and fraction concepts in medication administration.
 - (C) Appropriate measurement equipment.
- (5) Body systems and common diseases.
 - (A) Digestive system and common diseases to medication administration.
 - (B) Respiratory system and common diseases to medication administration.
 - (C) Drug metabolism.
 - (D) Cardiovascular system and common diseases to medication administration.
 - (E) Endocrine system in relation to diabetes and hormone therapy.
 - (F) Elimination system and common diseases to medication administration.
 - (G) Skin system and common diseases to medication administration.
 - (H) Muscular-skeletal system and common diseases to medication administration.
 - (I) Nervous system and common diseases to medication administration.
- (c) The advanced training program for care of diabetes and the administration of diabetic medications by CMAs shall include:
 - (1) A minimum of twelve hours of classroom training and a minimum of four hours of supervised practical training;
 - (2) Training in the following subject areas with curriculum standards as indicated:
 - (A) Pathophysiology of diabetes, with the successful learner able to:
 - (i) Define diabetes as a chronic metabolic disorder in which the body is unable to metabolize glucose properly;
 - (ii) Describe the action of insulin in the body; and
 - (iii) Explain the differences between the types of diabetes;
 - (B) Diabetes disease management, with the successful learner able to:
 - (i) Describe the relationship between insulin, diet, and physical activity in management of diabetes; and
 - (ii) Explain how diet relates to blood glucose control;
 - (C) Blood glucose testing and use of equipment, with the successful learner able to:
 - (i) Explain the purpose of blood glucose testing;
 - (ii) Demonstrate how to use blood glucose testing equipment, and demonstrate accuracy; and
 - (iii) Explain the quality control requirements for glucose monitoring equipment, demonstrate both high and low controls, and explain their purpose and frequency of control testing;
 - (D) Stable and unstable diabetes, with the successful learner able to:
 - (i) Identify appropriate blood glucose levels for persons with diabetes;
 - (ii) Define hypoglycemia and list three causes and three symptoms;
 - (iii) Define hyperglycemia and list three causes and three symptoms; and
 - (iv) Define and describe the difference between stable and unstable diabetes;
 - (E) Diabetes care by managing blood glucose levels, with the successful learner able to:
 - (i) List three carbohydrate choices used to treat hypoglycemia;
 - (ii) Describe measures to prevent hypoglycemia;
 - (iii) Describe the relationship between blood glucose levels and indications for glucagon use;
 - (iv) Describe measures to prevent hyperglycemia; and
 - (v) State when to contact and what to report to a licensed health care provider;
 - (F) Charting, graphing, and record-keeping, with the successful learner able to:
 - (i) Explain the reason for accurate documentation of all aspects of diabetes management and care, including blood glucose results, quality control testing, medication administration, and adverse reactions;

- (ii) Identify correct forms for documentation; and
- (iii) Demonstrate the ability to accurately document diabetes management and care;
- (G) Diabetic medications and adverse reactions (Insulin), with the successful learner able to:
 - (i) Describe the purpose of insulin;
 - (ii) State the types of insulin and each onset, peak and duration of action;
 - (iii) Explain the difference between basal and bolus insulin; and
 - (iv) State common side effects, adverse reactions and precautions for insulins;
- (H) Diabetic medications and adverse reactions (Oral agents), with the successful learner able to:
 - (i) Describe the purpose, action and recommended doses of each oral agent; and
 - (ii) State common side effects, adverse reactions and precautions for each oral agent;
- (I) Administration of diabetic medications, with the successful learner able to:
 - (i) State the correct administration times for insulin and oral agents relevant to meals and mechanisms of action;
 - (ii) Identify the preferred sites for an insulin injection and describe site rotation patterns;
 - (iii) Discuss the proper storage of insulin;
 - (iv) Demonstrate the accurate measurement and correct technique for preparation of a single and a mixed dose of insulin;
 - (v) Explain why it is required to check insulin type and dose drawn with another certified medication aide or licensed health care provider; and
 - (vi) Demonstrate administration of a dose of insulin (or saline) to self or another person and/or to a training mannequin appropriate for injections during classroom training; and
 - (vii) Demonstrate administration of a dose of insulin (or saline) to self or another person during supervised practical training;
- (J) Infection control and universal precautions for blood borne pathogens, with the successful learner able to:
 - (i) Define the term "universal precautions";
 - (ii) Demonstrate safe handling of syringes, needles, pen devices, glucometer equipment and test strips, lancing devices and lancets; and
 - (iii) Explain proper disposal of used syringes, needles, test strips and lancets; and
- (3) Return demonstrations of skill with a proficiency of 100% and didactic testing measuring curriculum knowledge at 90% or greater.
- (d) The advanced training program for administration of medications and nutrition via nasogastric and gastrostomy tubes, and for administration of oral metered dose inhalers and nebulizers, shall include:
 - (1) A combined minimum of eight (8) hours of classroom and supervised practical training;
 - (2) Training in at least the following subject areas:
 - (A) Gastrointestinal system and alternative methods for providing medications and nourishment;
 - (B) Nasogastric and gastrostomy equipment and supplies;
 - (C) Procedures and techniques for insertion of nasogastric tube by a licensed nurse, and assessment of patient by registered nurse after placement of nasogastric or gastrostomy tube and before administration of medication or feedings;
 - (D) Procedures and techniques for checking stomach contents through a gastrostomy tube prior to the administration of medication and/or feedings per licensed nurse delegation, when assessment of gastrostomy tube placement and assessment of resident status by a licensed nurse is not indicated based on the resident's current assessment and care plan and/or status and condition;
 - (E) Methods and techniques for administration of medications and nutrition via nasogastric and gastrostomy tubes;
 - (F) Identification of and responses to potential problems associated with administration of medications and nutrition via nasogastric and gastrostomy tubes;
 - (G) Respiratory system and methods for delivery of medications;

- (H) Equipment and supplies for administration of medication via metered dose inhalers and nebulizers;
 - (I) Methods and techniques for administering medications via metered dose inhalers and nebulizers; and
 - (J) Identification of and responses to potential problems associated with administration of medications via metered dose inhalers and nebulizers; and
 - (3) Return demonstrations of skill with a proficiency of 100% and didactic testing measuring curriculum knowledge at 90% or greater.
- (e) The advanced training program for care of diabetes and the monitoring of blood glucose only, with no administration of insulin by CMAs, shall include:
- (1) A minimum of six (6) hours of classroom training and a minimum of two hours of supervised practical training; and
 - (2) ~~Training in the subject areas identified in subparagraphs (c)(2)(A), (B), (C), (D), (E), (F) and (J) of this section; and~~
 - (3) Return demonstrations of skill with a proficiency of 100% and didactic testing measuring curriculum knowledge at 90% or greater.
- (f) The advanced training program for administration of medications and nutrition via nasogastric and gastrostomy tubes only, with no administration via oral metered dose inhalers and nebulizers, shall include:
- (1) A combined minimum of four (4) hours of classroom training and two (2) hours of supervised practical training; and
 - (2) ~~Training in the subject areas identified in subparagraphs (d)(2)(A), (B), (C), (D) and (E) of this section; and~~
 - (3) Return demonstrations of skill with a proficiency of 100% and didactic testing measuring curriculum knowledge at 80% or greater.
- (g) The advanced training program for administration of oral metered dose inhalers and nebulizers only, with no administration via nasogastric and gastrostomy tubes, shall include:
- (1) A combined minimum of two (2) hours of classroom training and one (1) hour of supervised practical training;
 - (2) Training in the subject areas identified in subparagraphs (d)(2)(F), (G), (H) and (I) of this section; and
 - (3) Return demonstrations of skill with a proficiency of 100% and didactic testing measuring curriculum knowledge at 80% or greater.

310:677-13-5. Competency ~~and skills~~ examination

- (a) The following shall apply to the written or oral portion of the competency examination.
- (1) The examination shall be drawn from a pool of test questions that address the course requirements.
 - (2) The examination shall be administered and scored by a Department approved entity.
 - (3) The examination shall comply with the examination administration requirements in OAC 310:677-3-9.
 - (4) A minimum score of seventy percent (70%) shall be required to pass the written competency examination for certification as a medication aide.
 - (5) A minimum score of eighty percent (80%) shall be required to pass the written competency examination for insulin administration.
 - (6) A candidate who fails to score at least the required minimum on three consecutive written competency examinations shall be required to retrain before retesting.
- (b) The following shall apply to the skills demonstration.
- (1) The skills demonstration shall be performed in a laboratory or a site comparable to the setting in which the certified medication aide will function.

- (2) The skills demonstration shall be administered and scored by a physician, licensed nurse or registered pharmacist.
 - (3) The student shall achieve one hundred (100) percent accuracy on a medication pass on at least twenty (20) or more individuals under direct observation by an instructor.
 - (4) The successful completion of the medication pass shall be documented and retained in the certified medication aide's training file.
 - (5) The skills demonstration shall comply with the administration requirements in OAC 310:677-3-9 and the content requirements in OAC 310:677-3-10.
- (c) The competency ~~and skills~~ examination program shall obtain a written attestation of compliance with OAC 310:677-13-8(a) from each candidate for medication aide certification before administering the examination to the candidate. The Department shall make available a form that examination entities may use to obtain attestations from testing candidates.

310:677-13-7. Skills and functions

- (a) Task assignments. Approved training programs and facilities, centers and homes shall ensure that a task selected, taught and assigned to certified medication aides ~~conforms to 63 O.S. Section 1-1950.3 and OAC 310:677-13~~ meets the minimum requirements of this chapter.
- (b) Limitations. A certified medication aide shall not:
- (1) Administer medication that requires assessment unless a registered nurse is available to perform the assessment within the required time;
 - (2) Perform oral, nasal or tracheal suctioning;
 - (3) Apply topical wound care medications that involve decubitus treatment ordered by the attending physician;
 - (4) Act as preceptor for a medication aide in training;
 - (5) Administer PRN medication without a documented assessment unless authorization is obtained from a licensed nurse on duty or on call, and unless fully documented by the certified medication aide;
 - (6) Perform blood glucose testing unless the CMA has completed a Department-approved advanced training program and has demonstrated competency for care of diabetes;
 - (7) Administer insulin unless the CMA has successfully completed a Department-approved advanced training program and competency and skills examination, and unless a physician or licensed nurse is on-site if the individual:
 - (A) Is newly diagnosed with diabetes;
 - (B) Requires insulin administration based on blood glucose levels and does not have clear physician orders for variable or sliding scale insulin; or
 - (C) Has unstable diabetes; or
 - (8) Administer medications or nutrition via nasogastric or gastrostomy tubes, or administer oral metered dose inhalers or nebulizers, unless the CMA has completed a Department-approved advanced training program and has demonstrated competency for such services; or
 - (9) Take or note physician orders.
- (c) Skills review. The facility, center or home shall validate certified medication aide skills before the certified medication aide performs medication administration. The certified medication aides' skills shall be reviewed annually for performance competency.
- (d) Functions. The functions of the certified medication aide are:
- (1) Knowing the resident, including:
 - (A) Reviewing the resident's plan of care; and
 - (B) Recognizing normal and abnormal conditions for the specific resident;
 - (2) Collection and documentation of data;
 - (3) Identifying a change in condition;
 - (4) Reporting to the licensed nurse and/or physician;
 - (5) Contacting emergency medical services;

- (6) Receiving facility-specific training and orientation from the facility's licensed nurse;
- (7) Demonstrating competency and proficiency to the facility's licensed nurse; and
- (8) Receiving delegated tasks from the facility licensed nurse, and performing based upon such delegation.

310:677-13-8. Certification and recertification renewal

- (a) Effective August 1, 2006, the following, to be evidenced by the aide's attestation, are prerequisites for certification as a medication aide:
 - (1) Minimum age: 18;
 - (2) Minimum education: high school or general equivalency diploma;
 - (3) Current Oklahoma nurse aide certification with no abuse notations;
 - (4) Experience working as a certified nurse aide for six months; and
 - (5) Physical and mental capability to safely perform duties.
- (b) Application criteria and processing requirements for recertification renewal are as follows:
 - (1) The certified medication aide shall submit a Recertification Renewal Application (~~ODH Form 717~~) that requires information to demonstrate compliance with OAC 310:677-13-1(d).
 - (2) The Recertification Renewal Application (~~ODH Form 717~~) shall be accompanied by a ten dollar (\$10.00) fee.
 - (3) Each recertification renewal shall be effective for twelve months from the expiration date of the medication aide's previous certification.
 - (4) The medication aide shall be required to retest if certification has expired by more than one year. The individual may obtain approval to take a retest by filing a Certified Medication Aide Retest Application (~~ODH Form 842~~) with a fifteen dollar (\$15.00) nonrefundable fee. The aide shall retrain and test if the aide fails the retest or if certification has expired by more than three years.
 - (5) The Recertification Renewal Application (~~ODH Form 717~~) for a medication aide shall include documentation of continuing education equivalent to eight hours for every twelve months of certification, excluding the first year of certification.
- (c) A certified medication aide who completes a Department-approved advanced training program and demonstrates competence may request a Department-issued certificate that bears an endorsement for the advanced training. When an advanced-training certificate is issued by the Department to a certified medication aide, a notation reflecting the advanced training shall be placed on the aide's record in the Nurse Aide Registry. A request for endorsement shall be accompanied by a ten dollar (\$10.00) endorsement fee and proof of training and competence on an application form that requires:
 - (1) The name and contact information for the certified medication aide; and
 - (2) The name of the training program, dates of attendance, details on the CMA's demonstration of competence, and copies of documents from the program confirming training and competence.

SUBCHAPTER 15. ICF/IID CARE AIDES

310:677-15-1. Deemed to meet state certification requirements

- (a) A certified ICF/IID care aide is deemed to meet the nurse aide certification requirements for the following employers after successful completion of at least sixteen (16) hours of documented orientation specific to the facility population. ~~Documentation of the sixteen (16) hours of orientation shall be submitted to the Department and the certified ICF/IID care aide will be placed on the registry as a certified residential care aide or a certified adult day care aide.~~ The employers to which this subsection applies are:
 - (1) Residential care.
 - (2) Adult day care.
- (b) The Department shall deem a certified long term care aide or a home care aide who has at least sixteen (16) hours of training specific to individuals with intellectual or developmental disabilities to meet

the requirements for an ICF/IID care aide. ~~Documentation of the sixteen (16) hours of training shall be submitted to the Department and the certified long term care nurse aide or the certified home care nurse aide will be added to the registry as being certified as a ICF/IID care aide.~~

310:677-15-4. Competency ~~and skills~~ examination

(a) ~~The written or oral examination~~ competency examination shall be administered by a Department approved program. The skills portion of the examination shall be performed in a facility or laboratory setting comparable to the setting in which the individual will function as a ICF/IID care aide.

~~(b) The clinical skills observer shall be a licensed nurse or a qualified intellectual disability professional.~~

310:677-15-5. Recertification

~~(a) The training program shall inform the certified ICF/IID care aide that they shall complete a new nurse aide training and competency examination or competency examination if, upon applying for renewal of certification, the nurse aide has not provided at least eight (8) hours of nursing or health related services for compensation during the previous twenty four (24) months.~~

~~(b) The ICF/IID shall ensure that all certifications are current and not expired.~~

SUBCHAPTER 17. RESIDENTIAL CARE AIDES

310:677-17-1. Deemed to meet state certification requirements

(a) The Department shall deem a certified residential care aide to meet the adult day care program aides certification requirements after successful completion of at least sixteen (16) hours of training specific to the facility population.

(b) The Department shall deem a certified long term care aide, a certified home care aide or a certified ICF/IID care aide who has at least sixteen (16) hours of documented training specific to the residential care population to meet the requirements for a certified residential care aide. ~~Documentation of the sixteen (16) hours of training shall be submitted to the Department and the certified nurse aide will be listed on the registry as a certified residential care aide.~~

310:677-17-4. Competency ~~and skills~~ examination

(a) ~~The written or oral~~ competency examination shall be administered by a Department approved program. The skills portion of the examination may be performed in a facility or laboratory setting comparable to the setting in which the individual will function as a residential care aide.

~~(b) The clinical skills observer shall be a licensed nurse.~~

310:677-17-5. Recertification

~~(a) The training program shall inform the certified residential care aide that they shall complete a new nurse aide training and competency examination or competency examination if, upon reapplying for renewal of certification, the Department determines that the nurse aide has not provided at least eight (8) hours of nursing or health related services for compensation during the previous twenty four (24) months.~~

~~(b) The residential care facility shall ensure that all certifications are current and not expired.~~

SUBCHAPTER 19. ADULT DAY CARE PROGRAM AIDES

310:677-19-1. Deemed to meet state certification requirements

(a) The Department shall deem a certified adult day care program aide to meet the nurse aide certification requirements for a residential care employer after successful completion of at least sixteen

(16) hours of documented training specific to the facility population. ~~Documentation of the sixteen (16) hours shall be submitted to the Department and the certified adult day care aide will be placed on the registry as a certified residential care aide.~~

(b) The Department shall deem a certified long term care aide, a certified home care aide or a certified ICF/IID care aide who has at least sixteen (16) hours of training specific to the adult day care population to meet the requirements for certification as an adult day care aide. Documentation of the sixteen (16) hours of training shall be submitted to the Department and the certified long term care aide, certified home care aide or certified ICF/IID care aide shall be certified as a certified adult day care aide.

310:677-19-4. Competency and skills examination

The ~~written or oral~~ competency examination shall be administered by a Department approved program. The skills portion of the examination may be performed in a facility or laboratory setting comparable to the setting in which the individual will function as an adult day care program aide.

310:677-19-5. Recertification

~~(a) The training program shall inform the certified adult day care aide that they shall complete a new nurse aide training and competency examination program or competency examination if, upon applying for renewal of certification, the Department determines that the nurse aide has not provided at least eight (8) hours of nursing or health related services for compensation during the previous twenty four (24) months.~~

~~(b) The adult day care center shall ensure that each certification is current and not expired.~~