

Long-Term Care Administrator Licensing State Examination Study Guide

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State Standards Examination questions are taken from applicable state rule and law. Please see information below regarding which item numbers within this document contain applicable rule and law for each long-term care administrator license type. When using this document as a study guide for the State Standards exam, the information below will help applicants identify relevant study material.

- **All applicants** should know the content found within 1-5.
 - **Tier 1** applicants should also know the content found within 6-9.
 - **Tier 2 ICF/IID** should also know the content found within 6-9.
 - **Tier 2 RCAL** should also know the content found within 10-13.
 - **Tier 2 Adult Day Care** should also know the content found within 14-15.
- The State Standards exam consists of content taken directly from rule and law.
- This study guide was amended on 6-3-24 and was current as of the date of creation.
 - Chapters of rule were taken from the Office of Administrative Rules website.
 - Statute was taken from OSCN.

Long-Term Care Administrator Licensing Act

63 O.S. § 1-1949.1 et seq

Statute was pulled from OSCN on 2-9-24 for this binder. This captures existing statute from one point in time. The Long-Term Care Administrator Licensing Act is subject to change when bills become law which amend, repeal, or add new law to the Act.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Long-Term Care Administrator Licensing Act

Article Article 19 - Nursing Home Care Act

Section 1-1949.1 - Short Title

Cite as: 63 O.S. § 1-1949.1 (OSCN 2024), Long-Term Care Administrator Licensing Act

This act shall be known and may be cited as the “Long-Term Care Administrator Licensing Act”.

Historical Data

Laws 2023, HB 2824, c. 271, § 1, emerg. eff. May 22, 2023.

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Long-Term Care Administrator Licensing Act

Article Article 19 - Nursing Home Care Act

Section 1-1949.2 - Definitions

Cite as: 63 O.S. § 1-1949.2 (OSCN 2024), Long-Term Care Administrator Licensing Act

For the purposes of this act:

1. “Long-term care administrator” means a person licensed or certified as a Tier 1 long-term care administrator or Tier 2 long-term care administrator under this act. A long-term care administrator must devote at least one-half (1/2) of such person’s working time to on-the-job supervision of a long-term care facility; provided that this requirement shall not apply to an administrator of an intermediate care facility for individuals with intellectual disabilities with sixteen or fewer beds (ICF/IID-16), in which case the person licensed by the state may be in charge of more than one ICF/IID-16, if such facilities are located within a circle that has a radius not more than fifteen (15) miles, and the total number of facilities and beds does not exceed six facilities and sixty-four beds. The facilities may be free-standing in a community or may be on campus with a parent institution. The ICF/IID-16 may be independently owned and operated or may be part of a larger institutional ownership and operation;
2. “Tier 1 long-term care administrator” means a person licensed by this state to perform the duties of an administrator serving in a skilled nursing or nursing facility or an intermediate care facility for individuals with intellectual disabilities with seventeen or greater beds (ICF/IID);
3. “Tier 2 long-term care administrator” means a person licensed or certified by this state to perform the duties of an administrator serving in an assisted living facility, residential care facility, adult day care center, or intermediate care facility for individuals with intellectual disabilities with sixteen or fewer beds (ICF/IID-16);
4. “Nursing home”, “rest home” and “specialized home” shall have the same meaning as the term “nursing facility” as such term is defined in the Nursing Home Care Act; “assisted living center” and “continuum of care facility” shall have the same meaning as such terms are defined in the Continuum of Care and Assisted Living Act; “home” and “residential care home” shall have the same meaning as the terms are used in the Residential Care Act; and “adult day care center” and “center” shall have the same meaning as such terms are used in the Adult Day Care Act.

Historical Data

Laws 1968, SB 643, c. 100, § 1, emerg. eff. April 1, 1968; Amended by Laws 1991, HB 1319, c. 168, § 1, emerg. eff. July 1, 1991; Amended by Laws 1995, SB 469, c. 289, § 1, eff. November 1, 1995; Amended by Laws 1996, SB 932, c. 118, § 2, eff. November 1, 1996; Amended by Laws 2005, HB 1453, c. 168, § 1, emerg. eff. May 13, 2005 ([superseded document available](#)); Amended by Laws 2006, SB 1850, c. 291, § 1, emerg. eff. July 1, 2006 ([superseded document available](#)); Amended by Laws 2011, HB 1282, c. 192, § 1, eff. November 1, 2011 ([superseded document available](#)); Amended by Laws 2019, HB 2341, c. 475, § 57, eff. November 1, 2019 ([superseded document available](#)); Amended by Laws 2023, HB 2824, c. 271, § 3 (Effective upon Certification by the State Commissioner of Health that the Conditions of Section 2 of this Act have been Met) ([superseded document available](#)); Renumbered from [63 O.S. 330.51](#) by Laws 2023, HB 2824, c. 271, § 12 (Effective upon Certification by the State Commissioner of Health that the Conditions of Section 2 of this Act have been Met).

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Cite Name	Level	
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<u>63 O.S. 1-1949.2,</u>	<u>Definitions</u>	<i>Cited</i>

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<u>63 O.S. 330.51,</u>	<u>Definitions</u>	<i>Cited</i>
<u>63 O.S. 1-1949.2,</u>	<u>Definitions</u>	<i>Cited</i>



Title 63. Public Health and Safety

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Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Long-Term Care Administrator Licensing Act

Article Article 19 - Nursing Home Care Act

Section 1-1949.3 - Licensing of Long-Term Care Administrators - Requirements - Fees - Rules - Misdemeanor

Cite as: 63 O.S. § 1-1949.3 (OSCN 2024), Long-Term Care Administrator Licensing Act

A. The State Department of Health shall have authority to issue licenses or certifications to qualified persons as long-term care administrators in accordance with qualification criteria established by the State Commissioner of Health.

B. No license or certification shall be issued to a person as a long-term care administrator unless:

1. The person shall have submitted evidence satisfactory to the Department that the person is:

a. not less than twenty-one (21) years of age, and

b. of reputable and responsible character; and

2. The person shall have submitted evidence satisfactory to the Department of the person's ability to be licensed or certified to serve as a Tier 1 long-term care administrator or Tier 2 long-term care administrator.

C. The Commissioner shall have the authority to determine the qualifications, skill, and fitness of any person to serve as a long-term care administrator under the applicable provisions of the Nursing Home Care Act, the Continuum of Care and Assisted Living Act, the Residential Care Act, and the Adult Day Care Act. The Commissioner shall promulgate rules to determine the qualifications for licensure or certification as a Tier 1 or Tier 2 long-term care administrator. Such rules may, at the discretion of the Commissioner, include a requirement for licensure instead of certification for either or both of the tiers of long-term care administrators.

D. 1. All persons licensed or certified or lawfully serving as an administrator in their defined facility type shall be permitted to continue to serve in their current capacity under their current terms of authorization. The Commissioner may promulgate rules to address future certification and licensure requirements for both tiers of long-term care administrators without effect on the licensure or certification status of those currently certified or licensed. Until such rules are promulgated, current licensure and certification processes and standards shall remain in place.

2. To be eligible for licensure or certification as either a Tier 1 or Tier 2 long-term care administrator, the applicant shall have successfully completed a training and education program approved by the Commissioner.

3. The Commissioner shall not include a requirement for a four-year degree in any licensing or certification requirements for Tier 2 long-term care administrators.

4. In addition to the requirement provided by paragraph 2 of this subsection, to be eligible for licensure or certification as a Tier 1 long-term care administrator, the applicant shall:

a. hold a baccalaureate degree from an institution of higher education, or

b. hold an associate degree in a health- or business-related field or other relevant field as determined by the Commissioner and have not less than five (5) years of experience in upper-level management of a long-term care facility as determined by the Commissioner.

E. Eligible applicants may sit for the state standards examination at a testing facility using procedures approved by the National Association of Long-Term Care Administrator Boards including, but not limited to, the use of electronic or online methods for examination.

F. The State Department of Health shall either:



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Section 1-1949.4 - Duties of State Department of Health or State Commissioner

Cite as: 63 O.S. § 1-1949.4 (OSCN 2024), Long-Term Care Administrator Licensing Act

The State Department of Health or, as appropriate, the State Commissioner of Health shall:

1. Develop and apply standards for approval of training and education programs for long-term care administrators that meet the accreditation standards of the National Association of Long Term Care Administrator Boards and approve or offer training and education programs, or both, as described in subsection F of Section 330.53 of this title;
2. Develop, impose, and enforce standards which must be met by individuals in order to receive a license or certification as a long-term care administrator, which standards shall be designed to ensure that long-term care administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as long-term care administrators;
3. Develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets such standards;
4. Issue licenses or certifications to individuals determined, after the application of such techniques, to meet such standards. The Department may deny an initial application, deny a renewal application, and revoke or suspend licenses or certifications previously issued by the Department in any case where the individual holding any such license or certification is determined substantially to have failed to conform to the requirements of such standards. The Department may also warn, censure, impose administrative fines or use other remedies that may be considered to be less than revocation and suspension. Administrative fines imposed pursuant to this section shall not exceed One Thousand Dollars (\$1,000.00) per violation. The Department shall consider the scope, severity and repetition of the violation and any additional factors deemed appropriate by the Department when issuing a fine. The Department may utilize one or more administrative law judges to conduct administrative proceedings;
5. Establish and carry out procedures designed to ensure that individuals licensed or certified as long-term care administrators will, during any period that they serve as such, comply with the requirements of such standards;
6. Receive, investigate, and take appropriate action with respect to any charge or complaint filed with the Department to the effect that any individual licensed as a long-term care administrator has failed to comply with the requirements of such standards. The long-term care ombudsman program of the Aging Services Division of the Department of Human Services shall be notified of all complaint investigations of the Department so that they may be present at any such complaint investigation for the purpose of representing long-term care facility consumers;
7. Receive and take appropriate action on any complaint or referral received by the Department from the Department of Human Services or any other regulatory agency. A complaint shall not be published on the website of the Department unless there is a finding by the Department that the complaint has merit. The Commissioner shall promulgate rules that include, but are not limited to, provisions for:
 - a. establishing a complaint review process,
 - b. creating a formal complaint file,
 - c. establishing a protocol for investigation of complaints, and

- d. establishing an independent informal dispute resolution process in accordance with Section 9 of this act;
8. Enforce the provisions of this act against all persons who are in violation thereof including, but not limited to, individuals who are practicing or attempting to practice as long-term care administrators without proper authorization from the Department;
9. Conduct a continuing study and investigation of long-term care facilities and administrators of long-term care facilities within the state with a view toward the improvement of the standards imposed for the licensing or certifying of such administrators and of procedures and methods for the enforcement of such standards with respect to administrators of long-term care facilities who have been licensed or certified;
10. Cooperate with and provide assistance when necessary to state regulatory agencies in investigations of complaints;
11. Develop a code of ethics for long-term care administrators which includes, but is not limited to, a statement that administrators have a fiduciary duty to the facility and cannot serve as guardian of the person or of the estate, or hold a durable power of attorney or power of attorney for any resident of a facility of which they are an administrator;
12. Report a final adverse action against a long-term care administrator to the Healthcare Integrity and Protection Data Bank pursuant to federal regulatory requirements;
13. Refer completed investigations to the proper law enforcement authorities for prosecution of criminal activities;
14. Impose administrative fines, in an amount to be determined by the Commissioner, against persons who do not comply with the provisions of this act or the rules adopted by the Commissioner. Administrative fines imposed pursuant to this section shall not exceed One Thousand Dollars (\$1,000.00) per violation. The Department shall consider the scope, severity and repetition of the violation and any additional factors deemed appropriate by the Department when issuing a fine;
15. Assess the costs of the hearing process, including attorney fees;
16. Grant short-term provisional licenses to individuals who do not meet all of the licensing requirements, provided the individual obtains the services of a currently licensed administrator to act as a consultant and meets any additional criteria for a provisional license established by the Commissioner;
17. Promulgate rules governing the employment of assistant administrators including, but not limited to, minimum qualifications; and
18. Employ such staff as may be necessary to carry out the duties of this act.

Historical Data

Laws 1968, SB 643, c. 100, § 8, emerg. eff. April 1, 1968; Amended by Laws 1980, HB 1852, c. 175, § 2, eff. October 1, 1980; Amended by Laws 1991, HB 1319, c. 168, § 6, eff. July 1, 1991; Amended by Laws 2005, HB 1453, c. 168, § 3, emerg. eff. May 13, 2005 ([superseded document available](#)); Amended by Laws 2006, SB 1850, c. 291, § 7, emerg. eff. July 1, 2006 ([superseded document available](#)); Amended by Laws 2007, SB 738, c. 347, § 11, eff. November 1, 2007 ([superseded document available](#)); Amended by Laws 2008, SB 2704, c. 411, § 2, eff. November 1, 2008 ([superseded document available](#)); Amended by Laws 2011, HB 1282, c. 192, § 6, eff. November 1, 2011 ([superseded document available](#)); Amended by Laws 2023, HB 2824, c. 271, § 6 (Effective upon Certification by the State Commissioner of Health that the Conditions of Section 2 of this Act have been Met) ([superseded document available](#)); Renumbered from [63 O.S. 330.58](#) by Laws 2023, HB 2824, c. 271, § 14 (Effective upon Certification by the State Commissioner of Health that the Conditions of Section 2 of this Act have been Met).

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Title 63. Public Health and Safety	
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63 O.S. 330.58	Duties of Board.
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<u>63 O.S. 330.58,</u>	<u>Duties of Board</u>	<i>Cited</i>
<u>63 O.S. 330.58,</u>	<u>Duties of Board</u>	<i>Cited</i>
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<u>63 O.S. 330.58,</u>	<u>Duties of Board</u>	<i>Cited</i>
<u>63 O.S. 330.53,</u>	<u>Renumbered</u>	<i>Cited</i>
<u>63 O.S. 330.58,</u>	<u>Renumbered</u>	<i>Cited</i>



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Chapter 1 - Oklahoma Public Health Code

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Section 1-1949.5 - Long-Term Care Administrator Revolving Fund

Cite as: 63 O.S. § 1-1949.5 (OSCN 2024), Long-Term Care Administrator Licensing Act

There is hereby created in the State Treasury a revolving fund for the State Department of Health to be designated the “Long-Term Care Administrator Revolving Fund”. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of such sources of income as are provided by law. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Department to carry out the duties established by this act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Historical Data

Laws 1988, HB 1565, c. 171, § 5, emerg. eff. July 1, 1988; Amended by Laws 1991, HB 1319, c. 168, § 8, emerg. eff. July 1, 1991; Amended by Laws 2006, SB 1850, c. 291, § 10, emerg. eff. July 1, 2006 ([superseded document available](#)); Amended by Laws 2012, HB 3079, c. 304, § 503 ([superseded document available](#)); Amended by Laws 2023, HB 2824, c. 271, § 7 (Effective upon Certification by the State Commissioner of Health that the Conditions of Section 2 of this Act have been Met) ([superseded document available](#)); Renumbered from [63 O.S. 330.62](#) by Laws 2023, HB 2824, c. 271, § 15 (Effective upon Certification by the State Commissioner of Health that the Conditions of Section 2 of this Act have been Met).

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63 O.S. 330.62,	Creation of Oklahoma State Board of Examiners for Nursing Home Administrators Revolving Fund Cited
63 O.S. 330.62,	Oklahoma State Board of Examiners for Long-Term Care Administrators Revolving Fund Cited
63 O.S. 330.62,	Oklahoma State Board of Examiners for Long-Term Care Administrators Revolving Fund Cited
63 O.S. 330.62,	Renumbered Cited



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Section 1-1949.6 - Investigation of Complaints - Investigation - Notice - Procedure - Registry of Complaints

Cite as: 63 O.S. § 1-1949.6 (OSCN 2024), Long-Term Care Administrator Licensing Act

A. Any person or agency may submit to the State Department of Health a complaint against a long-term care administrator. Complaints may also be generated by the Department. Each investigation of a complaint received by the Department shall be initiated within ninety (90) days from the date the complaint is received by the Department. Each complaint investigation shall be completed within twelve (12) months of initiation. The time period may be extended by the Department for good cause.

B. Upon conclusion of an investigation, if the Department determines that an administrator has violated this act, the Department shall promptly serve a notice of violation to the administrator. The notice of violation shall be prepared in writing and shall specify the nature of the violation or violations and the provision or provisions of state law or rule alleged to have been violated. The notice of violation shall inform the administrator of his or her right to an independent informal dispute resolution conducted in accordance with Section 9 of this act or a hearing conducted under subsection C of this section, or both, and instruction on how to seek an informal dispute resolution or hearing.

C. If the case is not resolved through the independent informal dispute resolution process prescribed by Section 9 of this act, the administrator shall be afforded notice and a hearing in accordance with the provisions of Article II of the Administrative Procedures Act. Any party aggrieved by a decision of the Department following a hearing may appeal directly to district court under Section 318 of Title 75 of the Oklahoma Statutes.

D. Notwithstanding any other provision of this section, the Department may order a summary suspension of an administrator's license or certification or an Administrator in Training (AIT) permit if, in the course of an investigation, it is determined that a licensee, certificate holder, or AIT candidate for licensure has engaged in conduct of a nature that is detrimental to the health, safety, or welfare of the public, and which conduct necessitates immediate action to prevent further harm. The Department shall immediately notify the licensee, certificate holder, or AIT candidate upon issuance of the order. The licensee, certificate holder, or AIT candidate shall have the right to contest the order at a hearing as provided by subsection C of this section.

E. To ensure the confidentiality of an investigative file obtained during the investigation, the information in the investigative file shall not be deemed to be a record as that term is defined in the Oklahoma Open Records Act nor shall the information be subject to subpoena or discovery in any civil or criminal proceeding, except that the Department may give the information to law enforcement and other state licensing agencies as necessary and appropriate in the discharge of the duties of that agency and only under circumstances that will ensure against unauthorized access to the information. The respondent may acquire information obtained during an investigation, unless the disclosure of the information is otherwise prohibited, if the respondent signs a protective order whereby the respondent agrees to use the information solely for the purpose of defense in the proceedings of the Department and in any appeal therefrom and agrees not to otherwise disclose the information.

F. The Department shall create and maintain a registry of all complaints or referrals, found by the Department to have merit, complaining of acts or omissions of licensed administrators. The registry shall be maintained in both electronic and paper formats and shall be available for inspection by the public. Such registry shall be organized both in chronological order by the date of the complaint and by the name of the licensed administrator. The registry shall contain information about the nature of the complaint and the action, if any, taken by the Department. The registry shall also contain the number of complaints made against an individual administrator.

Laws 2005, HB 1453, c. 168, § 4, emerg. eff. May 13, 2005; Amended by Laws 2006, SB 1850, c. 291, § 11, emerg. eff. July 1, 2006 ([superseded document available](#)); Amended by Laws 2008, SB 2704, c. 411, § 3, eff. November 1, 2008 ([superseded document available](#)); Amended by Laws 2023, HB 2824, c. 271, § 8 (Effective upon Certification by the State Commissioner of Health that the Conditions of Section 2 of this Act have been Met) ([superseded document available](#)); Renumbered from [63 O.S. 330.64](#) by Laws 2023, HB 2824, c. 271, § 16 (Effective upon Certification by the State Commissioner of Health that the Conditions of Section 2 of this Act have been Met).

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<u>63 O.S. 330.64,</u>	<u>Investigation of Complaints - Registry of Complaints</u>	<i>Cited</i>
<u>63 O.S. 330.64,</u>	<u>Investigation of Complaints - Registry of Complaints</u>	<i>Cited</i>
<u>63 O.S. 330.64,</u>	<u>Investigation of Complaints - Registry of Complaints</u>	<i>Cited</i>



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Section 1-1949.7 - Informal Dispute Resolution Process

Cite as: 63 O.S. § 1-1949.7 (OSCN 2024), Long-Term Care Administrator Licensing Act

A. The Department shall give a long-term care administrator who the Department has determined, upon investigation, has violated the provisions of this act an opportunity to participate in an independent informal dispute resolution process of the case in accordance with this section. The Department may contract with a third-party vendor to provide the independent informal dispute resolution.

B. The administrator shall make a written request to the Department to participate in an informal dispute resolution. Upon receipt of such request, the Department shall:

1. Refer the case to the informal dispute resolution provider, if the Department contracts with a third-party vendor as described in subsection A of this section, and the informal dispute resolution provider shall:

- a. schedule a time and date for an informal dispute resolution meeting and inform the parties of such time and date, and
- b. appoint an impartial decision-making panel to conduct the informal dispute resolution as provided by subsection C of this section; or

2. If the Department does not contract with a third-party vendor as described in subsection A of this section, the Department shall:

- a. schedule a time and date for an informal dispute resolution meeting and inform the parties of such time and date, and
- b. appoint an impartial decision-making panel to conduct the informal dispute resolution as provided by subsection C of this section.

C. The impartial decision-making panel shall be a group of six (6) individuals who meet the following criteria:

1. Three members shall be impartial volunteers who have experience in the operation of the same type of long-term facility as the administrator who is the subject of the complaint. Such volunteers may include, but not be limited to, an administrator, assistant administrator, owner, operator, director of nursing, or compliance executive of an appropriate long-term care facility, but shall not include any person with a direct financial interest in any facility that employs or contracts with the administrator who is the subject of the complaint; and

2. Three members shall be persons representing the aging or disabled community, as appropriate for the type of long-term facility whose administrator is the subject of the complaint.

D. Each party shall submit to the impartial decision-making panel all documentary evidence that the party believes has a bearing on or relevance to the violation or violations alleged by the Department in the complaint.

E. The Department shall present initial arguments. The administrator shall then present his or her arguments. The informal dispute resolution shall be limited to no more than two (2) hours in length, with each party being permitted one (1) hour to present its arguments; however, the impartial decision-making panel may grant each party additional equal time for good cause as determined by the impartial decision-making panel.

F. Rules of evidence or procedure shall not apply to the informal dispute resolution except as provided in this section. The impartial decision-making panel may:

1. Accept any information that the impartial decision-making panel deems material to the issue being presented; and

2. Reject any information that the impartial decision-making panel deems immaterial to the issue being presented. 08/20/24

G. The informal dispute resolution may not be recorded; however, the impartial decision-making panel may make written or recorded notes of the arguments.

H. 1. Only employees of or health care providers contracted by the facility where the administrator who is the subject of the complaint is employed may appear or participate in the informal dispute resolution on behalf of the administrator, except that the administrator may call one character witness to appear and testify on his or her behalf.

2. Only employees of the Department may appear or participate at the meeting for, or on behalf of, the Department for the purpose of presenting arguments. In addition to such employees, one or more employees of the Department may provide technical assistance to the impartial decision-making panel at the panel's request. Any employee of the Department who participates in the informal dispute resolution process as described in this paragraph shall have no current involvement in long-term care facility surveys including but not limited to the informal dispute resolution process described in Section 1-1914.3 et seq. of Title 63 of the Oklahoma Statutes or the alternative informal dispute resolution process described in Section 1-1914.11 et seq. of Title 63 of the Oklahoma Statutes for long-term care facilities.

3. The State Long-Term Care Ombudsman or designee may appear at or participate in the informal dispute resolution.

4. No party may be represented by an attorney in the informal dispute resolution.

I. The informal dispute resolution process is limited to violations alleged by the Department in the complaint. If the impartial decision-making panel finds that matters not subject to the informal dispute resolution are presented, the impartial decision-making panel shall strike all documentary evidence related to or presented for the purpose of disputing the matter not subject to the informal dispute resolution. The impartial decision-making panel may not include in the statement of findings described in subsection J of this section any matter not subject to the informal dispute resolution.

J. Upon the conclusion of all arguments by the parties at the informal dispute resolution, the impartial decision-making panel shall issue a written statement of findings, which shall be provided to all parties and which shall include:

1. A summary of any alleged violations;
2. A statement of whether the impartial decision-making panel agrees that the alleged violation or violations occurred;
3. The facts and persuasive arguments that support the finding of the impartial decision-making panel for each alleged violation; and
4. A recommendation on appropriate disciplinary action against the administrator, if any.

K. If the impartial decision-making panel cannot reach a majority decision on the findings of the informal dispute resolution as described in subsection J of this section, the State Commissioner of Health may intervene for the purpose of breaking a tie.

L. The Department shall review the findings of the impartial decision-making panel and shall take such findings into consideration when determining whether to pursue further disciplinary action against the administrator.

Historical Data

Laws 2023, HB 2824, c. 271, § 9 (Effective upon Certification by the State Commissioner of Health that the Conditions of Section 2 of this Act have been Met).

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Long-Term Care Administrator Licensing Act

Article Article 19 - Nursing Home Care Act

Section 1-1949.8 - Promulgation of Rules

Cite as: 63 O.S. § 1-1949.8 (OSCN 2024), Long-Term Care Administrator Licensing Act

The State Commissioner of Health shall promulgate rules to implement the provisions of this act.

Historical Data

Laws 2023, HB 2824, c. 271, § 10 (Effective upon Certification by the State Commissioner of Health that the Conditions of Section 2 of this Act have been Met).

Citationizer[®] Summary of Documents Citing This Document

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OAC 310:679

Long-Term Care Administrators

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CHAPTER 679. LONG-TERM CARE ADMINISTRATORS

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24]

SUBCHAPTER 1. GENERAL PROVISIONS

310:679-1-1. Purpose

This Chapter has been adopted for the purpose of implementing the provisions of the "Long-Term Care Administrator Licensing Act" 63 O.S. § 1-1949.1. The Commissioner of Health, carries out statutory authority for developing, imposing and enforcing standards that must be met by individuals in order for them to receive, maintain, or renew a long-term care administrator's license/certification. These rules are written to execute the aforementioned statutory responsibilities for licensing and/or certifying administrators.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:1-1-1 by HB 2824 (2023), eff 11-1-23]

310:679-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Accredited college" or **"university"** means a college or university that is domiciled within the United States and that is accredited by: the North Central Association of Colleges and Schools, The Higher Learning Commission; the Southern Association of Colleges and Schools, Commission on Colleges; the Western Association of Schools and Colleges, Accrediting Commission for Senior Colleges and Universities; the New England Association of Schools and Colleges, Commission on Institutions of Higher Education; the Middle States Association of Colleges and Schools, Middle States Commission on Higher Education; or the Northwest Commission on Colleges and Universities.

"Administrator in Training" or **"AIT"** means an individual participating in a Department-approved internship within the facility type for which the intern is seeking licensure or certification under the supervision of a Department-approved preceptor. These individuals may also be referred to as an intern or trainee.

"Administrator" means any individual licensed or certified to operate as a long-term care facility administrator by the Department.

"Administrator of Record" or **"AOR"** means the administrator licensed by this Department who has the authority and responsibility for the total operation of the facility, subject only to the policies adopted by the governing authority.

"Adult Day Care (ADC) Center" means such term as defined in the Adult Day Care Act, Title 63 O.S. Section 1-870 *et seq.*

"Adverse action" means revocation or suspension of a license, reprimand, censure or probation; any other loss of or restriction placed upon the license, including, but not limited to the right to apply for, or renew a license; voluntary surrender in lieu of discipline, non-renewal (excluding nonrenewal due to non-payment of fees, or retirement); administrative fines and any other negative action or finding by the Department.

"Assisted Living Center" means the same term as defined in the Continuum of Care and Assisted Living Act, Title 63 O.S. Section 1-890.1 *et seq.* Also known as an Assisted Living Facility (ALF).

"Certification" means the written authorization from the Department granting a person the ability to serve as a long-term care administrator, for a specific period of time, which requires the person to adhere to the rules, regulations and statutes which govern the certificate.

"Certified Assistant Administrator (CAA)" or **"Assistant Administrator"** means an individual who has been certified by the Department as having met the minimum qualifications established by the Department to be able to serve as a full-time, Certified Assistant Administrator in a licensed long-term care nursing facility, and who acts under the direction, supervision and license of a licensed long-term care administrator.

"Complaint" means an allegation against an individual subject to applicable statutes and/or rules.

"Continuum of Care Facility" means the sameterm as defined in the Continuum of Care and Assisted Living Act, Title 63 O.S. Section 1-890.1 *et seq.*

"Degree equivalency evaluation" means an equivalency evaluation of a degree that was earned from a college or university not domiciled in the United States against a degree earned from an accredited college or university that is performed by one of the following:

- (A) Educational Credential Evaluators (ECE)
- (B) Educational Records Evaluation Service (ERES)
- (C) International Education Research Foundation Credentials Evaluation Service (IERFCES)
- (D) World Education Services (WES)

"Department" means the Oklahoma State Department of Health (OSDH)

"Endorsement" means the applicant has met all requirements for reciprocity.

"Good Standing" means a current license/certification/registration is not expired, suspended, revoked, surrendered, conditioned or otherwise restricted.

"Health Services Executive" or "HSE" means a broad-based NAB qualification that allows administrators to practice along the senior living and health services continuum and increases the portability of licensure.

"Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID)" means a facility with the primary purpose of providing health and rehabilitative services for individuals with intellectual disabilities and otherwise meets the Conditions Of Participation (COPs) found at 42 CFR §483.400 *et seq.*

"Intermediate Care Facility for Individuals with Intellectual Disabilities, 16 Beds and Less (ICF/IID-16)" means a facility with sixteen (16) or fewer licensed resident beds that serves individuals with intellectual disabilities and that otherwise meets the Conditions Of Participation (COPs) found at 42 CFR §483.400 *et seq.*

"License" means the written authorization of the Department granting a person the ability to serve as a long-term care administrator for a specific period of time, which requires the person to adhere to the rules, regulations and statutes which govern the license.

"Long-Term Care" means care given at facilities where a licensed long-term care administrator is required such as a nursing facility, assisted living facility, residential care facility, an adult day care center, or intermediate care facility.

"Long-term care administrator" means a person licensed or certified as a Tier 1 long-term care administrator or Tier 2 long-term care administrator under ... the Long-Term Care Administrator Licensing Act. A long-term care administrator must devote at least one-half (1/2) of such person's working time to on-the-job supervision of a long-term care facility; provided that this requirement shall not apply to an administrator of an intermediate care facility for individuals with intellectual disabilities with sixteen or fewer beds (ICF/IID-16), in which case the person licensed by the state may be in charge of more than one ICF/IID-16, if such facilities are located within a circle that has a radius not more than fifteen (15) miles, and the total number of facilities and beds does not exceed six facilities and sixty-four beds. The facilities may be free-standing in a community or may be on campus with a parent institution. The ICF/IID-16 may be independently owned and operated or may be part of a larger institutional ownership and operation. [Title 63 O.S. § 1-1949.2]

"National Association of Long-Term Care Administrator Boards" ("NAB") means an organization composed of state boards and agencies responsible for licensing long-term care administrators.

"NAB Domains of Practice" means the content areas of tasks, knowledge, and skills necessary for administration of a long-term care facility. The NAB Domains of Practice can be found on the National Association of Long-Term Care Administrator Boards (NAB) website at www.nabweb.org.

"Nursing Home and Nursing Facility" means both a "Nursing Facility" and "Specialized Facility" also referred to as "rest home" or "specialized home" as such terms are defined in the Nursing Home Care Act, Title 63 O.S. Section 1-1901 *et seq.* and/or as defined at 42 CFR §483.1 *et seq.*

"Preceptor" means an individual qualified by training and experience, who is currently licensed as a long-term care administrator in Oklahoma, is authorized by the Department as a qualified preceptor and

is charged with coordinating the training of an individual authorized to operate as an administrator in training.

"Probation" is a condition(s) imposed for a specified period of time at the initial issuance of a license or contained in an order resulting from a complaint against the administrator.

"Provisional license" means the temporary authority to serve as a long-term care administrator as granted by the Department to an individual who meets the requirements for provisional licensure.

"Reciprocity" means the licensure process through which candidates licensed in other states may be granted a license in Oklahoma once they have demonstrated the requirements for licensure for the state in which they are currently licensed, have substantially equivalent requirements to those in this state and meet any residency requirements.

"Residential Care Home" or "Residential Care Facility (RCF)" means the same as such term is defined in the Residential Care Act, Title 63 O.S. Section 1-819 *et seq.*

"Revocation or Revoked License" means an enforcement imposed upon a license or certificate by the Department that results in termination of license or certificate and all privileges attendant thereto and requires holder to surrender the license or certificate to the Department.

"Specialized facility" means the same as such term is defined in the Nursing Home Care Act, Title 63 O.S. Section 1-1901 *et seq.*

"Suspension or Suspended License" means an enforcement imposed upon a license or certificate holder by the Department for a designated period of time where the individual is not authorized to work in the capacity of an administrator until all the requirements for reinstatement of the licensure are met.

"Tier 1 long-term care administrator" means a person licensed by this state to perform the duties of an administrator serving in a skilled nursing or nursing facility or an intermediate care facility for individuals with intellectual disabilities with seventeen or greater beds (ICF/IID). [63 O.S. § 1-1949.2] Licensed Tier 1 long-term care administrators may serve as administrator over all long-term care facility types.

"Tier 2 adult day care (ADC) administrator" means a tier 2 long-term care administrator licensed by the Department to serve in an Adult Day Care Center.

"Tier 2 ICF/IID-16 administrator" means a tier 2 long-term care administrator licensed by the Department to serve in an intermediate care facility for individuals with intellectual disabilities with sixteen or fewer beds (ICF/IID-16).

"Tier 2 long-term care administrator" means a person licensed or certified by this state to perform the duties of an administrator serving in an assisted living facility, residential care facility, adult day care center, or intermediate care facility for individuals with intellectual disabilities with sixteen or fewer beds (ICF/IID-16.; [63 O.S. § 1-1949.2]

"Tier 2 residential care/assisted Living (RC/AL) administrator" means a tier 2 long-term care administrator licensed by the Department to serve in a residential care facility or an assisted living facility.

"Upper-level management" means an individual who has had supervisory experience over multiple staff and who has been actively involved with strategic decision-making and planning.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:1-1-2 by HB 2824 (2023), eff 11-1-23]

SUBCHAPTER 3. OKLAHOMA STATE BOARD OF EXAMINERS FOR LONG TERM CARE ADMINISTRATORS [REVOKED]

[Source: Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-3-1. Organization [REVOKED]

[Source: Revoked at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:1-3-1 by HB 2824 (2023), eff 11-1-23]

310:679-3-2. Officers and committees [REVOKED]

[Source: Transferred from 490:1-3-2 by HB 2824 (2023), eff 11-1-23; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-3-3. Meeting of the Board [REVOKED]

[Source: Transferred from 490:1-3-3 by HB 2824 (2023), eff 11-1-23; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-3-8. Executive Director [REVOKED]

[Source: Revoked at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:1-3-8 by HB 2824 (2023), eff 11-1-23]

SUBCHAPTER 5. INVESTIGATIVE PROCEDURES

310:679-5-2. Filing a Complaint

Any person or agency may file a complaint against a long-term care administrator by contacting the Oklahoma State Department of Health.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:1-5-2 by HB 2824 (2023), eff 11-1-23]

310:679-5-2.1. Action on referrals and reports [REVOKED]

[Source: Transferred from 490:1-5-2.1 by HB 2824 (2023), eff 11-1-23; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-5-3. Complaints

(a) Upon receipt of a complaint against a long-term care administrator, the Department shall initiate an investigation within ninety (90) days. All information and records collected by the Department as part of a complaint investigation shall be kept in a confidential investigation file.

(b) Upon completion of a complaint investigation, if the Department finds that sufficient evidence exists to initiate an individual proceeding against a long-term care administrator, a notice of the violation will be served upon the long-term care administrator in compliance with Chapter 2 of this Title and the Administrative Procedures Act. The notice of violation shall include the nature of the violation(s) found, the provisions of state law or rule alleged to have been violated, the Department's assessed administrator penalty resulting from the alleged violation, and the administrator's right to seek an informal dispute resolution or hearing.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:1-5-3 by HB 2824 (2023), eff 11-1-23]

310:679-5-6. Notice [REVOKED]

[Source: Revoked at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:1-5-6 by HB 2824 (2023), eff 11-1-23]

310:679-5-6.1. Hearings

(a) An administrator may submit a request for hearing with the Department within thirty (30) days of receipt of the Notice of Violation.

(b) If a hearing is requested, the Department shall promptly schedule a hearing and serve the administrator with a Notice of Hearing in compliance with 75 O.S. §309(B).

(c) The hearing shall be conducted in accordance with the Administrative Procedures Act and Chapter 2 of this Title.

(d) The Commissioner of Health or designee 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. The final order resulting from a hearing shall comply with the requirements of the 75 O.S. §312 and be served upon each party.

(e) An appeal of the Final Order shall be perfected pursuant to 75 O.S. Section 318 of the Administrative Procedures Act.

[Source: Added at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-5-7. Informal dispute resolution

- (a) An Administrator may request, in writing, an informal dispute resolution within thirty (30) days from the date of notice from the Department.
- (b) *The impartial decision-making panel shall be a group of six (6) individuals who meet the following criteria:*
- (1) *Three members shall be impartial volunteers who have experience in the operation of the same type of long-term facility as the administrator who is the subject of the complaint. Such volunteers may include, but not be limited to, an administrator, assistant administrator, owner, operator, director of nursing, or compliance executive of an appropriate long-term care facility, but shall not include any person with a direct financial interest in any facility that employs or contracts with the administrator who is the subject of the complaint; and*
 - (2) *Three members shall be persons representing the aging or disabled community, as appropriate for the type of long-term facility whose administrator is the subject of the complaint.*
- (c) *Each party shall submit to the impartial decision-making panel all documentary evidence that the party believes has a bearing on or relevance to the violation or violations alleged by the Department in the complaint.*
- (d) *The Department shall present initial arguments. The administrator shall then present his or her arguments. The informal dispute resolution shall be limited to no more than two (2) hours in length, with each party being permitted one (1) hour to present its arguments; however, the impartial decision-making panel may grant each party additional equal time for good cause as determined by the impartial decision-making panel.*
- (e) *Rules of evidence or procedure shall not apply to the informal dispute resolution except as provided in this section. The impartial decision-making panel may:*
- (1) *Accept any information that the impartial decision-making panel deems material to the issue being presented; and*
 - (2) *Reject any information that the impartial decision-making panel deems material to the issue being presented.*
- (f) *The informal dispute resolution may not be recorded; however, the impartial decision-making panel may make written or recorded notes of the arguments.*
- (g) *Only employees of or health care providers contracted by the facility where the administrator who is the subject of the complaint is employed may appear or participate in the informal dispute resolution on behalf of the administrator, except that the administrator may call one character witness to appear and testify on his or her behalf.*
- (h) *Only employees of the Department may appear or participate at the meeting for, or on behalf of, the Department for the purpose of presenting arguments. In addition to such employees, one or more employees of the Department may provide technical assistance to the impartial decision-making panel at the panel's request. Any employee of the Department who participates in the informal dispute resolution process as described in this paragraph shall have no current involvement in long-term care facility surveys including but not limited to the informal dispute process described in Section 1-1914.3 et seq. of Title 63 of the Oklahoma Statutes or the alternative informal dispute resolution process described in Section 1-1914.11 et seq. of Title 63 of the Oklahoma Statutes for long-term care facilities. This paragraph shall have no resolution process.*
- (i) *The State Long-Term Care Ombudsman or designee may appear or participate in the informal dispute resolution.*
- (j) *No party may be represented by an attorney in the informal dispute resolution.*
- (k) *The informal dispute resolution process is limited to violations alleged by the Department in the complaint. If the impartial decision-making panel finds that matters not subject to the informal dispute resolution are presented, the impartial decision-making panel shall strike all documentary evidence related to or presented for the purpose of disputing the matter not subject to the informal dispute resolution. The impartial decision-making panel may not include in the statement of findings described in subsection 1 of this section any matter not subject to the informal dispute resolution.*
- (l) *Upon the conclusion of all the arguments by the parties at the informal dispute resolution, the impartial decision-making panel shall issue a written statement of findings, which shall be provided to all parties and which shall include:*

(1) *A summary of any alleged violations;*

(2) *A statement of whether the impartial decision-making panel agrees that the alleged violation or violations occurred;*

(3) *The facts and persuasive arguments that support the finding of the impartial decision-making panel for each alleged violation; and*

(4) *A recommendation on appropriate disciplinary action against the administrator, if any.*

(m) *If the impartial decision-making panel cannot reach a majority decision on the findings of the informal dispute resolution as described in subsection l of this section, the State Commissioner of Health may intervene for the purpose of breaking a tie.*

(n) *The Department shall review the findings of the impartial decision-making panel and shall take such findings into consideration when determining whether to pursue further disciplinary action against the administrator.* [Title 63 O.S. §1-1949.7]

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:1-5-7 by HB 2824 (2023), eff 11-1-23]

310:679-5-7.1. Administrative fines

(a) The Department may impose administrative fines, in an amount to be determined by the Department, against persons whom the Department has determined have not complied with the provisions of the Oklahoma statutes and OAC 310:679.

(b) Administrative fines shall not exceed One Thousand Dollars (\$1,000.00) per violation.

(c) In assessing a fine, the Commissioner shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the scope, severity and repetition of the violation and any additional factors deemed appropriate by the Commissioner.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:1-5-7.1 by HB 2824 (2023), eff 11-1-23]

310:679-5-8. Reporting

(a) The Department shall report final adverse actions to the National Practitioner Data Bank (NPDB), in accordance with requirements at Title 45, Code of Federal Regulations, Part 60.

(b) Disciplinary action taken against a license/certificate holder and reported to the NPDB shall be reported on the state registry as provided in 63 O.S. §330.64.

(c) The Department may report disciplinary action taken against a license or certificate holder to other jurisdictions where the Department has knowledge that a license or certificate holder possesses a license or certificate.

(d) The Department may make referrals to other regulatory authorities as necessary.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:1-5-8 by HB 2824 (2023), eff 11-1-23]

SUBCHAPTER 7. FEES AND DEPOSITS

310:679-7-1. Fees and deposits [REVOKED]

[Source: Revoked at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:1-7-1 by HB 2824 (2023), eff 11-1-23]

310:679-7-2. Schedule of fees

(a) Initial and Provisional Long-Term Care Administrator License - \$200.00

(1) This licensure fee applies to all original licensures, registrations/registration renewals and certifications.

(2) The initial license will expire on December 31st of the year it was effective.

(b) Renewal fees

(1) Tier 1 Long-Term Care License - \$200.00 per year;

(2) Certified Assistant - \$75.00 per year;

(3) Tier 2 RC/AL License - \$175.00 per year;

- (4) Tier 2 ADC License - \$100.00 per year;
- (5) Tier 2 ICF/IID-16 License - \$100.00 per year
- (c) Late Fee - \$100.00 for each calendar week, or portion thereof.
- (d) Pre-Licensing File Origination and Maintenance fee - \$100.00
- (e) State Standards Review (per person) - \$100.00
- (f) State Standards Examination Packet - \$50.00
- (g) State Standards Examination administered by the Department - \$100.00 per examinee
- (h) State Standards Examination, unscheduled examination - \$500.00 per examinee
- (i) Department-Sponsored Educational Workshop (per day) - up to \$1,000 per attendee.
- (j) Administrator in Training (AIT) Program: Internship Permit (per applicant) - \$350.00
- (k) Continuing Education Program Application Fee (per credit hour) - \$55.00
- (l) Returned Check Fee or Fee related to Non-Sufficient Funds (NSF) to cover an Electronic Funds Transfer (EFT) - \$30.00
- (m) Fee for Administrator Training - Not to exceed \$200.00 per day
- (n) A convenience fee may be charged by the online processing vendor in an amount determined by the processor.
- (o) Conduct a background check to identify barrier offenses \$50.25
- (p) License Application processing fee - \$100.00 (valid for one year).

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:1-7-2 by HB 2824 (2023), eff 11-1-23]

SUBCHAPTER 9. CONTINUING EDUCATION

310:679-9-1. General provisions for continuing education programs

- (a) Continuing education programs requests for credit recognition must be submitted to the Department for approval prior to presentation.
- (b) The continuing education program is responsible for providing proof of participation and credit amount awarded to each participant. At a minimum, proof of participation must include:
 - (1) Name of attendee;
 - (2) Number of clock hour credits;
 - (3) Subject matter of training; and
 - (4) Facility type addressed by the training if facility-specific
- (c) Administrators shall be responsible for submitting proof of continuing education that meets CE requirements upon renewal.
- (d) All programs approved by the National Continuing Education Review Service (NCERS), National Association of Long Term Care Administrator Boards (NAB) that receive a NCERS/NAB approval number will count towards CE requirements with proper documentation.
- (e) Attendees may be awarded partial credit, at the discretion of the sponsor, for partial participation, late arrival, or early departure from the program.
- (f) The Department may deny or revoke program approval if the program sponsor fails to issue hours appropriately.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:1-9-1 by HB 2824 (2023), eff 11-1-23]

310:679-9-2. Criteria for continuing education programs

- (a) A correctly completed application must be submitted to the Department at least thirty (30) days in advance of the program;
- (b) The application shall contain documentation demonstrating the following requirements:
 - (1) The program shall relate to Long-Term Care Administration and be designed to promote continued knowledge, skills and attitudes consistent with current standards in long-term care administration.
 - (2) The program shall be designed to assist administrators to improve their professional competencies.
 - (3) The program shall be open and available to all long-term care administrators in Oklahoma.

- (4) The program location must be adequately equipped and have enough space to accommodate attendees.
- (5) Instructors must have long-term care supervision or administration experience, have instructional expertise and/or have suitable academic qualifications in a relevant academic field.
- (6) The program objectives must:
 - (A) have reasonable and clear objectives with defined outcome expectations;
 - (B) be consistent with the program content; and
 - (C) identify the mechanism through which they will be taught
- (7) Clearly stated program methods appropriate to the subject matter with an identified timeframe for teaching concepts.
- (8) Instructional aids and resource materials used in the program.
- (9) Sponsors are qualified in the subject matter presented.
- (10) The registration fee for the program and the location where the fee will be published on promotional material.
- (11) The program evaluation form.
- (12) The method used to capture accurate attendance or on-line completion.
- (13) Information indicating the instructional hours are based on clock hours (60 minutes= 1 clock hour).
- (14) An agenda showing all educational activities.
- (15) No more than seven (7) clock hours included in the program per day. In the event there is a required, onsite, coursework-specific presenter during the lunch hour, eight (8) hours may be included in the program description.
- (16) Licensed administrators who are "presenters" of approved CE programs may receive credit one time annually for the clock hour value of the class(es) they present. If the material is presented multiple times, credit is only awarded once per licensure year for the same educational material.
- (17) Licensed administrators who present in a Department-approved entry level training such as Tier 2 RC/AL, Adult Day Care or ICF/IID-16 initial licensure training, will receive CE credit one time annually for the clock hour value of the material they present.
- (18) Providers of continuing education courses must provide the template for the documentation that will be provided to attendees to include, at a minimum, the following requirements:
 - (A) The name of the attendee;
 - (B) the number of clock hour credits awarded for the training;
 - (C) the subject matter of the training; and
 - (D) if applicable, the type of facility the training addressed.
- (19) The Department may revoke approval of a continuing education course if it is determined the course no longer meets continuing education requirements.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:1-9-2 by HB 2824 (2023), eff 11-1-23]

310:679-9-3. Disapproval of continuing education programs

- (a) Upon disapproval, the sponsor:
 - (1) will be notified of missing requirements; and
 - (2) may submit additional information and/or documentation to address missing requirements.
- (b) Approved programs will be notified of approval by the Department.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:1-9-3 by HB 2824 (2023), eff 11-1-23]

310:679-9-4. Continuing education requirements

- (a) Each licensee shall be responsible for identifying and seeking continuing professional education requirements.
- (b) Licensees shall complete Continuing Education Units (CEUs) as follows:
 - (1) Tier one (1) licensees and certified CAAs shall complete twenty-four (24) clock hours of CEUs each license year.

- (2) Tier 2 RC/AL administrators shall successfully complete sixteen (16) clock hours of continuing education during each license year.
- (3) Licensed Tier 2 Adult Day Care Administrators shall successfully complete sixteen (16) clock hours of continuing education during each license year.
- (4) Licensed Tier 2 ICF/IID-16 administrators shall successfully complete sixteen (16) clock hours of continuing education during each license year.
- (c) License and certificate holders are responsible for maintaining their own CEU records.
- (d) Required CEUs must be completed within the licensure period.
- (e) Credit will only be given once per approved program for each licensure period; duplication of credit for the same course is not permissible in the same licensure year.
- (f) A written request for an extension may be submitted to the Department when a license or certificate holder cannot meet the requirements for continuing education due to illness, emergency, or other hardship. Extension requests will be reviewed by the Department and determinations made on a case-by-case basis.
- (g) CEU documentation must be uploaded in the online renewal portal at the time of renewal for review by the Department. Renewal applicants must complete CEUs prior to the Department issuing a renewal to the renewal applicant. .
- (h) All licensees, even those subject to enforcement action, are required to complete continuing education.
- (i) Continuing education requirement hours will be required for first year license and certificate holders are:
 - (1) Tier 1 administrators and certified CAAs shall be required to complete six (6) hours of continuing education for each quarter in which they hold a license.
 - (2) Licensed Tier 2 administrators shall be required to complete four and a half (4 1/2) hours of continuing education for each quarter in which they hold a license.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:1-9-4 by HB 2824 (2023), eff 11-1-23]

310:679-9-5. Auditing of continuing education hours

The Department may request continuing education information from sponsors of approved programs for audit purposes.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:1-9-5 by HB 2824 (2023), eff 11-1-23]

SUBCHAPTER 10. LICENSING OF LONG-TERM CARE ADMINISTRATORS

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24]

PART 1. LICENSING OF LONG-TERM CARE ADMINISTRATORS

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-1. Purpose [REVOKED]

[Source: Revoked at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-1-1 by HB 2824 (2023), eff 11-1-23]

310:679-10-2. Definitions [REVOKED]

[Source: Revoked at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-1-2 by HB 2824 (2023), eff 11-1-23]

310:679-10-2.1. General requirements for licensure

- (a) Applicants must be at least twenty-one (21) years of age at the time the license is issued.
- (b) Applicants must be a United States citizen, or a qualified alien under the Federal Immigration and Naturalization Act and lawfully residing in the United States. An affidavit of lawful presence must be submitted with the application.

(c) Each administrator applicant must establish that the applicant is of reputable and responsible character and otherwise suitable and qualified to serve because of training or experience in institutional administration. Each provisional applicant must be of good character, otherwise suitable, and meet any other standards established.

(d) A background check will be conducted on each applicant. The Department will not issue or renew a license to any applicant if the results of a criminal background check reveal the applicant has been convicted of or pleaded guilty or *nolo contendere* or no contest, or received a deferred sentence for any felony or misdemeanor offense for any of the following offenses in any state or federal jurisdiction:

- (1) abuse, neglect or financial exploitation of any person entrusted to the care or possession of such person,
- (2) rape, incest or sodomy,
- (3) child abuse,
- (4) murder or attempted murder,
- (5) manslaughter,
- (6) kidnapping,
- (7) aggravated assault and battery,
- (8) assault and battery with a dangerous weapon, or
- (9) arson in the first degree.

(e) The Department will not issue or renew a license for any applicant if less than seven (7) years have passed since the completion of sentence, and the criminal history check reveals the applicant has been convicted of, or pled guilty or *nolo contendere* or no contest to, a felony or misdemeanor offense for any of the following offenses in any state or federal jurisdiction:

- (1) assault,
- (2) battery,
- (3) indecent exposure and indecent exhibition, except where such offense disqualifies the person as a registered sex offender,
- (4) pandering,
- (5) burglary in the first or second degree,
- (6) robbery in the first or second degree,
- (7) robbery or attempted robbery with a dangerous weapon, or imitation firearm,
- (8) arson in the second degree,
- (9) unlawful manufacture, distribution, prescription, or dispensing of a Schedule I through V drug as defined by the Uniform Controlled Dangerous Substance Act,
- (10) grand larceny, or
- (11) petit larceny or shoplifting.

(f) To be eligible for a license, applicants must be able to effectively communicate with all individuals and entities related to all required administrator functions.

(g) Each applicant must meet all other requirements prescribed by the Department.

(h) Each applicant must disclose, for the Department to consider when making a determination on the issuance of a license, all other jurisdictions in which:

- (1) A license has been applied for;
- (2) A license has been issued; and
- (3) Any disciplinary or enforcement action taken by another licensing authority.

(i) The required fee and a correctly completed application form demonstrating all requirements are met must be submitted to the Department by the applicant before a license may be issued.

(j) The Department will notify the applicant when an application is missing any requirements. An applicant may submit additional documentation demonstrating compliance with licensure requirements for the Department to review. If an applicant is not eligible for a license, the Department will issue a denial letter specifying the reasons for the denial. Licensing denials will be reported to NPDB.

(k) In accordance with 59 O.S. 4100.4(A) The Department will review education, training, and experience completed by the individual as a member of the Armed Forces or Reserves of the United States, National Guard of any state, or the Naval Militias of any state, and apply it in the manner most favorable toward satisfying the qualifications of issuance of the requested license or certification or approval for license examination in this state.

(l) In accordance with 59 O.S. 4150.1, the Department will honor the requirements in the Universal Licensing Act.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-1-2.1 by HB 2824 (2023), eff 11-1-23]

310:679-10-3. Tier 1 administrator requirements

- (a) Applicants must meet all general requirements for licensure.
- (b) Each applicant must provide documentation demonstrating the successful completion of one of the following:
 - (1) Baccalaureate degree from an institution of higher education; or
 - (2) Associate degree in a health- or business-related field or other relevant field and not less than five (5) years of experience in upper-level management of a long-term care facility.
- (c) Unless granted a waiver for one or more of the requirements, applicants must successfully complete the following within twenty-four (24) months of submitting an application for initial licensure:
 - (1) A Department or NAB-approved training;
 - (2) The required internship; and
 - (3) Passing score on the following required examinations:
 - (A) The Oklahoma State Standards examination;
 - (B) The NAB Core examination; and
 - (C) The NAB NHA Line of Service examination;
- (d) An applicant's training instructor must attest to the readiness of an applicant prior to the student being eligible to take the examination. Instructors must provide the Department with all signed student attestation forms.
- (e) A waiver for the required training may be granted by the Department if:
 - (1) the applicant has a degree in long-term care administration from a NAB-accredited institution; or
 - (2) the applicant was previously licensed in Oklahoma as a Tier 1 administrator, was in good standing with the Department while previously licensed in Oklahoma, and has been active in long-term care for at least two (2) of the last five (5) years; or
 - (3) the applicant provides evidence of the completion of a training that meets or exceeds NAB recommendations for training from another jurisdiction.
- (f) A waiver for the required internship may be granted by the Department if the applicant presents documentation of an internship that meets or exceeds NAB recommendations for internship requirements.
- (g) An applicant with a verified HSE qualification may be issued a license upon submission of correctly completed application with the required application fee once the applicant has passed the State Standards examination and has had a favorable background check completed.
- ;
- (h) The Department may waive the administrator training requirement, the internship requirement, or both if the applicant was previously licensed in Oklahoma as a long-term care administrator, was in good standing with the Department while applicant was previously licensed in Oklahoma, and has been active in long-term care for at least two (2) of the last five (5) years.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-1-3 by HB 2824 (2023), eff 11-1-23]

310:679-10-3.1. Tier 2 (RC/AL) administrator requirements

- (a) Applicants must meet all general requirements for licensure. Administrators holding a Tier 2 RC/AL license may serve as an administrator in either an RCF or ALF.
- (b) Each applicant for initial licensure as a Tier 2 RC/AL administrator shall provide documentation of one of the following:
 - (1) high school diploma;
 - (2) GED; or
 - (3) a higher level of education.
- (c) Unless an applicant qualifies for a waiver as outlined in 310:679-10-3, the applicant must successfully complete and pass:

- (1) Department or NAB-approved training;
 - (2) The required internship; and
 - (3) Passing scores on the following required examinations:
 - (A) The Oklahoma RCAL State Standards examination;
 - (B) The NAB RCAL Lines of Service examination; and
 - (C) The NAB Core examination.
- (d) An applicant's training instructor must attest to the readiness of an applicant prior to the student being eligible to take the examination. Instructors must provide the Department with all signed student attestation forms.
- (e) A waiver for the required training may be granted by the Department if:
- (1) the applicant has a degree in long-term care administration from a NAB-accredited institution; or
 - (2) the applicant was previously licensed in Oklahoma as a Tier 2 RCAL administrator, was in good standing with the Department while previously licensed in Oklahoma, and has been active in long-term care for at least two (2) of the last five (5) years; or
 - (3) the applicant provides documentation showing adequate experience in the field of institutional administration that is applicable to long-term care administration.
- (f) A waiver for the required internship may be granted by the Department if the applicant presents documentation of an internship that meets or exceeds NAB recommendations for internship requirements.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-1-3.1 by HB 2824 (2023), eff 11-1-23]

310:679-10-3.3. Tier 2 ICF/IID-16 administrator requirements

- (a) Applicants must meet all general requirements for licensure. Administrators holding a Tier 2 ICF/IID-16 license may serve as an administrator in an ICF/IID-16 facility. .
- (b) Each applicant for initial licensure as a Tier 2 ICF/IID-16 administrator shall provide documentation of one of the following:
 - (1) high school diploma;
 - (2) GED; or
 - (3) a higher level of education.
- (c) Unless an applicant qualifies for a waiver as outlined in 310:679-10-3 they must successfully complete the following:
 - (1) Department-approved training;
 - (2) The required internship; and
 - (3) Passing scores on the following required examinations:
 - (A) The Oklahoma ICF/IID-16 State Standards examination; and
 - (B)The NAB Core examination;
- (d) An applicant's training instructor must attest to the readiness of an applicant prior to the student being eligible to take the examination. Instructors must provide the Department with all signed student attestation forms.
- (e) A waiver for the required training may be granted by the Department if:
 - (1) the applicant has a degree in long-term care administration from a NAB-accredited institution; or
 - (2) the applicant was previously licensed in Oklahoma as a Tier 2 ICF/IID-16 administrator, was in good standing with the Department while previously licensed in Oklahoma, and has been active in long-term care for at least two (2) of the last five (5) years; or
 - (3) the applicant provides evidence of the completion of a training that meets or exceeds NAB recommendations for training from another jurisdiction.
- (f) A waiver for the required internship may be granted by the Department if the applicant presents documentation of an internship that meets or exceeds NAB recommendations for internship requirements.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-1-3.3 by HB 2824 (2023), eff 11-1-23]

310:679-10-3.5. Tier 2 Adult day care administrator requirements

- (a) In addition to the general requirements found in this Chapter, each applicant for initial licensure as an ADC administrator shall meet the requirements in this Section. Applicants must meet all general requirements for licensure. Administrators holding a Tier 2 ADC license may serve as an administrator in an ADC facility.
- (b) Each applicant for initial licensure as a Tier 2 ADC administrator shall provide documentation of one of the following:
- (1) high school diploma;
 - (2) GED; or
 - (3) a higher level of education.
- (c) Unless an applicant qualifies for a waiver as outlined in 310:679-10-3, the applicant must successfully complete and pass:
- (1) Department-approved training;
 - (2) The required internship; and
 - (3) Passing scores on the following required examinations:
 - (A) The Oklahoma ADC State Standards examination; and
 - (B) The NAB Core examination;
- (d) An applicant's training instructor must attest to the readiness of an applicant prior to the student being eligible to take the examination. Instructors must provide the Department with all signed student attestation forms.
- (e) A waiver for the required training may be granted by the Department if:
- (1) the applicant has a degree in long-term care administration from a NAB-accredited institution; or
 - (2) the applicant was previously licensed in Oklahoma as a Tier 2 ADC administrator, was in good standing with the Department while previously licensed in Oklahoma, and has been active in long-term care for at least two (2) of the last five (5) years; or
 - (3) the applicant provides documentation showing adequate experience in the field of institutional administration that is applicable to long-term care administration.
- (f) A waiver for the required internship may be granted by the Department if the applicant presents documentation of an internship that meets or exceeds NAB recommendations for internship requirements.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-1-3.5 by HB 2824 (2023), eff 11-1-23]

310:679-10-4. Endorsement and reciprocity requirements

- (a) Applicants must meet all general requirements for licensure.
- (1) The Department may endorse a candidate for licensure reciprocity from other jurisdictions when the applicant has submitted documentation with evidence meeting the following requirements:
 - (A) Proof of successful completion of a formal program of study;
 - (B) Proof of passing score on applicable NAB examination(s);
 - (C) Copy of current license(s) from other jurisdictions;
 - (D) Proof of full-time service as administrator-of-record for the past two (2) consecutive years or service as licensed administrator for the specific license type the applicant is applying for at least two (2) of the last three (3) years;
 - (E) Disclosure of any pending or past disciplinary actions, enforcements, investigations, reprimand, suspension, and revocation or voluntary surrender of license(s); and
 - (F) Attestation to the truthfulness of information provided;
 - (2) The Department will determine if past actions by regulatory authorities disqualify an applicant from eligibility for Oklahoma licensure in alignment with standards and requirements for Oklahoma licensure.
- (b) The applicant shall indicate on the licensure application if applying under the 59 O.S. 4100.5 et seq military reciprocity pathway. The Department will comply with all military reciprocity requirements.
- (c) Endorsement will be given to the applicant by the Department if the reciprocity process shows the applicant completed substantially equivalent requirements in the state in which they are currently licensed.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-1-4 by HB 2824 (2023), eff 11-1-23]

310:679-10-4.1. Requirements for registration for licensure reciprocity for long term care administrators [REVOKED]

[Source: Revoked at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-1-4.1 by HB 2824 (2023), eff 11-1-23]

310:679-10-5. Provisional license requirements

- (a) The Department may grant one (1) provisional license for a single period not to exceed six (6) months to fill an unexpected vacancy at a facility. Once a provisional license has been granted, the Department may not grant additional provisional licenses for the same facility within a one-year period of issuance.
- (b) Provisional license applicants must meet all general licensure requirements outlined in OAC 310:679-10-2.1.
- (c) A provisional license may be granted to a person who may not meet all training and testing requirements established by the Department, but who:
 - (1) Has successfully completed a formal program(s) of study and holds a bachelor's degree;
 - (2) Has documentation that a currently-licensed Oklahoma long-term care administrator, with a minimum of two (2) years experience as a licensed administrator in Oklahoma in the same facility type as the provisional licensee, will act as an on-site consultant to the provisional licensee;
 - (3) Has provided documentation showing at least two (2) years experience in a long-term care facility;
 - (4) Has received a passing score on the current applicable Oklahoma State Standards examination;
 - (5) Has submitted a correctly completed application; and
 - (6) Paid the applicable application fee.
- (d) A provisional license shall not be issued to a current AIT unless the applicant previously passed the NAB NHA exam.
- (e) The consultant administrator to a provisional licensee shall:
 - (1) Provide direct supervision of the provisional licensee for at least eight (8) hours per week with no more than 10 calendar days lapsing between consultant visits to the provisional licensee's facility;
 - (2) Alert the Department within 3 days if the provisional licensee is unable to fulfill the administrator requirements; and
 - (3) Notify the Department if they are no longer able to provide supervision to the provisional licensee.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-1-5 by HB 2824 (2023), eff 11-1-23]

310:679-10-5.1. Requirements for a provisional license as a residential care administrator [REVOKED]

[Source: Revoked at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-1-5.1 by HB 2824 (2023), eff 11-1-23]

310:679-10-5.2. Requirements for a provisional license as an adult day care administrator [REVOKED]

[Source: Revoked at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-1-5.2 by HB 2824 (2023), eff 11-1-23]

310:679-10-6. Restoration of a suspended license or certificate

A suspended license or certificate may be restored once all conditions for restoration have been met.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-1-11 by HB 2824 (2023), eff 11-1-23]

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-10. Application timeline

- (a) Applicants will have twenty-four (24) months to complete all licensure requirements.
- (b) Reciprocity applicants will have one year to complete any licensure or certification requirements to qualify for endorsement.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-3-1 by HB 2824 (2023), eff 11-1-23]

310:679-10-11. Documentation requirements

- (a) If submitting documentation for long-term care work history, the applicant must submit a letter, signed by a licensed long-term care administrator, medical director, director of nursing, or registered nurse on company letterhead attesting to the applicant's long-term care work history.
- (b) A signed affidavit of lawful presence must be submitted with each application.
- (c) For bachelor's or associate's degree documentation, an official copy of the transcript is required.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-3-1.1 by HB 2824 (2023), eff 11-1-23]

310:679-10-12. National examinations

- (a) The NAB Core examination consists of questions related to the Domains of Practice and is relevant to all licensed administrators. It is required for all long-term care administrator applicants.
- (b) The Line of Service module examination is required for certain license types and contains questions related to the Domains of Practice specific to a line of service.
- (c) HSE applicants as well as reciprocity applicants who provide evidence of a previous passing score and meet all other reciprocity requirements will be exempt from taking NAB tests prior to the issuance of a license.
- (d) Provisional license applicants will not be required to pass the NAB examination before becoming provisionally licensed, if all other provisional licensure requirements are met.
- (e) Fees for all national examinations are prescribed by and payable to the NAB or its authorized designee.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-3-2 by HB 2824 (2023), eff 11-1-23]

310:679-10-13. Required examinations

- (a) Applicants must pass the applicable State Standards examination prior to a license being issued. Each license type requires a specific State Standards examination. Applicants for licensure by reciprocity, applicants for a provisional license and applicants for initial licensure who have previously held an Oklahoma long-term care administrator license must pass the current, applicable State Standards examination.
- (b) The application must be complete and correct before the applicant may begin training or being granted approval to take the applicable examination(s).
- (c) The Department will publish dates and times for testing on the Department website. Applicants may take the exam at a Department-designated location or through a testing center if the examinations are administered through the same methods and procedures as the NAB examinations.
- (d) A passing score for all State Standards examinations is Seventy-Five percent (75%) or greater.
- (e) Fees for the State Standards examination administered by the Department shall be in an amount prescribed by the Department. All examination fees must be paid prior to examination.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-3-3 by HB 2824 (2023), eff 11-1-23]

310:679-10-14. Confidentiality of examinations

Applicants shall not disclose any information, questions, or answers from licensure examinations.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-3-4 by HB 2824 (2023), eff 11-1-23]

310:679-10-15. Renewal requirements

(a) The renewal applicant shall submit an application with the following information and supporting documentation:

- (1) Updated contact information;
- (2) Current location where operating as an administrator;
- (3) If applicable, a list of interns to whom they have served as a preceptor with dates; and
- (4) An affidavit of lawful presence.

(b) The renewal applicant shall submit the required fee at the time of renewal.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-3-5 by HB 2824 (2023), eff 11-1-23]

310:679-10-16. Provisional licensure term

A provisional license shall expire six (6) months from the effective date of the provisional license. Provisional licenses are non-renewable.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-3-6 by HB 2824 (2023), eff 11-1-23]

PART 5. DISCIPLINE

310:679-10-20. Disciplinary action

(a) The following reasons may disqualify an initial or renewal applicant from licensure or certification and could result in enforcement by the Commissioner of Health:

- (1) Obtaining or attempting to obtain a license, registration or certificate by fraud, deceit, or misrepresentation; or misrepresenting oneself as holding a license or certification when they do not.
- (2) Conviction of or a plea of guilty or *nolo contendere* to any felony or to any misdemeanor involving moral turpitude, or any barrier offense as outlined in this chapter.
- (3) Use of legally-prescribed or illegal drugs (narcotics or other dangerous drugs) or alcohol or the dependence on legally-prescribed drugs or illegal drugs or alcohol, or gambling, if such use or dependence, or such gambling, or the behaviors related to or resulting from such use or dependence compromise the individual's ability or capacity to fulfill his duties or responsibilities in the long-term care facility, or if the same constitute(s) a criminal offense.
- (4) Commitment to a mental institution or judicial determination of incompetence.
- (5) Gross negligence, or negligence that constitutes a danger to the health, welfare or safety of the residents or the public.
- (6) Physical or verbal abuse of a resident or misappropriation of a resident's funds or property; failure to report an allegation of physical or verbal abuse of a resident or misappropriation of a resident's funds or property to appropriate state authorities as required by law.
- (7) Fraudulent, deceptive or dishonest conduct in the management of a long-term care facility, or other conduct unbecoming to a person licensed or subject to licensure under this law when, in the judgment of the Department, such conduct is detrimental to the best interest of the long-term care field, the long-term care administrator profession and/or the public.
- (8) Except as otherwise permitted in this Chapter, concurrently serving or acting as the administrator of more than one nursing facility or assisted living facility; or exceeding the conditions placed on administrators of ICF/IID facilities with 16 beds or less as stated in this Chapter; or otherwise serving as an administrator beyond the scope of their licensed authority.
- (9) Failure to comply with State or federal requirements applicable to the facility.
- (10) Failure to comply with rules and requirements for administrators established by the Department, including the Administrator Code of Ethics and Administrator Responsibilities adopted by the Department.
- (11) Evidence that the administrator has paid, given, has caused to be paid or given or offered to pay or to give to any person a commission or other valuable consideration for the solicitation or procurement, either directly or indirectly, of long-term care facility patronage.

- (12) Intentional retaliation or discrimination against any resident or employee for contacting or providing information to any State official, licensing agency or regulatory agency.
 - (13) Failure to provide verification of continuing education hours.
 - (14) Sexual abuse, sexual harassment, or sexual exploitation of any resident, employee, trainee, volunteer, consultant, or visitor to the facility in which the licensee practices.
 - (15) Falsification of any records or documents relating to the operation of a long-term care facility; falsification of records or documents submitted to the Department or any other state or federal agency; falsification of a resident's records, or causing a resident's records to be falsified.
 - (16) Use of the licensee's professional status, title, position, or relationship as a long-term care facility administrator to coerce, improperly influence, or obtain money, property, or services from a resident, resident's family member, employee, visitor, or any person served by or doing business with the facility that employs the administrator.
 - (17) Interfering with, refusing to participate in, or impeding any investigation, inspection, or disciplinary proceeding authorized by Statute.
 - (18) Violation of any disciplinary order, consent agreement, term of suspension, condition, stipulation, or any other limitation imposed on the licensee by the Department.
 - (19) Unlicensed practice, practice on a revoked, suspended, or lapsed license; or practice on a provisional license without the use of an on-site consultant or practice as a Certified Assistant Administrator without the oversight of an Administrator-of-Record.
 - (20) Failure to pay fees or fines established or imposed by the Department.
 - (21) Knowingly aiding, assisting, or advising a person to unlawfully practice as an administrator without a required license.
 - (22) Failure to adequately supervise an assistant administrator and/or failure to assure that the assistant administrator complies with state and federal requirements applicable to the facility.
 - (23) Conduct that violates the security of any licensure examination materials.
 - (24) Coercion or harassment, or the attempt to coerce or harass, or the use of any other form of uninvited solicitation directed toward a resident of a long-term care facility or toward a member of the resident's family or the resident's guardian for the purpose of attempting to persuade the resident to change long-term care facilities.
 - (25) Failure to notify the Department of a change of name, business or personal mailing address(es), or change of employment within fifteen (15) calendar days of the occurrence.
 - (26) Coercion or harassment of, or the attempt to coerce or harass, a member of the Department, a Department employee or an authorized agent or representative of the Department as related to any matter or issue over which the Department has authority.
 - (27) Exclusion by the Department of Health and Human Services Office of Inspector General from participation in any capacity in the Medicare, Medicaid, and all Federal health care programs as defined in section 1128B(f) of the Social Security Act.
- (b) If a Long-term Care Administrator violates any requirement in OAC 310:679, the Oklahoma Long-Term Care Administrators Act, or any other rule or law relevant to the duties and responsibilities of the Administrators, the Department may impose one or more of the following sanctions:
- (1) license or certificate revocation;
 - (2) license or certificate suspension;
 - (3) denial of application for license or certificate renewal;
 - (4) assessment of an administrative penalty;
 - (5) written letter of reprimand;
 - (6) participation in continuing education;
 - (7) probation;
 - (8) denial of authorization to perform as a preceptor; or
 - (9) revocation of preceptor authorization.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-5-3 by HB 2824 (2023), eff 11-1-23]

310:679-10-21. Summary suspension

In the course of an investigation, the Department may order a summary suspension of an administrator's license or certification or an Administrator in Training (AIT) permit if, in the course of an investigation, it is determined that a license, certificate holder, or AIT candidate for licensure has engaged in conduct of a nature that is detrimental to the health, safety, or welfare of the public, and which conduct necessitates immediate action to prevent further harm. The Department shall immediately notify the licensee, certificate holder, or AIT candidate upon issuance of the order. The licensee, certificate holder, or AIT candidate shall have the right to contest the order at a hearing as provided by law.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-5-5 by HB 2824 (2023), eff 11-1-23]

PART 7. ADMINISTRATOR TRAINING REQUIREMENTS

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-25. General provisions

- (a) If a waiver is not granted according to specifications in this chapter, applicants are required to complete Department-approved trainings prior to being eligible for a license or certification. NAB-approved trainings may be taken at any time to satisfy the training requirement.
- (b) Internships are required for license types that require internships as outlined in this chapter and who have not been granted a waiver according to 679-10-3.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-7-3 by HB 2824 (2023), eff 11-1-23]

PART 8. ADMINISTRATOR IN TRAINING (AIT) INTERNSHIP PROGRAM FOR LONG-TERM CARE ADMINISTRATORS AND CERTIFIED ASSISTANT ADMINISTRATORS

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-10-29. Application requirements

- (a) An application shall be submitted to the Department, containing the following information and documentation:
 - (1) Name;
 - (2) Contact Information;
 - (3) Educational history as required by license type;
 - (4) Signed letter outlining applicable work history if required by license type; and
 - (5) Affidavit of Lawful Presence.
- (b) A background check will be completed on all applicants.
- (c) A fee as prescribed by the Department shall be submitted with the application.
- (d) An applicant will have twenty-four (24) months to complete the required training and internship. A one-time extension may be granted by petitioning the Department if the applicant submits a formal request outlining the reasons for the delay. The Department has discretion to approve or deny extension requests and will notify the applicant of the decision.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-8-2 by HB 2824 (2023), eff 11-1-23]

310:679-10-30. Required internship

- (a) Internship permits may be granted to applicants who have been approved by facilities which are:
 - (1) licensed by the Oklahoma State Department of Health as a long-term care facility; and
 - (2) in substantial compliance with the rules and regulations governing licensure and operation of long-term care facilities.
- (b) Interns must submit all required documentation to the Department.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-8-3 by HB 2824 (2023), eff 11-1-23]

310:679-10-31. Identification of preceptor

- (a) Applicants are required to submit information on a proposed preceptor for review by the Department.
- (b) Applicants must submit required documentation for their selected preceptor to include:
 - (1) Name of preceptor;
 - (2) License number of preceptor;
 - (3) Name of the facility where the preceptor is an administrator;
 - (4) Address of facility where the preceptor is an administrator;
 - (5) Phone number of preceptor;
 - (6) Email address of preceptor; and
 - (7) Signature of the preceptor on preceptor attestation form.
- (c) If a change in preceptor becomes necessary after the start of an internship, interns are required to notify the Department. Any new preceptor must be Department-approved.
- (d) Preceptors who discontinue any internship must provide the Department and the intern with the following information within 30 days of the discontinuation of the preceptorship:
 - (1) the number of internship hours the intern has completed; and
 - (2) the Domains of Practice that have been covered during the internship.
- (e) Applicants may access a list of authorized preceptors from the Department website if they do not have a preceptor identified.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-8-4 by HB 2824 (2023), eff 11-1-23]]

310:679-10-32. Preceptor qualifications

- (a) A licensed administrator interested in being a preceptor for an administrator intern must:
 - (1) Hold a current Oklahoma administrator license;
 - (2) Have been operating as a licensed administrator for the twenty-four (24) months immediately preceding the internship or thirty-six (36) of the last sixty (60) months;
 - (3) Be currently working as an administrator in a licensed Oklahoma facility;
 - (4) Have not had an enforcement action against their license by the Department in the thirty-six (36) months immediately prior to the start of the internship; and
 - (5) Is not currently subject to disciplinary or enforcement action in another state.
- (b) A licensed administrator interested in becoming a preceptor, must fill out all required information on the preceptor section of the renewal application.
- (c) Authorization to serve as a preceptor may be revoked by the Department

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-8-5 by HB 2824 (2023), eff 11-1-23]]

310:679-10-33. Preceptor requirements

To be designated as a preceptor for an intern, a licensed long-term care administrator must:

- (1) be the full-time administrator-of-record of the facility where the internship will take place, , OR be a licensed administrator and the direct supervisor of the administrators(s)-of-record at the facility(s) where the internship will take place ;
- (2) agree to give the intern an opportunity to observe and take part in the managerial tasks associated with the operation of a facility, acquaint the intern with the organization and operation of all the various departments of the facility by permitting the intern to observe and participate in department activities which align with the intern's Department-approved training program;
- (3) regularly meet with the intern to discuss progress to date, potential refinements to hours spent in each module/domain of practice (in preparation for the NAB NHA exam), and review the interns strengths and weaknesses; and
- (4) complete the Department-required attestation form once the intern has satisfactorily completed all internship hours.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-8-5.1 by HB 2824 (2023), eff 11-1-23]]

310:679-10-34. Individualized internship requirements

(a) The preceptor, in conjunction with the intern, will assess and evaluate the intern's background, training and experience to determine specific areas of concentration within the domains of practice and departmental rotations.

(b) The preceptor will keep track of the training for each NAB training module and provide written documentation upon request by the Department.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-8-6 by HB 2824 (2023), eff 11-1-23]

310:679-10-35. Documentation of internship requirements

(a) The preceptor will document the intern's progress through each NAB module of training.

(b) NAB module completion will be documented on the checklist submitted by the preceptor to the Department and that accompanies the final preceptor intern review form.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-8-7 by HB 2824 (2023), eff 11-1-23]

310:679-10-36. Preceptor CEUs

(a) Preceptors for nursing home interns may be awarded:

(1) 3 CEUs for every 560 hours completed; or

(2) 4 CEUs per each 700 hour trainee completed; and

(3) Up to 12 CEUs per calendar year (credited for a maximum of 3 students in any one calendar year).

(b) CEU credit is awarded for the year the training was completed.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-8-8 by HB 2824 (2023), eff 11-1-23]

310:679-10-37. Preceptor's checklist

(a) The preceptor will maintain a current program completion checklist in the facility on the intern on a form approved by the Department to be reviewed by the Department upon request.

(b) The program completion checklist will be submitted to the Department with the final evaluation form.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-8-9 by HB 2824 (2023), eff 11-1-23]

310:679-10-38. Preceptor concerns

If disciplinary or enforcement action is taken against an administrator serving as a preceptor, the Department shall determine if there is a need to reassign the intern to a different preceptor.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-8-10 by HB 2824 (2023), eff 11-1-23]

310:679-10-39. Intern concerns

When a preceptor has concerns about an intern's ability to complete the internship requirements or ethical concerns that may affect the intern's ability to become a licensed administrator, the preceptor must notify the Department within ten (10) days.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-8-11 by HB 2824 (2023), eff 11-1-23]

310:679-10-40. Compensation for interns

The facility or facilities may compensate an intern, but is/are not required to do so. The Department does not regulate compensation agreements on behalf of the intern or the preceptor.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-8-12 by HB 2824 (2023), eff 11-1-23]

310:679-10-41. Internship requirements

(a) Tier 1 administrator applicants must complete at least a 1,000 hour internship with a Department-approved preceptor.

- (b) Tier 2 administrator applicants must complete at least a 500 hour internship with a Department-approved preceptor.
- (c) CAA applicants must complete at least a 500 hour internship with a Department-approved preceptor.
- (d) Applicants have twenty-four (24) months to complete the required internship and cannot complete greater than 40 internship hours per week.
- (e) Applicants completing an internship who are called to active military duty may request stoppage on the twenty-four (24) month timeline. The Department may halt the timeline for military members called to active duty if the pause in the timeline is not likely to impede the applicant's ability to perform the required administrator duties once they are a licensed administrator.
- (f) An applicant may apply for a one-time extension for the twenty-four (24) month timeline. Approval is at the discretion of the Department.
- (g) The internship must be completed in a facility or facilities licensed in Oklahoma for the level of care equivalent to the license or certification being sought.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-8-13 by HB 2824 (2023), eff 11-1-23]

310:679-10-42. Internship exemption

The Department may waive the internship requirement, wholly or in part, for applicants who have provided documentation demonstrating the successful completion of a formal internship program that meets or exceeds Department requirements, such as in another state or in a NAB accredited long-term care degree program.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-8-14 by HB 2824 (2023), eff 11-1-23]

310:679-10-43. Refusal to approve or renew preceptor or intern assignment

The Department may withdraw preceptor approval or disapprove the preceptor selection of an intern. .

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-8-16 by HB 2824 (2023), eff 11-1-23]

310:679-10-44. Maximum preceptor oversight

A preceptor may not oversee more than two (2) interns at a time.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-8-17 by HB 2824 (2023), eff 11-1-23]

PART 10. STANDARDS FOR ADMINISTRATORS

310:679-10-50. Administrator Ethics

- (a) Long-term care administrators and AITs are encouraged to participate in a professional association. CEUs may be approved when offered by a professional organization related to the field of licensure.
- (b) Ethical standards such as those found in the American College of Health Care Administrators Code of Ethics shall be used as a minimum threshold for ethical standards.
- (c) Licensed administrators must report any unethical conduct to the appropriate licensure boards.
- (d) Licensed administrators have a fiduciary duty to the facility and cannot serve as a guardian of the person or the estate, or hold durable power of attorney for any resident of a facility of which they are an administrator.
- (e) Administrators must post their license or certificate in a conspicuous location where it is easily visible by residents, clients, family members, and guardians.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-13-1 by HB 2824 (2023), eff 11-1-23]

310:679-10-51. Administrator responsibilities

- (a) The long-term care administrator will manage the planning, organization, direction, and control of the day-to-day functions of the facility in which they are the licensed administrator. The administrator must

comply with laws, rules, and regulations related to the management of the facility.

(b) Long-term care administrators licensed by the Department shall not concurrently serve as the administrator-of-record (AOR) of more than one long-term care facility except as otherwise permitted in this Chapter. A licensed long-term care administrator may serve as the administrator of more than one intermediate care facility for individuals with intellectual disabilities with sixteen or fewer beds (ICF/IID-16), only if such facilities are located within a circle that has a radius of not more than fifteen (15) miles, and the total number of facilities and beds does not exceed the lesser of six (6) facilities or total licensed capacity of sixty-four (64) beds. A Long-Term Care Administrator may not concurrently serve as the Director of Nursing (DON) of a facility while serving as the facility's AOR.

(c) Tier 2 RCAL Administrators are limited to serving concurrently as AOR of two (2) Assisted Living Facilities. The facilities must be located within sixty (60) miles of each other and have less than one hundred and thirty (130) occupied beds.

(d) Tier 1 Administrators may concurrently serve as the AOR of a SNF/NF and one other facility (Assisted Living, Residential Care or Adult Day Care) if the two facilities have the same owner, the facilities are within 15 miles, and the number of occupied beds (or occupied beds and participants) does not exceed 130.

(e) Every licensed or certified administrator and assistant administrator designated as the "Administrator-of-Record" (AOR) shall display the license or certificate in a conspicuous place.

(f) Licensed/certified administrators shall update their information with the Department within fifteen (15) calendar days for each of the following:

- (1) Name change;
- (2) Business address change;
- (3) Personal address change;
- (4) Change in employment status; and/or
- (5) Change of employer.

(g) Legal proof of a name change will be required prior to a replacement document being issued with the new name.

(h) Administrators may not contact any individual currently residing in a long-term care facility, or the family or guardian of an individual currently residing in a long-term care facility, for the purpose of persuading a move by the resident to another long-term care facility.

(i) An administrator shall not engage in or allow an employee to engage in the coercion or harassment to solicit clients for a long-term care facility.

(j) Administrators and administrator applicants must:

- (1) Respond to requests for information made by the Department, other governmental agencies with authority, or a designated representative thereof;
- (2) Be truthful in all responses to inquiries by the Department, other governmental agencies with authority, or a designated representative thereof; and
- (3) Disclose all facts and information necessary for all matters under investigation.

(k) All administrators and CAAs must register with the NAB CE Registry.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-13-2 by HB 2824 (2023), eff 11-1-23]

310:679-10-52. Serving as the Administrator-of-Record for two (2) or more licensed long-term care (nursing) facilities employing Certified Assistant Administrators

(a) The Administrator-of-Record must ensure all minimum requirements for individuals wishing to serve as a Certified Assistant Administrator (CAA) in this rule and the Nursing Home Care Act (see Title 63, Section 1-1943.1) are met prior to the delegation of duties and responsibilities to the CAA.

(b) The Administrator-of-Record shall delegate authority and responsibility to the CAA for all operational aspects of the facility for which they will be responsible.

(c) The Administrator-of-Record shall maintain a clear formal job description for the CAA, which will include duties and responsibilities.

(d) The Administrator-of-Record shall provide supervision, training and direction, and delegate duties and responsibilities which may safely be performed by the CAA.

(e) The licensed Administrator-of-Record, is legally responsible for the management and operation of the facility and shall maintain sufficient on-site presence in the facility to effectively supervise the CAA.

- (f) The Administrator-of-Record shall ensure the CAA does not concurrently serve as CAA of more than one (1) long-term care facility.
- (g) The Administrator-of-Record shall spend at least ten (10) hours per calendar week on-site in the facility, providing guidance and direction to the CAA. On-site supervisory visits shall not be more than ten (10) calendar days apart.
- (h) Residents and their family members or guardian must be provided a policy on who can be called when the Administrator of Record is absent from the facility. At a minimum, the policy should include when and how this contact can be made.
- (i) The Administrator-of-Record may not delegate any responsibilities or duties required by State or Federal law, statute, rule or regulation that are required to be performed by a licensed Administrator.
- (j) The Administrator of Record must not allow individuals to serve as a CAA if:
 - (1) They hold a license or certificate that has been suspended, revoked, or otherwise restricted by the Department; and/or
 - (2) The license or certificate holder has been sanctioned or formally excluded from participation in federally-funded health programs by the U.S. Department of Health and Human Services (DHHS) or the Office of Inspector General (OIG).
- (k) The Administrator-of-record shall ensure that no individual serves as a CAA if the facility at which the Assistant Administrator is to serve is not one of two-or-more facilities at which the Administrator serves as the Administrator-of-Record, that have a total bed complement not to exceed one-hundred-twenty (120) occupied beds and that are located with a fifty (50) mile radius of each other.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-13-3 by HB 2824 (2023), eff 11-1-23]

SUBCHAPTER 15. LONG-TERM CARE CERTIFIED ASSISTANT ADMINISTRATORS

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24]

PART 1. CERTIFICATION OF LONG-TERM CARE ASSISTANT ADMINISTRATORS

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24]

310:679-15-1. Purpose [REVOKED]

[Source: Revoked at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-15-1 by HB 2824 (2023), eff 11-1-23]

310:679-15-2. Definitions [REVOKED]

[Source: Revoked at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-15-2 by HB 2824 (2023), eff 11-1-23]

310:679-15-3. Minimum qualifications for a Certified Assistant Administrator (CAA)

In addition to the general requirements for administrators, each applicant seeking certification as a CAA must provide evidence satisfactory to the Department to include:

- (1) High school diploma or G.E.D.;
- (2) Successful completion of Department-approved training, within 24 months prior to certification;
- (3) A passing score on the applicable Oklahoma State Standards examination;
- (4) A passing score on the NAB Core examination; and
 - (A) One (1) year of current management, leadership or supervisory experience in a long-term care facility; OR
 - (B) Completion of a Department-approved Administrator in Training (AIT) program.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-15-3 by HB 2824 (2023), eff 11-1-23]

310:679-15-3.1. Evidence requirements

To satisfy the requirement for evidence indicating experience, the CAA applicant may submit a declaration in the form of a letter on company letterhead, signed by a licensed administrator, medical director, director of nursing, or registered nurse of a long-term care facility attesting to the number of employees and length of time the applicant supervised.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-15-3.1 by HB 2824 (2023), eff 11-1-23]

310:679-15-4. Certified Assistant Administrator Scope of Practice

(a) A Certified Assistant Administrator (CAA) under the supervision and direction of a licensed Administrator-of-Record may have the responsibility to plan, organize, direct, and control day-to-day functions of a facility delegated to him and to maintain the facility's compliance with applicable laws, rules, and regulations during the absence of the licensed administrator.

(b)

A CAA:

- (1) May serve at only one (1) nursing facility at a time;
- (2) Must spend at least 80% of working time on-site at the facility;
- (3) Must equitably distribute on-site time throughout each calendar week at the facility;
- (4) Place emphasis on weekdays, Monday through Friday, between 9:00 a.m. and 5:00 p.m. for on-site hours.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:10-15-4 by HB 2824 (2023), eff 11-1-23]

PART 3. APPLICATION FOR CERTIFICATION AND REQUIREMENTS FOR CONTINUED ELIGIBILITY

310:679-15-8. Application process

CAA applicants must complete required training, fill out the online application completely and correctly, upload required documentation, and pay the applicable application fee.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:15-3-1 by HB 2824 (2023), eff 11-1-23]

310:679-15-9. Approval process [REVOKED]

[Source: Revoked at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:15-3-2 by HB 2824 (2023), eff 11-1-23]

310:679-15-10. Requirements for certified assistant administrators

(a) A certified assistant administrator is required to renew their certification annually during the annual renewal period

(b) CAAs who are not working as certified assistant administrators must complete the minimum annual CEU requirements to remain qualified and to renew their certification.

[Source: Amended at 41 Ok Reg, Number 22, effective 8-11-24; Transferred from 490:15-3-3 by HB 2824 (2023), eff 11-1-23]

LTC Pharmacy Statute

59 O.S. § 367.3

This part of law is codified in the Utilization of Unused Prescription Medication Act. It was pulled from OSCN on 2-9-24 for this binder. This captures existing statute from one point in time. The Utilization of Unused Prescription Medications Act is subject to change when bills become law which amend, repeal, or add new law to the Act.



Title 59. Professions and Occupations

Oklahoma Statutes Citationized

Title 59. Professions and Occupations

Chapter 8 - Pharmacy

Section 367.3 - Implementation of Pilot Program and Statewide Program

Cite as: 59 O.S. § 367.3 (OSCN 2024)

A. The Board of Pharmacy shall implement statewide a program consistent with public health and safety through which unused prescription drugs, other than prescription drugs defined as controlled dangerous substances in [Section 2-101 of Title 63](#) of the Oklahoma Statutes, may be transferred from residential care homes, nursing facilities, assisted living centers, public intermediate care facilities for individuals with intellectual disabilities (ICFs/IID) or pharmaceutical manufacturers to pharmacies operated by a county. If no county pharmacy exists, or if a county pharmacy chooses not to participate, such unused prescription medications may be transferred to a pharmacy operated by a city-county health department or a pharmacy under contract with a city-county health department, a pharmacy operated by the Department of Mental Health and Substance Abuse Services or a charitable clinic for the purpose of distributing the unused prescription medications to Oklahoma residents who are medically indigent.

B. The Board of Pharmacy shall promulgate rules and establish procedures necessary to implement the program established by the Utilization of Unused Prescription Medications Act.

C. The Board of Pharmacy shall provide technical assistance to entities who may wish to participate in the program.

Historical Data

Laws 2001, HB 1297, c. 281, § 1, eff. November 1, 2001; Amended by Laws 2002, SB 1571, c. 462, § 3, emerg. eff. July 1, 2002 ([superseded document available](#)); Amended by Laws 2003, HB 1268, c. 167, § 1, emerg. eff. May 5, 2003 ([superseded document available](#)); Amended by Laws 2004, HB 1866, c. 374, § 3, emerg. eff. June 3, 2004 ([superseded document available](#)) Renumbered from [63 O.S. § 1918.2](#) by Laws 2004, HB 1866, c. 374, § 9, emerg. eff. June 3, 2004; Amended by Laws 2005, HB 1347, c. 285, § 1, eff. November 1, 2005 ([superseded document available](#)); Amended by Laws 2006, SB 1640, c. 109, § 1, eff. November 1, 2006 ([superseded document available](#)); Amended by Laws 2019, HB 2341, c. 475, § 45, eff. November 1, 2019 ([superseded document available](#)).

Citationizer[®] Summary of Documents Citing This Document

Cite Name	Level
Title 63. Public Health and Safety	
Cite	Name
63 O.S. 1-1918.2	Renumbered as 59 O.S. § 367.3 by Laws 2004, HB 1866, c. 374, § 9, emerg. eff. June 3, 2004
	Level
	Discussed

Citationizer: Table of Authority

Cite Name	Level
Title 59. Professions and Occupations	
Cite	Name
59 O.S. 367.3	Implementation of Pilot Program and Statewide Program
59 O.S. 367.3	Implementation of Pilot Program and Statewide Program
	Level
	Cited
	Cited
Title 63. Public Health and Safety	
Cite	Name
63 O.S. 1-1918.2	Utilization of Unused Prescription Medications Act
	Level
	Cited

Cite Name

Level

63 O.S. 1-1918.2,

Utilization of Unused Prescription Medications Act

Cited

63 O.S. 1-1918.2,

Utilization of Unused Prescription Medications Act

Cited

63 O.S. 1-1918.2,

Renumbered as 59 O.S. § 367.3 by Laws 2004, HB 1866, c. 374, § 9, emerg. eff.
June 3, 2004

Cited

Barbara E. Hoover Act

63 O.S. § 1-1956.1 et seq

Statute was pulled from OSCN on 2-8-24 for this binder. This captures existing statute from one point in time. The Barbara E. Hoover Act is subject to change when bills become law which amend, repeal, or add new law to the Act.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Barbara E. Hoover Act

Article Article 19 - Nursing Home Care Act

Section 1-1956.1 - Definitions

Cite as: 63 O.S. § 1-1956.1 (OSCN 2024), Barbara E. Hoover Act

As used in Section 1-1953.1 et seq. of this title:

1. “Assisted living center” shall have the same meaning as provided by Section 1-890.2 of this title;
2. “Authorized electronic monitoring” means the placement of electronic monitoring devices in the common areas or room of a resident of a nursing facility, assisted living center or continuum of care facility and the tapes or recordings from such devices pursuant to the provisions of Section 1-1953.1 et seq. of this title;
3. “Authorized electronic monitoring devices” means:
 - a. video surveillance cameras installed in the common areas or resident’s room under the provisions of Section 1-1953.1 et seq. of this title, or
 - b. audio devices installed in the room of a resident under the provisions of Section 1-1953.1 et seq. of this title that are designed to acquire communications or other sounds occurring in the room;
4. “Continuum of care facility” shall have the same meaning as provided by Section 1-890.2 of this title;
5. “Nursing facility” means the term as defined in Section 1-1902 of Title 63 of the Oklahoma Statutes;
6. “Representative of a resident” means a court-appointed guardian or, if there is no court-appointed guardian, the parent of a minor, a relative or other person, designated in writing by the resident; provided, that any owner, operator, administrator or employee of a facility subject to the provisions of the Nursing Home Care Act, the Continuum of Care and Assisted Living Act, the Residential Care Act or the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act shall not be appointed guardian or limited guardian of a resident of the nursing facility, assisted living center or continuum of care facility unless the owner, operator, administrator or employee is the spouse of the resident or a relative of the resident within the second degree of consanguinity and is otherwise eligible for appointment;
7. “Resident” means a person residing in a nursing facility, assisted living center or continuum of care facility; and
8. “Unauthorized electronic monitoring” means electronic, mechanical, or other devices that do not meet the provisions of Section 1-1953.1 et seq. of this title and that are specifically used for the nonconsensual interception of wire or electronic communications.

Historical Data

Laws 2013, SB 587, c. 204, § 1, eff. November 1, 2013; Amended by Laws 2020, SB 1739, c. 39, § 2, eff. November 1, 2020 (superseded document available); Renumbered from 63 O.S. § 1-1953.1 by Laws 2020, SB 1739, c. 39, § 7, eff. November 1, 2020.

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Barbara E. Hoover Act

Article Article 19 - Nursing Home Care Act

Section 1-1956.2 - Notice that Authorized Electronic Monitoring Not Compulsory - Consent Requirement

Cite as: 63 O.S. § 1-1956.2 (OSCN 2024), Barbara E. Hoover Act

A. A nursing facility, assisted living center or continuum of care facility shall provide written notice to each resident, or to the representative of a resident, that authorized electronic monitoring of a resident’s room conducted under the provisions of Section 1-1953.1 et seq. of this title is not compulsory and shall only be conducted with the written consent of the resident or the representative of the resident.

B. A nursing facility, assisted living center or continuum of care facility shall not refuse to admit an individual to residency in the facility or center and shall not remove a resident from a facility or center because of authorized electronic monitoring of a resident’s room.

C. A nursing facility, assisted living center or continuum of care facility shall post at or near its main entrances a sign that clearly states that electronic monitoring and audio devices may be in use in the facility or center.

Historical Data

Laws 2013, SB 587, c. 204, § 2, eff. November 1, 2013; Amended by Laws 2020, SB 1739, c. 39, § 3, eff. November 1, 2020 ([superseded document available](#)); Renumbered from [63 O.S. § 1-1953.2](#) by Laws 2020, SB 1739, c. 39, § 8, eff. November 1, 2020.

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Barbara E. Hoover Act

Article Article 19 - Nursing Home Care Act

Section 1-1956.3 - Tampering with Electronic Recording Devices - Penalties - Consent Required for Interception

Cite as: 63 O.S. § 1-1956.3 (OSCN 2024), Barbara E. Hoover Act

A. No person or entity shall intentionally hamper, obstruct, tamper with, or destroy an electronic monitoring device installed in a nursing facility, assisted living center or continuum of care facility.

B. Any person or entity that intentionally hampers, obstructs, tampers with, or destroys a recording or an electronic monitoring device installed in a nursing facility, assisted living center or continuum of care facility shall be subject to the penalties prescribed in [Section 1993 of Title 21](#) of the Oklahoma Statutes.

C. No person or entity shall intercept a communication or disclose or use an intercepted communication of an electronic monitoring device placed or installed in a common area of a nursing facility, assisted living center or continuum of care facility without the express written consent of the facility, or, for an electronic monitoring device installed in a resident's room, the express written consent of the resident or the representative of the resident.

Historical Data

Laws 2013, SB 587, c. 204, § 3, eff. November 1, 2013; Amended by Laws 2020, SB 1739, c. 39, § 4, eff. November 1, 2020 ([superseded document available](#)); Renumbered from [63 O.S. § 1-1953.3](#) by Laws 2020, SB 1739, c. 39, § 9, eff. November 1, 2020.

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Barbara E. Hoover Act

Article Article 19 - Nursing Home Care Act

Section 1-1956.4 - Admissibility of Recordings

Cite as: 63 O.S. § 1-1956.4 (OSCN 2024), Barbara E. Hoover Act

Subject to the provisions of law, a tape or recording created through the use of authorized electronic monitoring pursuant to this act may be admitted into evidence in a civil or criminal court action or administrative proceeding.

Historical Data

Laws 2013, SB 587, c. 204, § 4, eff. November 1, 2013; Renumbered from [63 O.S. § 1-1953.4](#) by Laws 2020, SB 1739, c. 39, § 10, eff. November 1, 2020.

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Barbara E. Hoover Act

Article Article 19 - Nursing Home Care Act

Section 1-1956.5 - Cost of Electronic Monitoring - Notice of Monitoring - Shared Rooms

Cite as: 63 O.S. § 1-1956.5 (OSCN 2024), Barbara E. Hoover Act

A resident or the representative of a resident may conduct authorized electronic monitoring of the resident's room through the use of authorized electronic monitoring devices placed in the room pursuant to the provisions of Section 1-1953.1 et seq. of this title at the expense of such person or representative of the resident and with the written consent of any other resident living in the room.

B. A resident who conducts authorized electronic monitoring or the representative of the resident may post and maintain a notice at the entrance to the resident's room stating that the room is being monitored by an electronic monitoring device.

C. Nothing in Section 1-1953.1 et seq. of this title shall be construed to prevent a resident or the representative of the resident from placing an electronic monitoring device in the resident's room at the expense of such person; however, if such resident is sharing a room with any other resident, the resident or the representative of the resident shall obtain written consent from such other resident or the representative of the resident living in the room and such consent shall be on a form prescribed by the State Department of Health and shall be placed on file with the administrator of the facility.

D. If a resident residing in a shared room, or the representative of a resident residing in a shared room, desires to utilize an authorized electronic monitoring device and another resident living in such shared room refuses to consent to the use of an authorized electronic monitoring device, the nursing facility, assisted living center or continuum of care facility shall accommodate the resident or the representative of the resident desiring to utilize an authorized electronic monitoring device to move to another room if the resident or resident's representative requests such a room change within a reasonable amount of time.

Historical Data

Laws 2013, SB 587, c. 204, § 5, eff. November 1, 2013; Amended by Laws 2020, SB 1739, c. 39, § 5, eff. November 1, 2020 ([superseded document available](#)); Renumbered from [63 O.S. § 1-1953.5](#) by Laws 2020, SB 1739, c. 39, § 11, eff. November 1, 2020.

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Barbara E. Hoover Act

Article Article 19 - Nursing Home Care Act

Section 1-1956.6 - Notification to the Nursing Facility - Consent of Other Residents in the Room - Persons Who May Give Consent - Forms

Cite as: 63 O.S. § 1-1956.6 (OSCN 2024), Barbara E. Hoover Act

-
- A. A resident or representative of a resident who wishes to conduct authorized electronic monitoring shall be required to notify the nursing facility, assisted living center or continuum of care facility on the consent form prescribed by the State Department of Health.
 - B. The consent form prescribed by the Department shall require the resident or the representative of a resident to obtain the consent of any other resident in the room or the representative of a resident, using the consent form prescribed for this purpose by the Department, if the resident resides in a room with another resident.
 - C. Consent may be given only:
 - 1. By the resident or any other resident in the room; or
 - 2. By the representative of the resident or representative of any other resident in the room.
 - D. Another resident in the room may:
 - 1. When the proposed electronic monitoring device is a video surveillance camera, condition consent on the camera being pointed away from the consenting resident; and
 - 2. Condition consent on the use of an audio electronic monitoring device being limited or prohibited.
 - E. Except as provided for in Section 1-1953.7 of this title, authorized electronic monitoring may begin only after the required consent forms specified in Section 1-1953.1 et seq. of this title have been completed and returned to the nursing facility, assisted living center or continuum of care facility and placed on file with the administrator of such facility or center.
 - F. If authorized electronic monitoring is being conducted in the room of a resident, another resident may not be moved into the room unless the resident or representative of the resident has consented to the use of existing electronic monitoring, in accordance with Section 1-1953.1 et seq. of this title.
 - G. The Department may include other information that it considers to be appropriate on any form it is required to prescribe under the provisions of Section 1-1953.1 et seq. of this title.
 - H. The Department shall prescribe the forms required by Section 1-1953.1 et seq. of this title no later than November 1, 2013, and shall make such forms available on its website.

Historical Data

Laws 2013, SB 587, c. 204, § 6, eff. November 1, 2013; Amended by Laws 2020, SB 1739, c. 39, § 6, eff. November 1, 2020 ([superseded document available](#)); Renumbered from [63 O.S. § 1-1953.6](#) by Laws 2020, SB 1739, c. 39, § 12, eff. November 1, 2020.

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Barbara E. Hoover Act

Article Article 19 - Nursing Home Care Act

Section 1-1956.7 - Compliance Date for Existing Electronic Monitoring Devices

Cite as: 63 O.S. § 1-1956.7 (OSCN 2024), Barbara E. Hoover Act

Any resident or the representative of the resident utilizing existing electronic monitoring devices prior to November 1, 2013, shall comply with all written consent and disclosure provisions of this act no later than January 1, 2014.

Historical Data

Laws 2013, SB 587, c. 204, § 7, eff. November 1, 2013; Renumbered from 63 O.S. § 1-1953.7 by Laws 2020, SB 1739, c. 39, § 10, eff. November 1, 2020.

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-879.2a - Short Title

Cite as: 63 O.S. § 1-879.2a (OSCN 2024), Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act

This act shall be known and may be cited as the "Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act".

Historical Data

Laws 1998, SB 826, c. 147, § 1, eff. November 1, 1998; Amended by Laws 2021, HB 1794, c. 546, § 1, eff. November 1, 2021
([superseded document available](#)).

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-879.2b - Definitions

Cite as: 63 O.S. § 1-879.2b (OSCN 2024), Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act

As used in the Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act:

1. "Special care" means care that is provided to persons with a diagnosis of probable Alzheimer's dementia or other forms of dementia by an entity that provides such care;
2. "Department" means the State Department of Health;
3. "Dementia" means the impaired ability to remember, think, or make decisions that interferes with a person's everyday activities; and
4. "Alzheimer-Dementia Disclosure Act Advisory Council" shall mean the advisory council created in Section 3 of this act.

Historical Data

Laws 1998, SB 826, c. 147, § 2, eff. November 1, 1998; Amended by Laws 2021, HB 1794, c. 546, § 2, eff. November 1, 2021 ([superseded document available](#)).

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-879.2c - Disclosure of Care - Alzheimer-Dementia Disclosure Act Advisory Council - Website Listing

Disclosing Facilities

Cite as: 63 O.S. § 1-879.2c (OSCN 2024), Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act

A. 1. Pursuant to rules promulgated under the provisions of the Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act, any nursing facility, residential care facility, assisted living facility, adult day care center, continuum of care facility, or special care facility that publicly advertises, intentionally markets, or otherwise engages in promotional campaigns for the purpose of communicating that said facility offers care or treatment methods within the facility that distinguish it as being especially applicable to or suitable to persons with Alzheimer's dementia or other forms of dementia diagnoses shall disclose the type of care, memory care or treatment provided that distinguishes it as being especially applicable to or suitable for such persons.

2. The disclosure shall be made using a form developed by the State Department of Health and shall be made to:

a. the Department,

b. any representative of a person with Alzheimer's dementia or other form of dementia who is considering placement within a special care unit, program, or facility, and

c. the State Long-Term Care Ombudsman.

3. The facility shall submit the disclosure form to the Department prior to entering into any agreement to provide care or services.

4. The Department shall examine each disclosure for completeness and accuracy at the time the disclosure is submitted to the Department.

5. The Department shall review the most recent disclosure in the Department's records during the facility's regular inspection to verify that the disclosure is current and that the services described in the disclosure are provided to residents as described in the disclosure.

B. The information disclosed as required by this section shall include the following areas:

1. A written description of the special care unit, program, or facility's overall philosophy and mission as it relates to the needs of residents with Alzheimer's dementia or other forms of dementia;

2. The process and criteria for placement in, or transfer or discharge from, the unit, program, or facility;

3. The process used for assessment, establishment, and implementation of a resident plan of care, as it relates to Alzheimer's dementia and other forms of dementia, including the method by which the plan evolves, the frequency of assessment, and how the facility will respond to changes in the condition of the resident;

4. Staff-to-resident ratios, staff training and continuing education that are in addition to all regularly prescribed training and are commensurate with the need for increased care and supervision for residents with Alzheimer's dementia and other forms of dementia;

5. The physical environment and design features appropriate to support the functioning of cognitively impaired residents;

6. The types and frequency of resident activities designed for residents with Alzheimer's dementia or other forms of dementia and descriptions of those therapeutic activities designed to address cognitive function and engage residents with varying stages of dementia;

7. The involvement of families in care planning and other aspects of care, and the availability of family support programs;
 8. The fees for care and any additional fees; and
 9. Any accreditations or certifications issued to the facility related to the care and services provided to residents with Alzheimer's dementia or other forms of dementia.
- C. The Department, with input from the Alzheimer-Dementia Disclosure Act Advisory Council, shall develop a standardized disclosure form. Any change in the information initially submitted by the facility or other entity shall be reported to the Department at the time the change is made.
- D. The provisions of this section shall not be construed to preclude a facility without a special care unit or program from admitting a person with Alzheimer's dementia or other forms of dementia.
- E. The State Commissioner of Health, with input from the Alzheimer-Dementia Disclosure Act Advisory Council, shall promulgate rules to effectuate the provisions of the Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act.
- F. There is hereby created the Alzheimer-Dementia Disclosure Act Advisory Council. The Council shall make recommendations to the State Commissioner of Health regarding the disclosure form and rules promulgated pursuant to the Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act.
1. The Council shall consist of nine (9) members to be appointed by the State Commissioner of Health for such terms as he or she chooses. The members shall be individuals who have knowledge and expertise in the field of memory care or individuals who are consumer representatives directly impacted by memory-care services, provided that neither the members with knowledge and expertise in the field nor the members who are consumer representatives shall comprise more than two-thirds (2/3) of the total membership. The members who are consumer representatives shall be individuals with immediate family members who have received or are currently receiving memory-care services in Oklahoma and shall not be employees or board members of any facilities or entities subject to the Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act.
 2. The members of the Council shall serve without compensation.
 3. The Council shall conduct an organizational meeting at a date and location to be chosen by the Commissioner and as frequently thereafter as necessary to perform the duties imposed upon it. A majority of the members present shall constitute a quorum.
 4. Staff assistance for the Council shall be provided by the staff of the State Department of Health.
- G. Violation of any of the provisions of this act or the rules issued pursuant to this act shall subject the offending facility to the notice and enforcement provisions established for the facility's license by the Department.
- H. Any facility that offers specialized memory or dementia care through a specific unit or program shall post the disclosure form, including the information required to be included by this section, on the facility's website.
- I. The Department shall establish a website with a list of those facilities that have filed a disclosure form pursuant to this act. The website shall contain a link to the submitted disclosure form and a table containing items from the disclosure form, including staffing ratios, staff training, special programming and activities, and accreditations or certifications.

Historical Data

Laws 1998, SB 826, c. 147, § 3, eff. November 1, 1998; Amended by Laws 2021, HB 1794, c. 546, § 3, eff. November 1, 2021 ([superseded document available](#)).

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-879.3 - Development and Enhancement of Core Neuropathology Laboratory

Cite as: O.S. §, ___ __

A. The State Department of Health shall contract with the University of Oklahoma Health Sciences Center, if authorized by the University of Oklahoma Board of Regents, for the development and enhancement of a Core Neuropathology Laboratory.

B. The Core Neuropathology Laboratory shall be:

1. equipped with sufficient state-of-the-art equipment and adequate personnel to allow quality diagnosis and efficient handling of the autopsy specimens; and
2. provided supplies for diagnostic studies for educational programs and for service to the public.

Historical Data

Laws 1990, HB 2000, c. 207, § 3, emerg. eff. July 1, 1990.

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Nurse Aide Training and Certification

OAC 310:677

Rule text was pulled from the official record on the Oklahoma Office of Administrative Rules (OAR) webpage on 06-03-24. Rules are subject to change through the rule promulgation process. When rule promulgation results in rule change, updated language is published to the official OAR site a few weeks after the effective date of the rule change. *Emergency rules are not published to the OAR site.

CHAPTER 677. NURSE AIDE TRAINING AND CERTIFICATION

[Authority:63 O.S., §§ 1-104, 1-819 et seq., 1-890.1 et seq., 1-1901 et seq., 1-1950.1 through 1-1950.4, 1-1951, and 1-1960 et seq.]
[Source:Codified 7-27-95]

SUBCHAPTER 1. GENERAL PROVISIONS

310:677-1-1. Purpose

The purpose of this Chapter is to implement the nurse aide registry and certification program for nurse aides who work in nursing facilities, specialized facilities, residential care homes, home health or home care agencies, adult day care centers, and assisted living centers.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 19 Ok Reg 2106, eff 6-27-02]

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 *the willful infliction of injury, unreasonable confinement, intimidation or punishment, with resulting physical harm, impairment or mental anguish.* [63 O.S. § 1-1902(15)]

"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. § 1-1902(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 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 *failure to provide goods and/or services necessary to avoid physical harm, mental anguish, or mental illness.* [63 O.S. §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 O.S. §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.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 18 Ok Reg 2545, eff 6-25-01; Amended at 19 Ok Reg 2106, eff 6-27-02; Amended at 37 Ok Reg 1455, eff 9-11-20; Amended at 40 Ok Reg 1588, eff 9-11-23]

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, 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, 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, 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 with no fee required;
- (B) Home Health Aide deemed to ICF/IID Care Aide;
- (C) Home Health Aide deemed to residential Care Aide;
- (D) Home Health Aide deemed to Adult Day Care Aide;
- (E) Long Term Care Aide deemed to ICF/IID Care Aide;
- (F) Long Term Care Aide deemed to Residential Care Aide;
- (G) Long Term Care Aide deemed to Adult Day Care Aide;
- (H) ICF/IID Care Aide deemed to Residential Care Aide; and
- (I) ICF/IID Care Aide deemed to Adult Day Care Aide;

(2) Home Health Aide Reciprocity Application, \$15.00 fee;

(3) Training Exception Application, or Foreign Graduate Training Exception Application, \$15.00 fee; or

(4) Nurse Aide Training and Competency Evaluation Program Waiver Application, \$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 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 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 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.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 18 Ok Reg 2545, eff 6-25-01; Amended at 19 Ok Reg 2106, eff 6-27-02; Amended at 21 Ok Reg 2807, eff 7-12-04; Amended at 24 Ok Reg 2045, eff 6-25-07; Amended at 26 Ok Reg 2068, eff 6-25-09; Amended at 37 Ok Reg 1455, eff 9-11-20; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-1-4. Reporting allegations of abuse

(a) An employer shall report to the Department any allegation of client or resident abuse, neglect, mistreatment or misappropriation of client's or resident's property against the employer's nurse aide.

(b) An employer shall report to the Department by telephone within twenty-four (24) hours after receiving an allegation and in writing within five (5) working days after receiving an allegation.

(c) The written report filed by the employer shall include:

(1) The allegation;

(2) Name and identification number of the nurse aide;

(3) Date of the occurrence;

(4) Results of any internal investigation;

(5) Any corrective action taken by the employer; and

(6) Name and address of any person who may have witnessed the incident.

310:677-1-5. Cumulative training calculations [REVOKED]

[Source: Added at 18 Ok Reg 2545, eff 6-25-01; Amended at 19 Ok Reg 2106, eff 6-27-02; Amended at 24 Ok Reg 2045, eff 6-25-07]

310:677-1-6. Temporary emergency waiver

(a) **Purpose.** This section implements temporary emergency waivers authorized in 63 O.S. § 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.** 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 O.S. § 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) An entity shall submit a written application to the Department. The written application, at minimum, shall include:

- (A) Identifying information for the facility;
- (B)

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;

(C) A narrative describing the reasons why the facility is unable to meet the staffing requirements of 63 O.S. § 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

(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 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 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 entity.

(6) Upon denial, an applicant 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.

(d) **Length of waiver.** A waiver approved by the Department is effective for the period not to exceed six months, unless sooner withdrawn by the Department for failure to meet eligibility requirements.

[Source: Added at 22 Ok Reg 232, eff 10-31-04 (emergency); Added at 21 Ok Reg 2456, eff 7-11-05; Amended at 26 Ok Reg 2068, eff 6-25-09; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-1-7. Presumptive approval of nurse aide training programs and emergency training exception for unlicensed health professionals and feeding assistants during the state of emergency caused by COVID-19 [EXPIRED]

[Source: Added at 37 Ok Reg 689, eff 4-6-20 through 9-14-21 (emergency)¹]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 9-15-21 (after the 9-14-21 expiration of this emergency action), Section 310:677-1-7 was no longer effective. For the official text of the emergency rule that was in effect from 4-6-20 through 9-14-21, see 37 Ok Reg 689.

SUBCHAPTER 3. NURSE AIDE TRAINING AND COMPETENCY EXAMINATION PROGRAM

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

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 19 Ok Reg 2106, eff 6-27-02; Revoked at 40 Ok Reg 1588, eff 9-11-23]

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 shall file the appropriate application form and a non-refundable application fee of one hundred dollars (\$100.00). There is no application fee for long-term care aide training or competency evaluation programs.

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

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 19 Ok Reg 2106, eff 6-27-02; Amended at 21 Ok Reg 2807, eff 7-12-04; Amended at 24 Ok Reg 2045, eff 6-25-07; Amended at 26 Ok Reg 2068, eff 6-25-09; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-3-3. Application

(a) An entity shall file an application provided by the Department.

(b) An entity may not operate a nurse aide training and competency examination program prior to the approval of the Department.

(c) The application 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) 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. 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.

(e) The Department may waive for a period not to exceed two years the imposition of (d) 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;

(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.

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 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) 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.
 - (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 the minimum requirements specified in rule;
 - (3) The entity closed or had its residents or clients transferred pursuant to the Department's action.
 - (4) The onsite survey determines the training program is out of compliance with the requirements of 63 O.S. §§ 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.
- (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.
- (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.
- (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.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 18 Ok Reg 2545, eff 6-25-01; Amended at 19 Ok Reg 2106, eff 6-27-02; Amended at 24 Ok Reg 2045, eff 6-25-07; Amended at 37 Ok Reg 1455, eff 9-11-20; Amended at 40 Ok Reg 1588, eff 9-11-23]

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 complete an application notifying the Department prior to making any changes that would affect the program's requirements and/or the Department's approval of the program.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 19 Ok Reg 2106, eff 6-27-02; Amended at 24 Ok Reg 2045, eff 6-25-07; Amended at 40 Ok Reg 1588, eff 9-11-23]

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

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

- (1) Immediately notify the Department, in writing, of its plan to close, 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.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 19 Ok Reg 2106, eff 6-27-02; Amended at 40 Ok Reg 1588, eff 9-11-23]

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

(a) An employer based program shall complete the State required criminal 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 O.S. §1-1950.1(E)]

(b) A non-employer based program shall notify trainees that if a criminal 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 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 O.S. §1-1950.1 as part of the training program application.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 19 Ok Reg 2106, eff 6-27-02; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-3-8. Records and examination

(a) A program shall use a performance record/Skills Performance Checklist which shall include:

- (1) A record of when the trainee performs the duties and skills and the determination of satisfactory or unsatisfactory performance.
- (2) The name of the instructor supervising the performance.

(b) Upon request from the nurse aide trainee, the training program shall provide the trainee with a copy of the Training Verification Form upon completion of training.

(c) Upon request from the nurse aide trainee, the training program shall provide the trainee a copy of the completed classroom/lecture training and the training performance record/Skills Performance Checklist with the skills that have been demonstrated if the trainee has to withdraw from the training program prior to completion of the training program.

(d) The program shall retain the following records for each trainee for at least three (3) years:

- (1) The Trainee's Application for the training program.
- (2) Performance records, the Skills Performance Checklist and Training Verification Form.
- (3) Nurse aide competency and examination results.

(e) The training program shall provide copies to the nurse aide registry of any individual nurse aide training records that may be requested by the Department.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 19 Ok Reg 2106, eff 6-27-02]

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 to be proctored by 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.
 - (3) Is transmitted to the scoring entity immediately after completion of the written or oral and skills examination.
- (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.
- (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.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 19 Ok Reg 2106, eff 6-27-02; Amended at 40 Ok Reg 1588, eff 9-11-23]

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

- (a) The written or oral examination portion of the competency examination, in English, 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.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 19 Ok Reg 2106, eff 6-27-02; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-3-11. Successful completion of the competency examination

- (a) An individual shall pass both the written or oral examination and the skills examination to complete the competency examination successfully.

- (b) An individual shall score at least seventy (70) percent on the written or oral examination.
- (c) An individual shall demonstrate at least eighty (80) percent accuracy for the skills examination.
- (d) The Department shall include in the nurse aide registry a record of successful completion of the competency examination within thirty (30) days of the date the individual is found to be competent.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 19 Ok Reg 2106, eff 6-27-02]

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 two times without further training.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 19 Ok Reg 2106, eff 6-27-02; Amended at 40 Ok Reg 1588, eff 9-11-23]

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

Training programs shall inform the long term care aide, home health aide, ICF/IID care aide, residential care aide, and adult day 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.

[Source: Added at 40 Ok Reg 1588, eff 9-11-23]

SUBCHAPTER 5. NURSE AIDE REGISTRY

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

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 18 Ok Reg 2545, eff 6-25-01; Amended at 19 Ok Reg 2106, eff 6-27-02; Revoked at 40 Ok Reg 1588, eff 9-11-23]

310:677-5-2. Registry operation

(a) The Department shall maintain overall operation of the registry.

(b) 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 Renewal Application. The individual certified as a long term care aide shall file a Renewal Application for Long Term Care Aide. Each renewal application requires:

- (1) Personal identifying and contact information for the applicant;
- (2) 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.

(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 change of name or other reason.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 19 Ok Reg 2106, eff 6-27-02; Amended at 24 Ok Reg 2045, eff 6-25-07; Amended at 26 Ok Reg 2068, eff 6-25-09; Amended at 37 Ok Reg 1455, eff 9-11-20; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-5-3. Registry content [REVOKED]

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Revoked at 19 Ok Reg 2106, eff 6-27-02]

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

(a) 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.

(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(a) 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 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.

(c) The Department 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, 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.

(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. 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.

(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.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 18 Ok Reg 2545, eff 6-25-01; Amended at 19 Ok Reg 2106, eff 6-27-02; Amended at 40 Ok Reg 1588, eff 9-11-23]

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. §§ 1-1950.3, 1-1950.4a, 1-1950.5, 1-1951, or this Chapter.

(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.

(c) 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.

(d) The suspension of a certificate shall be for at least six months. A denial, withdrawal or nonrenewal of a certification shall be for at least one year. The Department shall specify the duration of the denial, suspension, withdrawal or nonrenewal of certification based on the seriousness of the underlying violation and the likelihood that the aide will maintain compliance in the future.

[Source: Added at 24 Ok Reg 2045, eff 6-25-07; Amended at 40 Ok Reg 1588, eff 9-11-23]

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.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 13 Ok Reg 1307, eff 3-28-96 (emergency); Amended at 13 Ok Reg 2515, eff 6-27-96; Amended at 18 Ok Reg 2545, eff 6-25-01; Amended at 40 Ok Reg 1588, eff 9-11-23]

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

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 18 Ok Reg 2545, eff 6-25-01; Revoked at 40 Ok Reg 1588, eff 9-11-23]

310:677-7-3. Petition and hearing

(a) **Petition.** After the certified nurse aide or nurse aide trainee requests a hearing, 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.

[Source: Amended at 40 Ok Reg 1588, eff 9-11-23; Amended at 18 Ok Reg 2545, eff 6-25-01; Amended at 13 Ok Reg 2515, eff 6-27-96; Amended at 13 Ok Reg 1307, eff 3-28-96 (emergency); Added at 12 Ok Reg 3087, eff 7-27-95]

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 place the findings 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 any statement submitted by the certified nurse aide or nurse aide trainee disputing the final decision. 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.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 18 Ok Reg 2545, eff 6-25-01; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-7-5. Petition for removal of finding of neglect

(a) **Petition.** If more than one (1) year has expired since the day the finding of neglect notation was placed upon the file of the certified nurse aide or nurse aide trainee, the certified nurse aide or nurse aide trainee may request a hearing and an individual proceeding shall be commenced upon the filing of a petition or request by the certified nurse aide or nurse aide trainee which states:

(1) the employment and personal history of the nurse aide does not reflect a pattern of abusive behavior or neglect; and

(2) the neglect involved in the original finding was a singular occurrence.

(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) **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.

(e) **Registry notification.** If the Administrative Law Judge finds that the employment and personal history of the nurse aide does not reflect a pattern of abusive behavior or neglect and the neglect involved in the original finding was a singular occurrence, the Administrative Law Judge shall take the following into consideration in making a decision whether to direct the nurse aide registry to remove the finding of neglect notation from the Registry:

(1) The degree of negligence;

(2) The severity of the potential negative resident outcome;

(3) The severity of the actual negative resident outcome;

(4) The forthrightness and cooperation of the individual;

(5) Any rehabilitation or education completed by the individual since the incident; and

(6) Any other factors or considerations the judge determines to be pertinent to the court's decision.

In all other instances, the name and information of the nurse aide upon the nurse aide registry shall remain unchanged.

(f) **Status of certification.** Where the Administrative Law Judge directs that the finding of neglect notation be removed, the following shall apply:

(1) If the nurse aide is no longer certified and has no other disqualifying notations on the registry, the nurse aide shall successfully complete a nurse aide competency evaluation program prior to re-establishing certification. All applicable retesting fees shall apply.

(2) An individual who fails a nurse aide competency evaluation program under the prior paragraph shall be required to retrain before taking any subsequent retests.

(3) If the aide is a nurse aide trainee and has no other disqualifying notations on the registry, the nurse aide trainee shall successfully complete a nurse aide training and competency evaluation program to establish certification.

[Source: Added at 26 Ok Reg 2068, eff 6-25-09]

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.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 19 Ok Reg 2106, eff 6-27-02; Amended at 40 Ok Reg 1588, eff 9-11-23]

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. 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.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 19 Ok Reg 2106, eff 6-27-02; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-9-3. Instructor qualifications

The training of home health aides and the supervision of home health aides during the supervised practical portion of the training shall be performed by, or under the general supervision of, a registered nurse who possesses at least two (2) years nursing experience with at least one (1) year experience providing the following:

- (1) Home care; or
- (2) Instruction in a home health nurse aide training program under the supervision of a qualified registered nurse.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 24 Ok Reg 2045, eff 6-25-07]

310:677-9-4. Curriculum

- (a) The home care aide training program 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.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-9-5. Competency 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.

[Source: Amended at 40 Ok Reg 1588, eff 9-11-23; Amended at 19 Ok Reg 2106, eff 6-27-02; Added at 12 Ok Reg 3087, eff 7-27-95]

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 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.

[Source: Amended at 40 Ok Reg 1588, eff 9-11-23; Amended at 19 Ok Reg 2106, eff 6-27-02; Added at 12 Ok Reg 3087, eff 7-27-95]

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. 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.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 19 Ok Reg 2106, eff 6-27-02; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-11-3. Instructor qualifications

- (a) The training of long term care aides shall be done by, or under the general supervision of, a registered nurse who has:
- (1) At least two (2) years of nursing experience with at least one (1) year in long term care facility services.
 - (2) Completed a course in teaching adults or experience in teaching adults or supervising nurse aides.
- (b) The nurse aide training and competency examination may be supervised by the registered nurse who serves as the director of nursing, provided that the director of nursing shall not perform the actual training.
- (c) There must be one (1) Registered Nurse who meets the qualifications for each long term care training program, whether in the role of RN Supervisor or RN instructor.
- (d) A licensed practical nurse may act as an instructor in an approved nurse aide training and competency examination program when a registered nurse maintains responsibility for the program and is available to provide instruction in areas in which a licensed practical nurse may lack technical expertise.
- (e) Other personnel from the health professions may supplement the instructor. These persons shall be licensed by the State, if applicable, and shall have at least one (1) year experience in the practice of the profession.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 19 Ok Reg 2106, eff 6-27-02]

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 examination

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.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 19 Ok Reg 2106, eff 6-27-02; Amended at 40 Ok Reg 1588, eff 9-11-23]

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. § 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. 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.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 19 Ok Reg 2106, eff 6-27-02; Amended at 23 Ok Reg 559, eff 12-22-05 (emergency); Amended at 23 Ok Reg 2422, eff 6-25-06; Amended at 24 Ok Reg 2045, eff 6-25-07; Amended at 37 Ok Reg 1455, eff 9-11-20; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-13-2. Deemed to meet state certification requirements

A certified medication aide shall be eligible to perform the duties of a certified medication aide for the following employers:

- (1) Nursing facility or continuum of care facility;
- (2) Specialized facility;
- (3) Residential care home;
- (4) Adult day care facility; and
- (5) Assisted living center.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 23 Ok Reg 559, eff 12-22-05 (emergency); Amended at 23 Ok Reg 2422, eff 6-25-06]

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. Each instructor shall have one year of experience in 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.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 23 Ok Reg 559, eff 12-22-05 (emergency); Amended at 23 Ok Reg 2422, eff 6-25-06; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-13-4. Curriculum

(a) The certified medication aide training program shall include a minimum of forty (40) hours of 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) 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) 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.

[Source: Amended at 40 Ok Reg 1588, eff 9-11-23; Amended at 24 Ok Reg 2045, eff 6-25-07; Amended at 23 Ok Reg 2422, eff 6-25-06; Amended at 23 Ok Reg 559, eff 12-22-05 (emergency); Added at 12 Ok Reg 3087, eff 7-27-95]

310:677-13-5. Competency 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 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.

[Source: Amended at 23 Ok Reg 559, eff 12-22-05 (emergency); Amended at 23 Ok Reg 2422, eff 6-25-06; Amended at 24 Ok Reg 2045, eff 6-25-07; Amended at 40 Ok Reg 1588, eff 9-11-23; Amended at 19 Ok Reg 2106, eff 6-27-02; Added at 12 Ok Reg 3087, eff 7-27-95]

310:677-13-6. Competency and practice standards

(a) Each certified medication aide must function under the supervision of a licensed nurse or physician.

(b) Each certified medication aide shall:

- (1) Comply with 63 O.S. Section 1-1950.3(E) and OAC 310:677-13;
- (2) Perform within authorized duties;
- (3) Follow written instructions of a licensed nurse or physician; and
- (4) Accurately record medications administered, withheld or refused.

(c) Each certified medication aide shall demonstrate understanding of the CMA's relationship to licensed nurses and physicians, including:

- (1) The authority of physicians, physician assistants and advanced practice nurses to order medications and treatments;
- (2) The authority of registered nurses to perform assessments and report to physicians;
- (3) The authority of licensed practical nurses to perform focused reviews and report to registered nurses and physicians; and
- (4) The functions of the certified medication aide authorized in 63 O.S. Section 1-1950.3(E) and OAC 310:677-13-7.

(d) Each certified medication aide shall:

- (1) Pass written and clinical skills tests prior to performing as a certified medication aide; and
- (2) Demonstrate competency and complete required continuing education that is relevant to the services being provided by the certified medication aide.

[Source: Added at 23 Ok Reg 559, eff 12-22-05 (emergency); Added at 23 Ok Reg 2422, eff 6-25-06]

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 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.

[Source: Added at 23 Ok Reg 559, eff 12-22-05 (emergency); Added at 23 Ok Reg 2422, eff 6-25-06; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-13-8. Certification and 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 renewal are as follows:

(1) The certified medication aide shall submit a Renewal Application that requires information to demonstrate compliance with OAC 310:677-13-1(d).

(2) The Renewal Application shall be accompanied by a ten dollar (\$10.00) fee.

(3) Each 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 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 Renewal Application 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.

[Source: Added at 23 Ok Reg 559, eff 12-22-05 (emergency); Added at 23 Ok Reg 2422, eff 6-25-06; Amended at 24 Ok Reg 2045, eff 6-25-07; Amended at 26 Ok Reg 2068, eff 6-25-09; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-13-9. Training and Competency Evaluation Programs

- (a) Department approval of the training and competency evaluation program is required prior to offering training.
- (b) The program must submit information on a form provided by the Department to 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) 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.
 - (4) Standards for classroom and clinical facilities;
 - (5) Program outline, with objectives, curriculum, and instruction methods, and demonstration that the program addresses skills and functions specified in OAC 310:677-13-7; and
 - (6) Evaluation methods, including lab and clinical skills checklists, and examinations.
- (c) Department approved training programs shall be evaluated every three years. Between evaluations, the training program shall send the Department advance notice of changes in previously approved program information.
- (d) Each program is subject to site visits by the Department.
- (e) 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 offer an opportunity to demonstrate compliance.
- (f) The Department may withdraw approval or refuse to renew approval of a training program based on the program's noncompliance with 63 O.S. Section 1-1950.3 or 1-1951, or OAC 310:677. The Department shall notify the program of the intent to withdraw or not renew approval. The notice shall cite the specific reasons for the action and offer the applicant an opportunity to demonstrate compliance. Prior to the effectiveness of the withdrawal or non-renewal, the Department shall offer the program an opportunity for a hearing. After the withdrawal or non-renewal, the Department may oversee orderly closure of a program.
- (g) Training modules in addition to the minimums for certified medication aide training shall be submitted for Department approval as training programs prior to offering training.
- (h) For advanced training programs for care of diabetes, the Department shall deem as acceptable the use of training materials approved by the American Diabetes Educators Association, Oklahoma Chapters.

[Source: Added at 23 Ok Reg 559, eff 12-22-05 (emergency); Added at 23 Ok Reg 2422, eff 6-25-06; Amended at 24 Ok Reg 2045, eff 6-25-07]

310:677-13-10. Denial, suspension, withdrawal, and nonrenewal of certification

- (a) Grounds for certification action against a certified medication aide may include:

- (1) Intentionally providing false or misleading information to a training program, a facility, or the Department;
 - (2) Failing to administer medications as ordered by a health care professional, with resulting actual harm that is either life threatening or has a negative outcome for the resident;
 - (3) Failing to consistently document medications;
 - (4) Altering or falsifying medication records;
 - (5) Altering or falsifying certified nurse aide or certified medication aide identification cards;
 - (6) Diverting drugs;
 - (7) Practicing nursing or medicine except as authorized pursuant to 63 O.S. Section 1-1950.3, 1-1951, OAC 310:677, and Oklahoma laws and rules specific to the CMA's employer as specified in OAC 310:677-13-2;
 - (8) Representing oneself as certified medication aide without current certification;
 - (9) Administering medications in a setting other than those authorized in 63 O.S. Section 1-1950.3(E); or
 - (10) Materially failing to conform to 63 O.S. Section 1-1950.3(E) and OAC 310:677-13.
- (b) The Department may deny, suspend, withdraw or not renew certification of a medication aide based on the aide's noncompliance with 63 O.S. Section 1-1950.3 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 six months, and a denial, withdrawal or nonrenewal of a certification shall be effective for not less than 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.

[Source: Added at 23 Ok Reg 559, eff 12-22-05 (emergency); Added at 23 Ok Reg 2422, eff 6-25-06]

310:677-13-11. Facility policies and procedures

- (a) If a facility uses certified medication aides, facility policies and procedures shall address:
- (1) Methods that the facility, center or home uses to ensure that training, skill validation, and task assignment procedures are approved and implemented;
 - (2) Licensed supervision, oversight and availability;
 - (3) Staff intervention during an emergency;
 - (4) Procedures for responding when a resident experiences a change in condition, demonstrates side effects or does not respond to the medication regimen as identified in the plan of care;
 - (5) Documentation that must be maintained;
 - (6) Reporting errors to licensed nurses and/or physicians; and
 - (7) Reporting violations of 63 O.S. Section 1-1950.3(E) and OAC 310:677 to the State Health Department.
- (b) If a facility uses certified medication aides that have completed an advanced training program and demonstrated competency for care of diabetes or other specialized training modules, the facility policies and procedures shall address subsection (a) of this section and:
- (1) Standards for monitoring and assessments of residents by a registered nurse or physician, including:
 - (A) Frequency of monitoring and assessment;
 - (B) Distinguishing between Type I and Type II diabetes, and stable and unstable diabetes;
 - (2) Validating CMA skills before the CMA performs medication administration, and annual reviews of CMA performance competency and proficiency by the facility nurse;
 - (3) Procedures for blood sugar testing;
 - (4) Collecting data;
 - (5) Charting, graphing and recording data;
 - (6) Standards for reporting to the licensed nurse or physician on a timely basis, including:

- (A) Recognition of abnormal resident reactions;
 - (B) Contact procedures, on-call hours, and response times; and
 - (C) Medication administration errors, including the wrong patient, drug, date, time, dosage, route or form;
- (7) Contacting emergency medical services;
 - (8) Training, orientation and delegation of tasks from the facility's nurse;
 - (9) Drawing up insulin;
 - (10) Following physician orders, including use of sliding scale orders prescribed by physicians;
 - (11) Safety and infection control; and
 - (12) Minimum qualifications for CMAs and facility screening of applicants, to include assurance that each certified medication aide has the physical and mental capability to safely perform duties.

[Source: Added at 23 Ok Reg 559, eff 12-22-05 (emergency); Added at 23 Ok Reg 2422, eff 6-25-06]

310:677-13-12. Medication aide continuing education

- (a) An entity seeking approval of a certified medication aide continuing education program shall file a nonrefundable application fee of seventy-five dollars (\$75.00) and a Certified Medication Aide Continuing Education Form, which requires the following:
 - (b) Within 30 days after receipt of an application for a continuing education 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 offer an opportunity to demonstrate compliance.
 - (c) Department-approved continuing education programs shall be evaluated every three years. Between evaluations, the training program shall send the Department advance notice of changes in previously approved program information.
 - (d) An approved continuing education program shall submit to the Department within 30 days after the conclusion of a continuing education class the following information:
 - (1) The title of the class and number of hours offered;
 - (2) The name, certification number, and number of hours attended for each certified medication aide who satisfactorily completed the continuing education class.

[Source: Amended at 26 Ok Reg 2068, eff 6-25-09; Amended at 24 Ok Reg 2045, eff 6-25-07]

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. 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.

[Source: Amended at 40 Ok Reg 1588, eff 9-11-23; Amended at 37 Ok Reg 1455, eff 9-11-20; Amended at 19 Ok Reg 2106, eff 6-27-02; Added at 12 Ok Reg 3087, eff 7-27-95]

310:677-15-2. Instructor qualifications

- (a) The instructor for training ICF/IID care aides shall be a licensed nurse or a qualified intellectual disability professional who has at least one (1) year experience in the provision of services in a facility for the developmentally disabled.

(b) Other personnel from the health professions may supplement the instructor as required by the curriculum.

[Source: Amended at 37 Ok Reg 1455, eff 9-11-20; Added at 12 Ok Reg 3087, eff 7-27-95]

310:677-15-3. Curriculum

(a) The ICF/IID care aide training program shall include at least seventy-five (75) hours of classroom and supervised practical training or the equivalent.

(b) The ICF/IID care aide training program shall include, but is not limited to, each of the following subject areas:

- (1) Ethical conduct.
- (2) Resident's rights.
- (3) Principles of safety.
- (4) Infection control techniques.
- (5) Nutrition and hydration.
- (6) Elements and changes of body functions.
- (7) Basic nursing skills.
- (8) Communication skills.
- (9) Mobility.
- (10) Hygiene, personal care, and comfort.
- (11) Terminology, principles, and concepts of cognitive impairment.
 - (A) Characteristics of cognitive impairment.
 - (B) Discern between different levels of intellectual disability.
 - (C) Principles of assessment tools.
 - (D) Terminology of active treatment.
- (12) Psychosocial needs.
 - (A) Behavioral management techniques.
 - (B) Identification of psychosocial needs.
 - (C) Death and dying.
 - (D) Recognizing deviant behavior.
 - (E) Socialization skills.
- (13) Independent living skills.
 - (A) Promoting physical and mental independence.
 - (B) Promoting principles of normalization and community integration.
- (14) Active treatment components.
 - (A) Interdisciplinary team concepts and roles.
 - (B) Components of individual program plans.
 - (C) Using individual program plans.
 - (D) Proper documentation techniques.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 37 Ok Reg 1455, eff 9-11-20]

310:677-15-4. Competency examination

The 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.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 19 Ok Reg 2106, eff 6-27-02; Amended at 37 Ok Reg 1455, eff 9-11-20; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-15-5. Recertification [REVOKED]

[Source: Revoked at 40 Ok Reg 1588, eff 9-11-23; Amended at 37 Ok Reg 1455, eff 9-11-20; Added at 19 Ok Reg 2106, eff 6-27-02]

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.

[Source: Amended at 40 Ok Reg 1588, eff 9-11-23; Amended at 37 Ok Reg 1455, eff 9-11-20; Amended at 19 Ok Reg 2106, eff 6-27-02; Added at 12 Ok Reg 3087, eff 7-27-95]

310:677-17-2. Instructor qualifications

- (a) The instructor for the training of residential care aides shall be a licensed nurse who has at least one (1) year experience in the provision of residential or health care services.
- (b) Other personnel from the health professions may supplement the instructor as required by the curriculum.

[Source: Amended at 19 Ok Reg 2106, eff 6-27-02; Added at 12 Ok Reg 3087, eff 7-27-95]

310:677-17-3. Curriculum

- (a) The residential care aide training program shall include at least forty-five (45) hours of classroom and supervised practical training or the equivalent.
- (b) The residential care aide training program shall include, but is not limited, to each of the following subject areas:
- (1) Ethical behaviors.
 - (2) Legal behaviors.
 - (3) Principles of safety.
 - (4) Proper body mechanics.
 - (5) Providing a safe environment.
 - (6) Infection control.
 - (7) Principles of nutrition and hydration.
 - (8) Body functions.
 - (9) Age-related changes.
 - (10) Mobility.
 - (11) Psychosocial needs.
 - (12) Communication skills.
 - (13) Resident behaviors.
 - (14) Basic nursing skills.
 - (15) Recognize, document, and report abnormal findings.
 - (16) Recognize and document indications of illness.
 - (17) Hygiene and personal care.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 19 Ok Reg 2106, eff 6-27-02]

310:677-17-4. Competency examination

The 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.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 19 Ok Reg 2106, eff 6-27-02; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-17-5. Recertification [REVOKED]

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.
- (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.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 19 Ok Reg 2106, eff 6-27-02; Amended at 37 Ok Reg 1455, eff 9-11-20; Amended at 40 Ok Reg 1588, eff 9-11-23]

310:677-19-2. Instructor qualification

- (a) The instructor for the training of adult day care program aides shall be an individual who has training experience and a strong knowledge of adult day care acquired through education or experience.
- (b) Other personnel from the health professions may supplement the instructor as required by the curriculum.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95]

310:677-19-3. Curriculum

- (a) The adult day care aide training program shall include at least forty-five (45) hours of classroom and supervised practical training or the equivalent.
- (b) The adult day care aide training program shall include, but is not limited to, each of the following subject areas:
- (1) Ethical behaviors.
 - (2) Legal behaviors.
 - (3) Client rights.
 - (4) Principles of safety to participant care.
 - (5) Demonstrating disaster and fire procedures.
 - (6) Cardiopulmonary resuscitation and first aid procedures.
 - (7) Body mechanics.
 - (8) Infection control.
 - (9) Nutrition and hydration.
 - (10) Special diets.
 - (11) Sanitary food preparation and storage.
 - (12) Body functions and age related changes.
 - (13) Identifying changes related to the disease process.
 - (14) Psychosocial needs.
 - (15) Communication skills.
 - (16) Mobility.
 - (17) Assistive devices.
 - (18) Assisting with range of motion exercises.
 - (19) Hygiene, personal care, and comfort.
 - (20) Providing assistance in program delivery.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 19 Ok Reg 2106, eff 6-27-02]

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

The 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.

[Source: Added at 12 Ok Reg 3087, eff 7-27-95; Amended at 19 Ok Reg 2106, eff 6-27-02; Amended at 40 Ok Reg 1588, eff 9-11-23]

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

[Source: Added at 19 Ok Reg 2106, eff 6-27-02; Revoked at 40 Ok Reg 1588, eff 9-11-23]

Alzheimer's Dementia and Other Forms of Dementia and Special Care Disclosure Act 63 O.S. § 1-879.2 et seq

Statute was pulled from OSCN on 6-3-24 for this binder. This captures existing statute from one point in time. The Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act is subject to change when bills become law which amend, repeal, or add new law to the Act.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-879.2a - Short Title

Cite as: 63 O.S. § 1-879.2a (OSCN 2024), Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act

This act shall be known and may be cited as the "Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act".

Historical Data

Laws 1998, SB 826, c. 147, § 1, eff. November 1, 1998; Amended by Laws 2021, HB 1794, c. 546, § 1, eff. November 1, 2021
([superseded document available](#)).

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-879.2b - Definitions

Cite as: 63 O.S. § 1-879.2b (OSCN 2024), Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act

As used in the Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act:

1. "Special care" means care that is provided to persons with a diagnosis of probable Alzheimer's dementia or other forms of dementia by an entity that provides such care;
2. "Department" means the State Department of Health;
3. "Dementia" means the impaired ability to remember, think, or make decisions that interferes with a person's everyday activities; and
4. "Alzheimer-Dementia Disclosure Act Advisory Council" shall mean the advisory council created in Section 3 of this act.

Historical Data

Laws 1998, SB 826, c. 147, § 2, eff. November 1, 1998; Amended by Laws 2021, HB 1794, c. 546, § 2, eff. November 1, 2021 ([superseded document available](#)).

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-879.2c - Disclosure of Care - Alzheimer-Dementia Disclosure Act Advisory Council - Website Listing

Disclosing Facilities

Cite as: 63 O.S. § 1-879.2c (OSCN 2024), Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act

A. 1. Pursuant to rules promulgated under the provisions of the Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act, any nursing facility, residential care facility, assisted living facility, adult day care center, continuum of care facility, or special care facility that publicly advertises, intentionally markets, or otherwise engages in promotional campaigns for the purpose of communicating that said facility offers care or treatment methods within the facility that distinguish it as being especially applicable to or suitable to persons with Alzheimer's dementia or other forms of dementia diagnoses shall disclose the type of care, memory care or treatment provided that distinguishes it as being especially applicable to or suitable for such persons.

2. The disclosure shall be made using a form developed by the State Department of Health and shall be made to:

a. the Department,

b. any representative of a person with Alzheimer's dementia or other form of dementia who is considering placement within a special care unit, program, or facility, and

c. the State Long-Term Care Ombudsman.

3. The facility shall submit the disclosure form to the Department prior to entering into any agreement to provide care or services.

4. The Department shall examine each disclosure for completeness and accuracy at the time the disclosure is submitted to the Department.

5. The Department shall review the most recent disclosure in the Department's records during the facility's regular inspection to verify that the disclosure is current and that the services described in the disclosure are provided to residents as described in the disclosure.

B. The information disclosed as required by this section shall include the following areas:

1. A written description of the special care unit, program, or facility's overall philosophy and mission as it relates to the needs of residents with Alzheimer's dementia or other forms of dementia;

2. The process and criteria for placement in, or transfer or discharge from, the unit, program, or facility;

3. The process used for assessment, establishment, and implementation of a resident plan of care, as it relates to Alzheimer's dementia and other forms of dementia, including the method by which the plan evolves, the frequency of assessment, and how the facility will respond to changes in the condition of the resident;

4. Staff-to-resident ratios, staff training and continuing education that are in addition to all regularly prescribed training and are commensurate with the need for increased care and supervision for residents with Alzheimer's dementia and other forms of dementia;

5. The physical environment and design features appropriate to support the functioning of cognitively impaired residents;

6. The types and frequency of resident activities designed for residents with Alzheimer's dementia or other forms of dementia and descriptions of those therapeutic activities designed to address cognitive function and engage residents with varying stages of dementia;

7. The involvement of families in care planning and other aspects of care, and the availability of family support programs;
 8. The fees for care and any additional fees; and
 9. Any accreditations or certifications issued to the facility related to the care and services provided to residents with Alzheimer's dementia or other forms of dementia.
- C. The Department, with input from the Alzheimer-Dementia Disclosure Act Advisory Council, shall develop a standardized disclosure form. Any change in the information initially submitted by the facility or other entity shall be reported to the Department at the time the change is made.
- D. The provisions of this section shall not be construed to preclude a facility without a special care unit or program from admitting a person with Alzheimer's dementia or other forms of dementia.
- E. The State Commissioner of Health, with input from the Alzheimer-Dementia Disclosure Act Advisory Council, shall promulgate rules to effectuate the provisions of the Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act.
- F. There is hereby created the Alzheimer-Dementia Disclosure Act Advisory Council. The Council shall make recommendations to the State Commissioner of Health regarding the disclosure form and rules promulgated pursuant to the Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act.
1. The Council shall consist of nine (9) members to be appointed by the State Commissioner of Health for such terms as he or she chooses. The members shall be individuals who have knowledge and expertise in the field of memory care or individuals who are consumer representatives directly impacted by memory-care services, provided that neither the members with knowledge and expertise in the field nor the members who are consumer representatives shall comprise more than two-thirds (2/3) of the total membership. The members who are consumer representatives shall be individuals with immediate family members who have received or are currently receiving memory-care services in Oklahoma and shall not be employees or board members of any facilities or entities subject to the Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act.
 2. The members of the Council shall serve without compensation.
 3. The Council shall conduct an organizational meeting at a date and location to be chosen by the Commissioner and as frequently thereafter as necessary to perform the duties imposed upon it. A majority of the members present shall constitute a quorum.
 4. Staff assistance for the Council shall be provided by the staff of the State Department of Health.
- G. Violation of any of the provisions of this act or the rules issued pursuant to this act shall subject the offending facility to the notice and enforcement provisions established for the facility's license by the Department.
- H. Any facility that offers specialized memory or dementia care through a specific unit or program shall post the disclosure form, including the information required to be included by this section, on the facility's website.
- I. The Department shall establish a website with a list of those facilities that have filed a disclosure form pursuant to this act. The website shall contain a link to the submitted disclosure form and a table containing items from the disclosure form, including staffing ratios, staff training, special programming and activities, and accreditations or certifications.

Historical Data

Laws 1998, SB 826, c. 147, § 3, eff. November 1, 1998; Amended by Laws 2021, HB 1794, c. 546, § 3, eff. November 1, 2021 ([superseded document available](#)).

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-879.3 - Development and Enhancement of Core Neuropathology Laboratory

Cite as: O.S. §, ___ __

A. The State Department of Health shall contract with the University of Oklahoma Health Sciences Center, if authorized by the University of Oklahoma Board of Regents, for the development and enhancement of a Core Neuropathology Laboratory.

B. The Core Neuropathology Laboratory shall be:

1. equipped with sufficient state-of-the-art equipment and adequate personnel to allow quality diagnosis and efficient handling of the autopsy specimens; and
2. provided supplies for diagnostic studies for educational programs and for service to the public.

Historical Data

Laws 1990, HB 2000, c. 207, § 3, emerg. eff. July 1, 1990.

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OAC 310:673

Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Rules

Rule text was pulled from the official record on the Oklahoma Office of Administrative Rules (OAR) web page on 02-08-24. Rules are subject to change through the rule promulgation process. When rule promulgation results in rule change, updated language is published to the official OAR site a few weeks after the effective date of the rule change. *Emergency rules are not published to the OAR site.

CHAPTER 673. ALZHEIMER'S DEMENTIA AND OTHER FORMS OF DEMENTIA SPECIAL CARE DISCLOSURE RULES

[Authority:63 O.S., §§ 1-104 et seq. and 1-879.2a et seq.]

[Source:Codified 6-25-99]

SUBCHAPTER 1. GENERAL PROVISIONS

310:673-1-1. Purpose

This Chapter provides for the disclosure of information on special care provided to persons with Alzheimer's dementia and other forms of dementia for entities subject to the Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act and licensed by the Oklahoma State Department of Health. This rule is authorized under the following laws: the Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act (63 O.S. Section 1-879.2a et seq.); and the Oklahoma Public Health Code (63 O.S. Section 1-104 et seq.)

[Source: Added at 16 Ok Reg 2520, eff 6-25-99; Amended at 40 Ok Reg 1586, eff 9-11-23]

310:673-1-2. Definitions

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

"Act" means the Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act.

"Department" means the Oklahoma State Department of Health.

"Special care facility" means *any nursing facility, residential care facility, assisted living facility, adult day care center, continuum of care facility, or special care facility that publicly advertises, intentionally markets, or otherwise engages in promotional campaigns for the purpose of communicating that said facility offers care or treatment methods within the facility that distinguish it as being especially applicable to or suitable to persons with Alzheimer's dementia or other forms of dementia.* [63:1-879.2c].

[Source: Added at 16 Ok Reg 2520, eff 6-25-99; Amended at 40 Ok Reg 1586, eff 9-11-23]

SUBCHAPTER 3. STANDARDIZED DISCLOSURES AND REVIEWS

310:673-3-1. Disclosure and posting requirement

- (a) Before entering an agreement to offer care or services as a special care provider, each provider shall submit a standardized disclosure form with the Department.
- (b) When there is any change in the information on file with the department, an updated form shall be submitted to the department at the time the change is made.
- (c) During regular inspections by the Department, the facility shall provide a current disclosure form for the Department to verify if the form is current and the services are provided to residents as described in the form.
- (d) A current form shall be posted on the facility's website.

[Source: Added at 16 Ok Reg 2520, eff 6-25-99; Amended at 40 Ok Reg 1586, eff 9-11-23]

310:673-3-2. Description of standardized disclosure form

The standardized disclosure form requires the following:

- (1) *A written description of the special care unit, program, or facility's overall philosophy and mission as it relates to the needs of residents with Alzheimer's dementia or other forms of dementia;*
- (2) *The process and criteria for placement in, or transfer or discharge from, the unit, program, or facility;*
- (3) *The process used for assessment, establishment, and implementation of a resident plan of care, as it relates to Alzheimer's dementia and other forms of dementia, including the method by which*

the plan evolves, the frequency of assessment, and how the facility will respond to changes in the condition of the resident;

(4) Staff-to-resident ratios, staff training and continuing education that are in addition to all regularly prescribed training and are commensurate with the need for increased care and supervision for residents with Alzheimer's dementia and other forms of dementia;

(5) The physical environment and design features appropriate to support the functioning of cognitively impaired residents;

(6) The types and frequency of resident activities designed for residents with Alzheimer's dementia or other forms of dementia and descriptions of those therapeutic activities designed to address cognitive function and engage residents with varying stages of dementia;

(7) The involvement of families in care planning and other aspects of care, and the availability of family support programs;

(8) The fees for care and any additional fees; and

(9) Any accreditations or certifications issued to the facility related to the care and services provided to residents with Alzheimer's dementia or other forms of dementia. [63:1-879.2c.B].

[Source: Added at 16 Ok Reg 2520, eff 6-25-99; Amended at 40 Ok Reg 1586, eff 9-11-23]

310:673-3-3. Department review

A facility will be sent an electronic notification to the email provided within the disclosure form once it has been submitted to the electronic filing system. The Department shall review disclosure forms for completeness and accuracy each time a form is submitted as required by law. During the regular inspection, the Department shall verify the disclosure form is current and the services provided match those described within the disclosure form.

[Source: Added at 16 Ok Reg 2520, eff 6-25-99; Amended at 40 Ok Reg 1586, eff 9-11-23]

310:673-3-4. Standardized disclosure changes [REVOKED]

[Source: Added at 16 Ok Reg 2520, eff 6-25-99; Revoked at 40 Ok Reg 1586, eff 9-11-23]

310:673-3-5. Conditions to refuse to renew [REVOKED]

[Source: Added at 16 Ok Reg 2520, eff 6-25-99; Revoked at 40 Ok Reg 1586, eff 9-11-23]

310:673-3-6. Violations of disclosure form requirements

A violation of any of the provisions in the Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act shall subject the offending facility to the notice and enforcement provisions for the facility's license.

[Source: Added at 40 Ok Reg 1586, eff 9-11-23]

310:673-3-7. Disclosures provided

(a) The facility shall provide a current disclosure to any representative of a person with Alzheimer's dementia or other forms of dementia who is considering placement within a special care unit, program, or facility in addition to having a current disclosure form as required by 63 O.S. 1-879.2 c.

(b) The Department shall provide a copy of the disclosure to the State Long-Term Care Ombudsman.

[Source: Added at 40 Ok Reg 1586, eff 9-11-23]

Nursing Home Care Act

63 O.S. § 1-1900.1 et seq

Statute was pulled from OSCN on 2-8-24 for this binder. This captures existing statute from one point in time. The Nursing Home Act is subject to change when bills become law which amend, repeal, or add new law to the Act.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1900.1 - Long-Term Care Reform and Accountability Act of 2001

Cite as: O.S. §, ___ __

A. This act shall be known and may be cited as the "Long-Term Care Reform and Accountability Act of 2001".

B. The purpose of the Long-Term Care Reform and Accountability Act of 2001 shall be to design, develop and implement policies and procedures that improve the quality of care provided in this state's long-care delivery system for the elderly and disabled. The purpose of the Long-Term Care Reform and Accountability Act of 2001 shall be accomplished through a series of initiatives.

Historical Data

Laws 2001, SB 803, c. 428, § 1, emerg. eff. June 5, 2001.

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<i>2004 OK AG 1,</i>	<i>Question Submitted by: H. E. "Ed" Hendrix, Executive Director, State Board of Examiners for Nursing Home Administrators</i>
	<i>Cited</i>
Oklahoma Supreme Court Cases	
<i>Cite</i>	<i>Name</i>
<i>2004 OK 36, 92 P.3d 88,</i>	<i>ESTATE OF HICKS v. URBAN EAST, INC.</i>
	<i>Discussed at Length</i>

Citationizer: Table of Authority

Cite **Name** **Level**

None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1900.2 - State Health Commissioner - Authority to Waive Provisions of Nursing Home Care Act - Rules

Cite as: O.S. §, ___ __

A. It is the intent of the Legislature to foster the development of resident autonomy, individualization and culture change in nursing facilities licensed by the State Department of Health.

B. The Commissioner of Health is authorized to waive any provision of the Nursing Home Care Act and any rules promulgated pursuant thereto, provided:

1. The waiver will not cause the State of Oklahoma to fail to comply with any applicable requirements established by the Centers for Medicare and Medicaid Services;
2. The waiver is granted to allow a nursing facility to satisfy the spirit of a statutory or administrative requirement by alternative means;
3. The waiver will not adversely affect the health, safety or welfare of any resident of a nursing facility; and
4. The waiver is in support of a deinstitutionalization model that restores individuals to a self-contained residence in the community that is designed like a private home and houses no more than twelve individuals.

C. The State Board of Health shall promulgate rules and establish procedures necessary to implement the waiver process established by this section.

Historical Data

Laws 2007, HB 1510, c. 28, § 1.

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Cite **Name Level**

None Found.

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1901 - Short Title

Cite as: O.S. §, ___ __

This act shall be known and may be cited as the "Nursing Home Care Act".

Historical Data

Laws 1980, HB 1853, c. 241, § 1, eff. October 1, 1980.

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<i>Cite Name</i>	<i>Level</i>	
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<u>2001 OK AG 7,</u>	<u>Question Submitted by: Jerry Regier, Acting Director, Dept of Health and Secretary of Health and Human Services</u>	Cited
<u>1993 OK AG 36,</u>	<u>Question Submitted by: Mr. Wendell V. Locke, Secretary/Treasurer, Oklahoma Board of Governors of Licensed Architects and Landscape Architects of Oklahoma</u>	Cited
Oklahoma Court of Civil Appeals Cases		
<i>Cite</i>	<i>Name</i>	<i>Level</i>
<u>2009 OK CIV APP 41, 210 P.3d 877,</u>	<u>WHITAKER v. HILL NURSING HOME, INC.</u>	Cited
<u>2010 OK CIV APP 3, 230 P.3d 914,</u>	<u>HAI v. BAPTIST HEALTHCARE OF OKLAHOMA, INC.</u>	Cited
<u>2019 OK CIV APP 68, 453 P.3d 525,</u>	<u>HELM v. BD. OF COUNTY COMMISSIONERS OF ROGERS COUNTY</u>	Cited
<u>2020 OK CIV APP 40, 472 P.3d 213,</u>	<u>PEUPLIE v. OAKWOOD RETIREMENT VILLAGE</u>	Cited
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<i>Cite</i>	<i>Name</i>	<i>Level</i>
<u>2004 OK 7, 85 P.3d 841,</u>	<u>FANNING v. BROWN</u>	Discussed
<u>2006 OK 90, 155 P.3d 16,</u>	<u>BRUNER v. TIMBERLANE MANOR LIMITED PARTNERSHIP</u>	Discussed at Length
<u>2006 OK 99, 152 P.3d 875,</u>	<u>STATE ex rel. OKLA. STATE DEPT. OF HEALTH v. ROBERTSON</u>	Discussed
<u>2008 OK 1, 176 P.3d 1204,</u>	<u>DARROW v. INTEGRIS HEALTH, INC.</u>	Cited
<u>2009 OK 61, 222 P.3d 1058,</u>	<u>STATE ex rel. PROTECTIVE HEALTH SERVICES STATE DEPT. OF HEALTH v. VAUGHN</u>	Cited
<u>2016 OK 28, 376 P.3d 894,</u>	<u>MOORE v. WARR ACRES NURSING CENTER, LLC.</u>	Cited
<u>2016 OK 62, 374 P.3d 750,</u>	<u>MAREE v. NEUWIRTH</u>	Cited

Citationizer: Table of Authority

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1902 - Definitions

Cite as: 63 O.S. § 1-1902 (OSCN 2024)

As used in the Nursing Home Care Act:

1. "Abuse" means the willful infliction of injury, unreasonable confinement, intimidation or punishment, with resulting physical harm, impairment or mental anguish;
2. "Access" means the right of a person to enter a facility to communicate privately and without unreasonable restriction when invited to do so by a resident. The state or local "ombudsman", as that term is defined by the Aging Services Division of the Department of Human Services pursuant to the Older Americans' Act, 42 U.S.C.A., Section 3001 et seq., as amended, and a case manager employed by the Department of Mental Health and Substance Abuse Services or one of its contract agencies shall have right of access to enter a facility, communicate privately and without unreasonable restriction with any resident who consents to the communication, to seek consent to communicate privately and without restriction with any resident, and to observe all areas of the facility that directly pertain to the patient care of the resident without infringing upon the privacy of the other residents without first obtaining their consent;
3. "Administrator" means the person licensed by the State of Oklahoma who is in charge of a facility. An administrator must devote at least one-third (1/3) of such person's working time to on-the-job supervision of the facility; provided that this requirement shall not apply to an administrator of an intermediate care facility for individuals with intellectual disabilities with sixteen or fewer beds (ICF/IID-16), in which case the person licensed by the state may be in charge of more than one such ICF/IID-16 facility, if such facilities are located within a circle that has a radius of not more than fifteen (15) miles, the total number of facilities and beds does not exceed six facilities and sixty-four beds, and each such ICF/IID-16 facility is supervised by a qualified professional. The facilities may be free-standing in a community or may be on campus with a parent institution. The ICF/IID-16 facility may be independently owned and operated or may be part of a larger institutional operation;
4. "Advisory Board" means the Long-Term Care Facility Advisory Board;
5. "Adult companion home" means any home or establishment, funded and certified by the Department of Human Services, which provides homelike residential accommodations and supportive assistance to three or fewer adults with intellectual or developmental disabilities;
6. "Board" means State Board of Health;
7. "Commissioner" means State Commissioner of Health;
8. "Department" means the State Department of Health;
9. "Facility" means a nursing facility and a specialized home; provided this term shall not include a residential care home or an adult companion home;
10. "Nursing facility" means a home, an establishment or an institution, a distinct part of which is primarily engaged in providing:
 - a. skilled nursing care and related services for residents who require medical or nursing care,
 - b. rehabilitation services for the rehabilitation of injured, disabled, or sick persons, or

c. on a regular basis, health-related care and services to individuals who because of their mental or physical condition require care and services beyond the level of care provided by a residential care home and which can be made available to them only through a nursing facility.

"Nursing facility" does not mean, for purposes of Section 1-851.1 of this title, a facility constructed or operated by an entity described in paragraph 7 of subsection B of Section 6201 of Title 74 of the Oklahoma Statutes or the nursing care component of a continuum of care facility, as such term is defined under the Continuum of Care and Assisted Living Act, to the extent that the facility constructed or operated by an entity described in paragraph 7 of subsection B of Section 6201 of Title 74 of the Oklahoma Statutes contains such a nursing care component;

11. "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, but does not mean, for purposes of Section 1-851.1 of this title, a facility constructed or operated by an entity described in paragraph 7 of subsection B of Section 6201 of Title 74 of the Oklahoma Statutes or the nursing care component of a continuum of care facility, as such term is defined under the Continuum of Care and Assisted Living Act, to the extent that the facility constructed or operated by an entity described in paragraph 7 of subsection B of Section 6201 of Title 74 of the Oklahoma Statutes contains such a nursing care component;

12. "Residential care home" means any home, establishment, or institution licensed pursuant to the provisions of the Residential Care Act other than a hotel, motel, fraternity or sorority house, or college or university dormitory, which offers or provides residential accommodations, food service, and supportive assistance to any of its residents or houses any resident requiring supportive assistance. The residents shall be persons who are ambulatory and essentially capable of managing their own affairs, but who do not routinely require nursing care; provided, the term "residential care home" shall not mean a hotel, motel, fraternity or sorority house, or college or university dormitory, if the facility operates in a manner customary to its description and does not house any person who requires supportive assistance from the facility in order to meet an adequate level of daily living;

13. "Licensee" means the person, a corporation, partnership, or association who is the owner of the facility which is licensed by the Department pursuant to the provisions of the Nursing Home Care Act;

14. "Maintenance" means meals, shelter, and laundry services;

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

16. "Owner" means a person, corporation, partnership, association, or other entity which owns a facility or leases a facility. The person or entity that stands to profit or lose as a result of the financial success or failure of the operation shall be presumed to be the owner of the facility. Notwithstanding the foregoing, any nonstate governmental entity that has acquired and owns or leases a facility and that has entered into an agreement with the Oklahoma Health Care Authority to participate in the nursing facility supplemental payment program ("UPL Owner") shall be deemed the owner of such facility and shall be authorized to obtain management services from a management services provider ("UPL Manager"), and to delegate, allocate and assign as between the UPL Owner and UPL Manager, compensation, profits, losses, liabilities, decision-making authority and responsibilities, including responsibility for the employment, direction, supervision and control of the facility's administrator and staff;

17. "Personal care" means assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision of the physical and mental well-being of a person, who is incapable of maintaining a private, independent residence, or who is incapable of managing his person, whether or not a guardian has been appointed for such person;

18. "Resident" means a person residing in a facility due to illness, physical or mental infirmity, or advanced age;

19. "Representative of a resident" means a court-appointed guardian or, if there is no court-appointed guardian, the parent of a minor, a relative, or other person, designated in writing by the resident; provided, that any owner, operator, administrator or employee of a facility subject to the provisions of the Nursing Home Care Act, the Residential Care Act, or the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act shall not be appointed guardian or limited guardian of a resident of the facility unless the owner, operator, administrator or employee is the spouse of the resident, or a relative of the resident within the second degree of consanguinity and is otherwise eligible for appointment; and

20. "Supportive assistance" means the service rendered to any person which is less than the service provided by a nursing facility but which is sufficient to enable the person to meet an adequate level of daily living. Supportive assistance includes but is not limited to housekeeping, assistance in the preparation of meals, assistance in the safe storage, distribution, and administration of medications, and assistance in personal care as is necessary for the health and comfort of such person. Supportive assistance shall not include medical service.

Historical Data

Laws 1980, HB 1853, c. 241, § 2, eff. October 1, 1980; Amended by Laws 1981, HB 1378, c. 182, § 1; Amended by Laws 1984, HB 1898, c. 128, § 2, eff. November 1, 1984; Amended by Laws 1987, HB 1092, c. 98, § 22, emerg. eff. May 20, 1987; Amended by Laws 1989, HB 1153, c. 330, § 6, eff. November 1, 1989; Amended by Laws 1990, SB 866, c. 51, § 126, emerg. eff. April 9, 1990; Amended by Laws 1990, HB 2361, c. 337, § 17; Amended by Laws 1991, HB 1616, c. 127, § 1, emerg. eff. April 29, 1991; Amended by Laws 1993, SB 108, c. 159, § 16, emerg. eff. July 1, 1993; Amended by Laws 1995, HB 1293, c. 230, § 8, emerg. eff. July 1, 1995; Amended by Laws 1996, SB 932, c. 118, § 1, eff. November 1, 1996; Amended by Laws 1997, HB 1600, c. 292, § 10, emerg. eff. July 1, 1997 (superseded document available); Amended by Laws 2004, HB 2723, c. 436, § 10, emerg. eff. June 4, 2004 (superseded document available); Amended by Laws 2016, HB 2549, c. 288, § 1, emerg. eff. July 1, 2016 (superseded document available); Amended by Laws 2019, HB 2341, c. 475, § 55, eff. November 1, 2019 (superseded document available).

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<u>2009 OK CIV APP 75, 225 P.3d 17,</u>	<u>WILLIAMS v. NEW BEGINNINGS RESIDENTIAL CARE HOME</u> Cited
<u>2010 OK CIV APP 115, 241 P.3d 674,</u>	<u>OSBORN v. BROOKDALE SENIOR LIVING, INC.</u> Discussed at Length
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<u>2006 OK 99, 152 P.3d 875,</u>	<u>STATE ex rel. OKLA. STATE DEPT. OF HEALTH v. ROBERTSON</u> Discussed at Length
Title 26. Elections	
<i>Cite</i>	<i>Name</i> <i>Level</i>
<u>26 O.S. 4-120.3,</u>	<u>Deceased Persons - Cancellation of Registration</u> Discussed
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<u>63 O.S. 1-822,</u>	<u>License - Application - Nature - Oath - Zoning Statement - Qualifications - Statement of Ownership - Fees</u> Discussed at Length
<u>63 O.S. 2-309,</u>	<u>Electronic Prescriptions - Exceptions - Practitioners Shall Register - Prescription Forms</u> Discussed

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<u>63 O.S. 1-1902,</u>	<u>Definitions</u> Cited



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1903 - Licensure Requirement - Applicability of Act

Cite as: US, __ __

- A. No person shall establish, operate, or maintain in this state any nursing facility without first obtaining a license as required by the Nursing Home Care Act.
- B. The Nursing Home Care Act shall not apply to residential care homes, assisted living facilities or adult companion homes which are operated in conjunction with a nursing facility, a home or facility approved and annually reviewed by the United States Department of Veterans Affairs as a medical foster home in which care is provided exclusively to three or fewer veterans, or to hotels, motels, boarding houses, rooming houses, or other places that furnish board or room to their residents.
- C. Each State Veterans Home nursing facility licensed pursuant to the provisions of this section shall be regulated as an existing nursing facility for the purposes of meeting state and federal standards.
- D. Certificate of need review shall not be required for any addition, deletion, modification or new construction of current or future State Veterans Home nursing facilities.
- E. The Nursing Home Care Act shall not authorize any person to engage in any manner in the practice of the healing arts or the practice of medicine, as defined by law.
- F. The Nursing Home Care Act shall not apply to a facility which is not charging or receiving periodic compensation for services rendered, and not receiving any county, state, or federal assistance.

Historical Data

Laws 1980, HB 1853, c. 241, § 3, eff. October 1, 1980; Amended by Laws 1984, HB 1898, c. 128, § 3, eff. November 1, 1984; Amended by Laws 1987, HB 1092, c. 98, § 23, emerg. eff. May 20, 1987; Amended by Laws 1991, HB 1616, c. 127, § 2, emerg. eff. April 29, 1991; Amended by Laws 1993, HB 1519, c. 234, § 2, emerg. eff. July 1, 1993; Amended by Laws 1993, SB 581, c. 360, § 7, emerg. eff. July 1, 1993; Amended by Laws 1993, SB 108, c. 159, § 17 (repealed by Laws 1993, SB 581, c. 360, § 16, emerg. eff. June 10, 1993); Amended by Laws 2003, HB 1034, c. 89, § 1, emerg. eff. April 15, 2003 ([superseded document available](#)); Amended by Laws 2012, SB 1210, c. 12, § 3, emerg. eff. April 5, 2012 ([superseded document available](#)); Amended by Laws 2013, SB 629, c. 379, § 1, emerg. eff. May 29, 2013 ([superseded document available](#)); Amended by Laws 2022, SB 1814, c. 83, § 7, emerg. eff. April 25, 2022 ([superseded document available](#)).

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2010 OK CIV APP 115, 241 P.3d 674,	OSBORN v. BROOKDALE SENIOR LIVING, INC.	Cited
Oklahoma Supreme Court Cases		
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2004 OK 36, 92 P.3d 88,	ESTATE OF HICKS v. URBAN EAST, INC.	Cited
2006 OK 90, 155 P.3d 16,	BRUNER v. TIMBERLANE MANOR LIMITED PARTNERSHIP	Cited

Cite Name **Level**

Title 76. Torts

<i>Cite</i>	<i>Name</i>	<i>Level</i>
<u>76 O.S. 19,</u>	<u>Access to Medical Records - Copies - Waiver of Privilege</u>	<i>Cited</i>

Citationizer: Table of Authority

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1904 - Licensure and Certification - Purpose - Procedure - Violations - Applications

Cite as: O.S. §, ___ __

A. The State Department of Health shall establish a comprehensive system of licensure and certification for facilities in accordance with the Nursing Home Care Act for the purposes of:

1. Protecting the health, welfare and safety of residents;
2. Assuring the accountability for reimbursed care provided in certified facilities participating in a federal or state health program as provided by or through the Oklahoma Health Care Authority; and
3. Assuring consistent application of uniform inspection protocols.

B. The licensing and certification procedures and standards provided in this act, or by rules of the State Board of Health, shall be no less than provided in statute and rules currently governing nursing facilities.

C. It shall be unlawful and upon conviction thereof, punishable as a misdemeanor for any person to operate, manage or open a facility unless such operation and management shall have been approved and regularly licensed as hereinafter provided.

D. Before an initial license shall be issued pursuant to the Nursing Home Care Act to operate and manage a facility, the applicant shall provide the following:

1. An application on a form provided by the Department containing, at a minimum, the following information:
 - a. the name and address of the applicant, if an individual, and that the applicant is not less than twenty-one (21) years of age, of reputable and responsible character, and in sound physical and mental health; and if a firm, partnership, or association, of every member thereof; and in the case of a corporation, the name and address thereof and of its officers and its registered agent and like evidence for officers, as submitted for an individual,
 - b. the name and location of the facility for which a license is sought,
 - c. the name and address of the person or persons under whose management or supervision the facility will be conducted, and a copy of the written agreement between the manager and the applicant,
 - d. the name and address of any other person holding an interest of at least five percent (5%) in the ownership, operation or management of the facility,
 - e. the number and type of residents for which maintenance, personal care, specialized or nursing facility services are to be provided, and
 - f. a projected staffing pattern for providing patient care;
2. A statement from the unit of local government having zoning jurisdiction over the facility's location stating that the location of the facility is not in violation of a zoning ordinance; and
3. Documentation that the administrator is the holder of a current license as a Nursing Home Administrator issued by the Oklahoma State Board of Examiners for Nursing Home Administrators.

E. Before issuing an initial license, the Department shall find that the individual applicant, or the corporation, partnership or other entity, if the applicant is not an individual, is a person responsible and suitable to operate or to direct or participate in the operation of a facility by virtue of financial capacity, appropriate business or professional experience, a record of compliance with lawful orders of the Department and lack of revocation of a license during the previous five (5) years. In determining the applicant's responsibility and suitability to operate or to direct or participate in the operation of a facility, the Department may also consider the applicant's record of suspensions, receivership, administrative penalties, or noncompliance with lawful orders of this Department or of other departments of other states with similar responsibilities.

Historical Data

Laws 1980, HB 1853, c. 241, § 4, eff. October 1, 1980; Amended by Laws 1987, HB 1092, c. 98, § 25, emerg. eff. May 20, 1987; Amended by Laws 1991, HB 1616, c. 127, § 3, emerg. eff. April 29, 1991; Amended by Laws 2000, HB 2019, c. 340, § 14, emerg. eff. July 1, 2000 (superseded document available); Amended by Laws 2002, HB 2604, c. 230, § 3, eff. November 1, 2002 (superseded document available).

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<u>2006 OK 90, 155 P.3d 16,</u>	<u>BRUNER v. TIMBERLANE MANOR LIMITED PARTNERSHIP</u> Cited
<u>2006 OK 99, 152 P.3d 875,</u>	<u>STATE ex rel. OKLA. STATE DEPT. OF HEALTH v. ROBERTSON</u> Cited
Oklahoma Session Laws - 2002	
<i>Cite</i>	<i>Name</i> <i>Level</i>
<u>2002 O.S.L. 230, 2002 O.S.L. 230,</u>	<u>Public health; relating to the Nursing Home Care Act: modifying licensing requirements; modifying Board of Health membership; modifying employment requirements for nurse aides. Effective date.</u> Discussed

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<u>63 O.S. 1-1904,</u>	<u>Licensure and Certification - Purpose - Procedure - Violations - Applications</u> Cited



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1905 - Fee for Each Bed - Nature of License - Issuance or Renewal of License - Unannounced Inspection

Cite as: O.S. §, ___ __

A. An application for a license, or renewal thereof, to operate a facility shall be accompanied by a fee of Ten Dollars (\$10.00) for each bed per year included in the maximum bed capacity at such facility, except that any facility operated by the Oklahoma Department of Veterans Affairs shall be exempt from the fee. All licenses shall be on a form prescribed by the State Commissioner of Health, which shall include, but not be limited to, the maximum bed capacity for which it is granted and the date the license was issued. The license shall:

1. Not be transferable or assignable;
2. Be posted in a conspicuous place on the licensed premises;
3. Be issued only for the premises named in the application; and
4. Expire three (3) years from the date of issuance, provided an initial license shall expire one hundred eighty (180) days after the date of issuance. Licenses may be issued for a period of more than twelve (12) months, but not more than thirty-six (36) months, for the license period immediately following the effective date of this provision in order to permit an equitable distribution of license expiration dates.

B. The fee for a license amendment to reflect an increase in bed capacity shall be prorated based on the number of days remaining in the licensure period and the change in the number of beds, except that any facility operated by the Oklahoma Department of Veterans Affairs shall be exempt from the fee.

C. The issuance or renewal of a license after notice of a violation has been sent shall not constitute a waiver by the State Department of Health of its power to rely on the violation as the basis for subsequent license revocation or other enforcement action under this act arising out of the notice of violation.

D. 1. When transfer of ownership or operation of a facility is proposed, the transferee shall notify the Department of the transfer and apply for a new license at least thirty (30) days prior to final transfer.

2. The transferor shall remain responsible for the operation of the facility until such time as a license is issued to the transferee.

3. The license granted to the transferee shall be subject to the plan of correction submitted by the previous owner and approved by the Department and any conditions contained in a conditional license issued to the previous owner. If there are outstanding violations and no approved plan of correction has been implemented, the Department may issue a conditional license and plan of correction as provided in this act.

4. The transferor shall remain liable for all penalties assessed against the facility which are imposed for violations occurring prior to transfer of ownership.

E. Nursing and specialized facilities, as defined and licensed pursuant to the Nursing Home Care Act shall be surveyed through an unannounced inspection at least once every fifteen (15) months, with a statewide average survey cycle of twelve (12) months.

Historical Data

Laws 1980, HB 1853, c. 241, § 5, eff. October 1, 1980; Amended by Laws 1991, HB 1616, c. 127, § 4, emerg. eff. April 29, 1991; Amended by Laws 1993, HB 1830, c. 269, § 12, eff. September 1, 1993; Amended by Laws 1995, HB 1293, c. 230, § 9, emerg. eff. July 1, 1995; Amended by Laws 2011, HB 1397, c. 105, § 36, eff. November 1, 2011 ([superseded document available](#)); Amended by Laws 2013, SB 237, c. 183, § 3, emerg. eff. May 23, 2013 ([superseded document available](#)); Amended by Laws 2016, HB 2549, c. 288, § 2, emerg. eff. July 1, 2016 ([superseded document available](#)).

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1906 - Issuance and Renewal of Licenses - Initial License - Denial of Application - Notice of Denial - Suspension or Revocation - Administrative Penalties - Effective Date of Nonrenewal or Revocation - Application Following Revocation

Cite as: O.S. §, ___

A. The State Commissioner of Health shall issue and renew licenses for the operation of facilities which are found to comply with the provisions of the Nursing Home Care Act, and standards and rules of the State Board of Health.

B. For any new facility or for any facility that has undergone a transfer of ownership or operation the State Department of Health shall issue only an initial license. An initial license shall be valid for one hundred eighty (180) days unless sooner suspended or revoked under this act. Prior to the termination of an initial license, the Department shall fully and completely inspect the facility and, if the facility meets the applicable requirements for licensure, shall issue a license under this act. If the Department finds that the facility does not meet the requirements for licensure but has made substantial progress toward meeting those requirements, the initial license may be extended once for a period not to exceed one hundred twenty (120) days from the expiration date of the initial license.

C. An application for a license may be denied for any of the following reasons:

1. Failure to meet any of the minimum standards set forth by this act or by rules promulgated by the Board under this act;
2. Conviction of the applicant, or of any member of an applicant that is a firm, partnership or association or, if a corporation, the conviction of the corporation or any of its officers or a majority stockholder, or of a person designated to manage or supervise a facility, of a felony, meaning a crime that would have a bearing on the operation of a nursing home, the conviction to be shown by a certified copy of the record of the court of conviction, if the Department determines, after investigation, that such applicant has not been sufficiently rehabilitated to warrant the public trust, or other satisfactory evidence that the moral character of the applicant, or administrator, or manager, or supervisor of the facility is not reputable;
3. Personnel insufficient in number or unqualified by training or experience properly to care for the proposed number and type of residents to be determined by standards set by the Department with the standards not being less than those set by federal statute; or
4. Insufficient financial or other resources that would render a facility incapable of providing adequate patient care.

D. Immediately upon the denial of any application or reapplication for a license under this act, the Department shall notify the applicant in writing. Notice of denial shall include a clear and concise statement of the violations on which denial is based and notice of the opportunity for a hearing. If the applicant desires to contest the denial of a license, it shall provide written notice to the Department of a request for a hearing within ten (10) days after receipt of the notice of denial and the Department shall commence the hearing.

E. The Commissioner may suspend or revoke a license on any of the following grounds:

1. Violation of any of the provisions of this act or the rules, regulations and standards issued pursuant thereto;
2. Permitting, aiding or abetting the commission of any illegal act in a licensed facility;
3. Conduct of practices deemed by the Commissioner to be detrimental to the welfare of the patients or residents of a facility;
4. Insufficient financial or other resources that would render a facility incapable of providing adequate patient care; or
5. The facility has closed.

F. 1. The Department, after notice to the applicant or licensee, may suspend, revoke, refuse to renew a license or assess administrative penalties in any case in which the Department finds that there has been a substantial failure to comply with this act or the rules promulgated by the Board under this act;

2. Notice under this section shall include a clear and concise statement of the violations on which the nonrenewal, revocation or administrative penalty is based, the statute or rule violated and notice of the opportunity for a hearing;

3. If a facility desires to contest the nonrenewal or revocation of a license or the assessment of administrative penalties, the facility shall, within ten (10) days after receipt of notice under paragraph 2 of this section, notify the Commissioner in writing of its request for a hearing. Upon receipt of the request the Commissioner shall send notice to the facility and hold a hearing;

4. The effective date of nonrenewal or revocation of a license by the Commissioner shall be any of the following:

a. until otherwise ordered by the district court, revocation is effective on the date set by the Commissioner in the notice of revocation, or upon final action after hearing, whichever is later,

b. until otherwise ordered by the district court, nonrenewal is effective on the date of expiration of any existing license, or upon final action after hearing, whichever is later, or

c. the Department may extend the effective date of license revocation or expiration in any case in order to permit orderly removal and relocation of residents.

G. A new application, following revocation, shall be considered by the Commissioner on receipt of evidence that the conditions upon which revocation was based have been corrected; and a new license may then be granted after proper inspection has been made and all provisions of this act have been complied with, and the rules, regulations and standards of the Board have been satisfied.

H. The Department may suspend, for a period not to exceed three (3) years, the license of a facility that has temporarily closed or ceased operations for remodeling, renovation, replacement or relocation, or that has closed or ceased operations pending a change of ownership, operator or management.

1. The facility shall provide periodic reports to the Department not less than once every six (6) months demonstrating the facility's progress towards reopening.

2. The Department may extend the period of suspension upon a demonstration of extenuating or unusual circumstances, a clear showing of good faith efforts to proceed towards the reopening of the facility, and a determination by the Department that a continuation of the period of suspension poses no harm to the public.

3. Whenever, after receipt of a six-month report, the Department determines that there has been no progress towards reopening the facility, no demonstration of extenuating or unusual circumstances or clear showing of good faith efforts to proceed towards the reopening of the facility, the Department may initiate a proceeding to revoke the license of the facility.

4. At or before the conclusion of the suspension period, the facility shall meet applicable requirements for licensure and shall reopen, or the license shall expire.

5. Any closed facility that has a suspended license on the effective date of this act may be issued a suspended license for a period not to exceed three (3) years from the effective date of this act.

Historical Data

Laws 1980, HB 1853, c. 241, § 6, eff. October 1, 1980; Amended by Laws 1987, HB 1092, c. 98, § 26, emerg. eff. May 20, 1987; Amended by Laws 1991, HB 1616, c. 127, § 5, emerg. eff. April 29, 1991; Amended by Laws 2002, HB 2604, c. 230, § 4, eff. November 1, 2002 ([superseded document available](#)).

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Oklahoma Session Laws - 2002

Cite	Name	Level
<u>2002 O.S.L. 230, 2002 O.S.L. 230.</u>	<u>Public health; relating to the Nursing Home Care Act; modifying licensing requirements; modifying Board of Health membership; modifying employment requirements for nurse aides. Effective date.</u>	Cited

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<u>63 O.S. 1-1906.</u>	<u>Issuance and Renewal of Licenses - Initial License - Denial of Application - Notice of Denial - Suspension or Revocation - Administrative Penalties - Effective Date of Nonrenewal or Revocation - Application Following Revocation</u>	Cited



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1908.1 - Amendment of State Medicaid Plan to Provide for Payment of Temporary Managers or State

Monitors

Cite as: O.S. §, ___ __

A. The Oklahoma Health Care Authority shall amend the state Medicaid plan to provide a funding source for payment of temporary managers, state monitors or receivers in facilities certified to provide long-term care services under Medicaid, upon request of the State Department of Health, pursuant to 42 U.S.C.A., Section 1396r(h)(z).

B. There is hereby created in the State Treasury a revolving fund for the State Department of Health to be designated the "Nursing Facility Administrative Penalties Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the State Department of Health from administrative penalties imposed under the Nursing Home Care Act. Monies collected as a result of administrative penalties imposed under the Nursing Home Care Act shall be deposited into the fund. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Department for the protection of health or property of residents of nursing and specialized nursing facilities that have been placed under temporary managers, state monitors or receivers requested by the Department, including, but not limited to, the following purposes:

1. Relocation expenses incurred by the Department, in the event of closure of a facility;
2. Maintenance of facility operation pending correction of deficiencies or closure, such as temporary management, state monitor or receivership, in the event that the revenues of the facility are insufficient; or
3. The costs associated with informational meetings held by the Department with residents, family members, and interested parties in an affected community where the Department proceeds with appointment of a temporary manager, state monitor or receivership petition.

Historical Data

Laws 1995, HB 1293, c. 230, § 10, emerg. eff. July 1, 1995; Amended by Laws 2002, HB 2604, c. 230, § 5, eff. November 1, 2002 ([superseded document available](#)).

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2002 O.S.L. 230 , 2002 O.S.L. 230 ,	Public health; relating to the Nursing Home Care Act; modifying licensing requirements; modifying Board of Health membership; modifying employment requirements for nurse aides. Effective date. Cited

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1909 - Documents and Papers Required to be Displayed

Cite as: O.S. §, ___ __

Every long-term care facility as defined by Section 3 of this act shall conspicuously post for display in an area of its offices accessible to residents, employees and visitors the following:

1. Its current license;
2. A description, provided by the State Department of Health, of complaint procedures established under this act and the name, address and telephone number of a person authorized by the Department to receive complaints. A copy of the complaint procedure shall also be given to each resident or in certain cases, the court appointed guardian;
3. A copy of any order pertaining to the facility issued by the Department or a court which is currently in effect;
4. A copy of any notification from the local law enforcement authority of the registration of any person residing in the facility who is required to register pursuant to the provisions of the Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act; and
5. A list of the material available for public inspection under Section 1-1910 of this title.

Historical Data

Laws 1980, HB 1853, c. 241, § 9, eff. October 1, 1980; Amended by Laws 2005, HB 1963, c. 465, § 1, emerg. eff. June 9, 2005 ([superseded document available](#)).

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Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1910 - Records Required to be Retained for Public Inspection

Cite as: O.S. §, ___ __

A facility shall retain the following for public inspection:

1. A complete copy of every inspection report of the facility received from the Department during the past three (3) years;
2. A copy of every order pertaining to the facility issued by the Department or a court during the past three (3) years;
3. A description of the services provided by the facility and the rates charged for those services and items for which a resident may be separately charged;
4. A copy of the statement of ownership;
5. A record of personnel who are licensed, certified or registered and employed or retained by the facility who are responsible for patient care; and
6. A complete copy of the most recent inspection report of the facility received from the Department.

Historical Data

Laws 1980, HB 1853, c. 241, § 10, eff. October 1, 1980.

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<u>2001 OK AG 7,</u>	<u>Question Submitted by: Jerry Regier, Acting Director, Dept of Health and Secretary of Health and Human Services</u> <i>Cited</i>

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1911 - Inspection of Licensed Buildings, Institutions, or Establishments - Open Meetings - Reports - Facility

Files

Cite as: O.S. §, ___ __

A. 1. Every building, institution, or establishment for which a license has been issued, including any facility operated by the Oklahoma Department of Veterans Affairs, shall be periodically inspected by a duly appointed representative of the State Department of Health, pursuant to rules promulgated by the State Board of Health with the advice and counsel of the Long-Term Care Facility Advisory Board, created in Section 1-1923 of this title.

2. Inspection reports shall be prepared on forms prescribed by the Commissioner with the advice and counsel of the Advisory Board.

B. 1. The Department, whenever it deems necessary, shall inspect, survey, and evaluate every facility, including any facility operated by the Oklahoma Department of Veterans Affairs, to determine compliance with applicable licensure and certification requirements and standards. All inspections of facilities shall be unannounced. The Department may have as many unannounced inspections as it deems necessary.

2. The Department shall conduct at least one unannounced inspection per calendar year of all nursing facilities operated by the Oklahoma Department of Veterans Affairs.

3. Any employee of the State Department of Health who discloses to any unauthorized person, prior to an inspection, information regarding an unannounced nursing home inspection required pursuant to the provisions of this section shall, upon conviction thereof, be guilty of a misdemeanor. In addition, such action shall be construed to be a misuse of office and punishable as a violation of rules promulgated by the Ethics Commission.

4. a. The Department may periodically visit a facility for the purpose of consultation and may notify the facility in advance of such a visit. An inspection, survey, or evaluation, other than an inspection of financial records or a consultation visit, shall be conducted without prior notice to the facility.

b. One person shall be invited by the Department from a statewide organization of the elderly to act as a citizen observer in unannounced inspections. The individual may be a state or local ombudsman as defined by the Aging Services Division of the Department of Human Services, acting pursuant to the provisions of the Older Americans Act of 1965, Public Law No. 89-73, 42 U.S.C.A., Section 3001 et seq., as amended.

c. The citizen observer shall be reimbursed for expenses in accordance with the provisions of the State Travel Reimbursement Act.

d. An employee of a state or unit of a local government agency, charged with inspecting, surveying, and evaluating facilities, who aids, abets, assists, conceals, or conspires with a facility administrator or employee in violation of the provisions of the Nursing Home Care Act shall be guilty, upon conviction thereof, of a misdemeanor and shall be subject to dismissal from employment.

C. The Department shall hold open meetings, as part of its routine licensure survey, in each of the licensed facilities to advise and to facilitate communication and cooperation between facility personnel and the residents of facilities in their mutual efforts to improve patient care. Administrators, employees of the facility, residents, residents' relatives, friends, residents' representatives, and employees from appropriate state and federal agencies shall be encouraged to attend these meetings to contribute to this process.

D. 1. The Department shall require periodic reports and shall have access to books, records, and other documents maintained by the facility to the extent necessary to implement the provisions of the Nursing Home Care Act and the rules promulgated pursuant thereto.

2. Any holder of a license or applicant for a license shall be deemed to have given consent to any authorized officer, employee, or agent of the Department to enter and inspect the facility in accordance with the provisions of the Nursing Home Care Act. Refusal to permit said entry or inspection, except for good cause, shall constitute grounds for remedial action or administrative penalty or both such action and penalty as provided in the Nursing Home Care Act.

E. The Department shall maintain a file on each facility in the state. All conditions and practices not in compliance with applicable standards shall be specifically stated. If a violation is corrected or is subject to an approved plan of correction, such action shall be contained in the file. Upon receiving a written request for a copy of the file documents, the Department shall send a copy of the document to any person making the written request. The Department may charge a reasonable fee for copying costs.

Historical Data

Laws 1980, HB 1853, c. 241, § 11, eff. October 1, 1980; Amended by Laws 1984, HB 1578, c. 39, § 1, emerg. eff. July 1, 1984; Amended by Laws 1987, HB 1092, c. 98, § 24, emerg. eff. May 20, 1987; Amended by Laws 1991, HB 1616, c. 127, § 6, emerg. eff. April 29, 1991; Amended by Laws 1995, HB 1293, c. 230, § 11, emerg. eff. July 1, 1995; Amended by Laws 2000, HB 2019, c. 340, § 15, emerg. eff. July 1, 2000 (superseded document available); Amended by Laws 2013, SB 629, c. 379, § 2, emerg. eff. May 23, 2013 (superseded document available).

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1912 - Notice of Violation and Right to Hearing

Cite as: 63 O.S. § 1-1912 (OSCN 2024)

A. The State Department of Health shall promptly serve a notice of violation upon a licensee whenever, upon inspection or investigation, the Department determines that:

1. The facility is in violation of the Nursing Home Care Act, any rule promulgated thereunder, or applicable federal certification criteria; or

2. The financial condition of the facility poses an immediate risk to the proper operation of the facility or to the health, safety or welfare of the residents of the facility.

B. Each notice of violation shall be prepared in writing and shall specify the nature of the violation, and the statutory provision, rule or standard alleged to have been violated. The notice of violation shall inform the licensee of its obligation to file a plan of correction within ten (10) working days of receipt of the notice of violation. In the case of a specialized facility for individuals with intellectual disabilities, the Department shall offer the licensee an informal opportunity comparable to the process offered to Medicaid-certified nursing facilities pursuant to 42 CFR 488.331, in order to dispute the alleged violations.

C. The Department shall notify the licensee of its intent to take any remedial action, impose administrative penalties, place a monitor or temporary manager in the facility, issue a conditional license, or suspend or revoke a license. The Department shall also inform the licensee of the right to an informal dispute resolution, hearing, or both.

D. Whenever the Department finds that an emergency exists requiring immediate action to protect the health, safety or welfare of any resident of a facility licensed pursuant to the provisions of the Nursing Home Care Act, the Department may, without notice of hearing, issue an order stating the existence of such an emergency and requiring that action be taken as deemed necessary by the Department to meet the emergency. The order shall be effective immediately. Any person to whom such an order is directed shall comply with such order immediately but, upon application to the Department, shall be afforded a hearing within ten (10) business days of receipt of the application. On the basis of such hearing, the Department may continue the order in effect, revoke it, or modify it. Any person aggrieved by such order continued after the hearing provided in this subsection may appeal to the district court in Oklahoma County within thirty (30) days. Such appeal when docketed shall have priority over all cases pending on the docket, except criminal cases. For purposes of this subsection, the State Board of Health shall define by rule the term "emergency" to include, but not be limited to, a life-endangering situation.

E. Within thirty (30) days of receipt of a plan of correction by the State Department of Health from any facility operated by the Oklahoma Department of Veterans Affairs, the State Department of Health shall submit the results of the inspection, including a list of deficiencies in the condition or operation of the facility and recommendations for corrective measures in the form of a written report to the person immediately responsible for the administration of the facility inspected, to the Oklahoma Department of Veterans Affairs, to the Governor, to the Speaker of the House of Representatives, and to the President Pro Tempore of the Senate.

F. At the conclusion of an inspection, survey, or investigation, the survey team's observations and preliminary findings shall be discussed in an exit conference with the facility personnel. During the exit conference, the facility shall be provided with the opportunity to discuss and supply additional information that they believe is pertinent to the preliminary findings. The following shall be provided to the facility:

1. A written list containing preliminary areas of potential noncompliance with state requirements based on findings during the survey, inspection or investigation. The information provided should be adequate to notify staff of surveyor concerns regarding preliminary findings that indicate actual harm or substandard quality of care; and

2. Any additional noncompliance with state requirements determined during the review of field notes or in preparation of the final survey report will be communicated to the facility personnel by email or phone before issuing the final survey report.

Historical Data

Laws 1980, HB 1853, c. 241, § 12, eff. October 1, 1980; Amended by Laws 1991, HB 1616, c. 127, § 7, emerg. eff. April 29, 1991; Amended by Laws 1995, HB 1293, c. 230, § 12, emerg. eff. July 1, 1995; Amended by Laws 2002, HB 2604, c. 230, § 6, eff. November 1, 2002 (superseded document available); Amended by Laws 2005, HB 1688, c. 460, § 1, eff. November 1, 2005 (superseded document available); Amended by Laws 2013, SB 629, c. 379, § 3, emerg. eff. May 23, 2013 (superseded document available); Amended by Laws 2014, SB 1450, c. 251, § 1, eff. November 1, 2014 (superseded document available); Amended by Laws 2019, HB 2341, c. 475, § 56, eff. November 1, 2019 (superseded document available).

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Oklahoma Session Laws - 2002		
<i>Cite</i>	<i>Name</i>	<i>Level</i>
<u>2002 O.S.L. 230, 2002 O.S.L. 230.</u>	<u>Public health; relating to the Nursing Home Care Act; modifying licensing requirements; modifying Board of Health membership; modifying employment requirements for nurse aides. Effective date.</u>	Cited

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<u>63 O.S. 1-1912.</u>	<u>Notice of Violation and Right to Hearing</u>	Cited



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1914 - Plan of Correction of Violations to be Submitted - Report of Correction - Petition for Time Extension -

Contest of Department Action

Cite as: O.S. §, ___ __

A. A facility shall have ten (10) working days after receipt of notice of violation in which to prepare and submit a plan of correction. The plan of correction shall include a fixed time period, not to exceed sixty (60) days within which the violations are to be corrected. The Department may extend this period where correction involves substantial structural improvement. If the Department rejects a plan of correction, it shall send notice of the rejection and the reason for the rejection to the facility. The facility shall have ten (10) working days after receipt of the notice of rejection in which to submit a modified plan. If the modified plan is not timely submitted, or if the modified plan is rejected, the Department shall impose a plan of correction which the facility shall follow.

B. If the violation has been corrected prior to submission and approval of a plan of correction, the facility may submit a report of correction in place of a plan of correction.

C. Upon a licensee's written request, the Department shall determine whether to grant a licensee's request for an extended correction time. Such request shall be served on the Department prior to expiration of the correction time originally approved. The burden of proof shall be on the licensee to show good cause for not being able to comply with the original correction time approved.

D. If a facility desires to contest any Department action under this section, it shall send a written request for an informal dispute resolution, hearing or both to the Department within ten (10) working days of receipt of notice of the contested action and the Department shall commence the informal dispute resolution or hearing.

Historical Data

Laws 1980, HB 1853, c. 241, § 14, eff. October 1, 1980; Amended by Laws 1995, HB 1293, c. 230, § 13, emerg. eff. July 1, 1995; Amended by Laws 2005, HB 1688, c. 460, § 2, eff. November 1, 2005 ([superseded document available](#)).

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<u>2012 OK CIV APP 6, 270 P.3d 197,</u>	<u>JOHNSON v. ST. SIMEON'S EPISCOPAL HOME, INC.</u>
	<i>Cited</i>

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<u>63 O.S. 1-1914,</u>	<u>Plan of Correction of Violations to be Submitted - Report of Correction - Petition for</u>
	<u>Time Extension - Contest of Department Action</u>
	<i>Cited</i>



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1914.1 - Actions for Violations - Considerations

Cite as: O.S. §, ___ __

A. For violations of the Nursing Home Care Act, the rules promulgated thereto, or Medicare/Medicaid certification regulations:

1. The State Department of Health shall seek remedial action against a licensee, owner or operator of a facility and may, after notice and opportunity for a hearing, impose the remedy most likely to:

a. gain and ensure continued compliance with the Nursing Home Care Act, the rules promulgated thereto, or federal certification standards or both rules and standards, or

b. provide for the financial operation of the facility that ensures the health, safety and welfare of the residents;

2. In the alternative or in addition to any remedial action, the State Commissioner of Health may direct the Oklahoma Health Care Authority to withhold vendor payments due to a facility under its programs until such time as the corrections are made;

3. The Department may deny, refuse to renew, suspend or revoke a license, ban future admissions to a facility, assess administrative penalties, or issue a conditional license; and

4. a. Pursuant to an investigation or inspection that reveals a willful violation of rules pertaining to minimum direct-care staffing requirements, the Commissioner shall notify the Oklahoma Health Care Authority and the Authority shall withhold as a penalty a minimum of twenty percent (20%) of the vendor payments due the facility under its programs for each day such violation continues.

b. The Commissioner shall impose an equivalent penalty amount under licensure standards for a facility that does not receive vendor payments under its program that is in willful violation of rules pertaining to minimum direct-care staffing requirements.

B. Whenever the Department takes remedial action against a facility because the financial condition of the facility has endangered or is at risk of endangering the proper operation of the facility or the health, safety or welfare of the residents of the facility, the Department shall also review the conditions of all other facilities in this state owned or operated by a person with a controlling interest as defined by Section 1-851.1 of this title, and may take remedial action against the facilities as necessary or appropriate.

C. Remedial action as provided in subsection A or B of this section shall be based on current and past noncompliance or incomplete or partial compliance; repeated violations; or failure to substantially comply with the Nursing Home Care Act and rules promulgated thereto. In determining the most appropriate remedy, the Department shall consider at least the following:

1. The nature, circumstances and gravity of the violations;

2. The repetitive nature of the violations at the facility or others operated by the same or related entities;

3. The previous degree of difficulty in obtaining compliance with the rules at the facility or others operated by the same or related entities; and

4. A clear demonstration of good faith in attempting to achieve and maintain continuing compliance with the provisions of the Nursing Home Care Act.

Historical Data



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1914.2 - Placement of Temporary Managers

Cite as: O.S. §, ___

A. The State Commissioner of Health may place a qualified person in a facility as a temporary manager to assume operating control of the facility and to ensure that the health and safety of the residents of the facility are protected when any of the following conditions exist:

1. The conditions at the facility pose immediate jeopardy to the health and safety of the residents of the facility;
2. The facility is operating without a license;
3. The State Department of Health has suspended, revoked or refused to renew the existing license of the facility;
4. The financial condition of the facility poses an immediate risk to the proper operation of the facility or to the health, safety or welfare of the residents of the facility;
5. The facility has closed or has informed the Department that it intends to close and adequate arrangements for the relocation of residents have not been made at least thirty (30) days prior to closure; or
6. The Department has terminated certification status under Medicare/Medicaid.

B. The Department shall notify the owner or operator of the action taken, the reason or reasons why such action was taken, and the right of the owner or operator to have a hearing on the matter.

C. Any owner or operator subject to placement of a temporary manager may appeal such action by filing a petition for hearing with the district court within five (5) days of the appointment of a temporary manager. The court shall conduct the hearing within ten (10) days of the filing of such petition. On the basis of the hearing, the court may continue the order in effect, revoke it or modify it. The petition for hearing, when docketed, shall have priority over all cases pending on the docket except criminal cases.

D. All funds due or available to the facility from any source, to include funds held by a predecessor temporary manager of the facility, during the pendency of the temporary management shall be made available to the temporary manager who shall use the funds to ensure the health and safety of the residents of the facility. Unless prior written approval has been obtained from the Commissioner for such expenditure, any use of funds for a purpose other than to ensure the health and safety of the residents of the facility shall constitute a breach of the temporary manager's fiduciary duty and a violation of the Nursing Home Care Act.

E. The Commissioner shall establish qualifications for persons to be appointed as temporary managers and shall maintain a list of all such qualified persons. The Commissioner may appoint any person from the list to serve as a temporary manager, provided that the Commissioner shall not appoint any owner or affiliate of the facility as its temporary manager.

F. The temporary manager shall make provisions for the continued protection of the health and safety of all residents of the facility. The temporary manager appointed pursuant to the Nursing Home Care Act shall exercise those powers and shall perform those duties set out by the Commissioner in writing. The Commissioner shall provide for the temporary manager to have sufficient power and duties to ensure that the residents of the facility receive adequate care.

G. If funds are insufficient to meet the expenses of performing the powers and duties conferred on the temporary manager, the temporary manager may borrow the funds or contract for indebtedness as necessary; provided, any such indebtedness shall not be construed to be a debt of the state or made on behalf of the state. The State of Oklahoma is not liable, directly or indirectly, for any liability incurred by any temporary manager in the performance of the manager's official duties pursuant to law. The State Board of

Health shall, by rule, establish a fund, to be drawn out of the discretionary funds of the Department, to assist temporary managers in the continuation of care of the residents of a facility where, in the judgment of the Commissioner, funds are not available from other sources; provided, any such advances by the Department shall be repaid by the temporary manager at the time the final account is rendered. If such advances are not repaid in full, any amount not repaid shall constitute a lien against any and all assets of any owner and shall also constitute a lien as provided in paragraph 4 of subsection L of this section.

H. The Commissioner shall set the compensation of the temporary manager, who shall be paid by the facility.

I. A temporary manager may be held liable in a personal capacity only for the manager's gross negligence, intentional acts or breaches of fiduciary duty. The Commissioner may require a temporary manager to post a bond.

J. The Department shall issue a conditional license to a facility in which a temporary manager is placed. The duration of a license issued under this section is limited to the duration of the temporary managership.

K. The Commissioner shall require that the temporary manager report to the Department on a regular basis as to the progress of the facility in reaching substantial compliance with the Nursing Home Care Act and the rules promulgated thereto, and the establishment of mechanisms which will ensure the continued compliance of the facility.

L. 1. The Commissioner may release the temporary manager under any of the following circumstances:

a. the Commissioner determines that the facility is and will continue to be in substantial compliance with the Nursing Home Care Act and rules promulgated thereto,

b. a receiver or bankruptcy trustee is appointed,

c. the Commissioner appoints a new temporary manager,

d. a new owner, operator, or manager is licensed,

e. the Department, the temporary manager, or the receiver closes the facility through an orderly transfer of the residents, or

f. an administrative hearing or court order ends the temporary manager appointment.

2. a. Within thirty (30) days after release, the temporary manager shall render to the Department a complete accounting of all property of which the temporary manager has taken possession, of all funds collected, and of the expenses of the temporary managership, to include, if requested by the Department, copies of all documents supporting the reasonableness and necessity of such expenditures.

b. The rendition of such accounting may be extended only by order of the Commissioner for cause and shall in no event be extended more than one hundred twenty (120) days after release of the temporary manager.

c. Failure to timely render a complete final accounting in accordance with generally accepted accounting practices shall constitute a breach of the temporary manager's fiduciary duties.

d. Upon a temporary manager's default in the timely rendition of a complete final accounting, the Commissioner shall enter an order that the temporary manager is personally liable for all amounts or monies collected for which a final accounting is not made. Such order for disgorgement or remittance directed to a temporary manager may be filed as a judgment in any district court in the State of Oklahoma, and shall not be dischargeable in bankruptcy or other insolvency proceeding.

3. After a complete accounting, and payment of reasonable expenses incurred as a result of the temporary managership, the Commissioner shall order payment of the surplus to the owner. If funds are insufficient to pay reasonable expenses incurred as a result of the temporary managership, the owner shall be liable for the deficiency. Any funds recovered from the owner shall be used to reimburse any unpaid expenses due and owing as a result of the temporary managership.

4. In order to protect the health, welfare and safety of the residents of any nursing facility for which a temporary manager has been appointed, the Department is authorized to provide the monies from any funds appropriated or otherwise made available to the Department to protect the residents of the nursing facility. The Department shall have a lien for any payment made pursuant to this section upon any beneficial interest, direct or indirect, of any owner in the following property:

a. the building in which the facility is located,

b. any fixtures, equipment or goods used in the operation of the facility,

c. the land on which the facility is located, or

d. the proceeds from any conveyance of property described in subparagraphs a, b, or c of this paragraph made by the owner prior to the order placing the temporary manager.

M. Nothing in the Nursing Home Care Act shall be deemed to relieve any owner, administrator or employee of a facility in which a temporary manager is placed of any civil or criminal liability incurred, or any duty imposed by law, by reason of acts or omissions of the owner, administrator or employee prior to the appointment of a temporary manager; provided, nothing contained in the Nursing Home Care Act shall be construed to suspend during the temporary managership any obligation of the owner, administrator or employee for payment of taxes or other operating and maintenance expenses of the facility or of the owner, administrator, employee or any other person for the payment of mortgages or liens.

N. The Commissioner may institute any legal proceeding to recover any monies or other thing of value determined to have been expended unnecessarily or in an excessive amount necessary for the maintenance of the health and safety of the residents of a facility, or that was expended in violation of the temporary manager’s fiduciary duties, or which expenditure was otherwise unlawful under state or federal law. Such legal proceeding for wrongful expenditure of these funds may be brought against the temporary manager and against any other person or entity who receives such wrongful expenditure and who was not a bona fide vendor in good faith to the temporary manager, or who was not otherwise a bona fide recipient of such funds in good faith. Costs for such an action by the Department for funds wrongfully expended shall be awarded if the Department prevails, and shall include all court costs, interest at the statutory rate from and after the date of the wrongful expenditure, and a reasonable attorney fee. The temporary manager and the bad faith vendor/recipient shall be jointly and severally liable for all funds wrongfully expended and for all related litigation costs.

Historical Data

Laws 1995, HB 1293, c. 230, § 15, emerg. eff. July 1, 1995; Amended by Laws 2002, HB 2604, c. 230, § 8, eff. November 1, 2002 ([superseded document available](#)); Amended by Laws 2005, SB 49, c. 202, § 1, eff. November 1, 2005 (effective date repealed by Laws 2005, HB 1688, c. 460, § 14, eff. November 1, 2005) ([superseded document available](#)).

Citationizer® Summary of Documents Citing This Document

<i>Cite Name</i>	<i>Level</i>
Oklahoma Session Laws - 2002	
<i>Cite</i>	<i>Name</i>
<i>2002 O.S.L. 230, 2002 O.S.L. 230.</i>	<i>Public health; relating to the Nursing Home Care Act; modifying licensing requirements; modifying Board of Health membership; modifying employment requirements for nurse aides. Effective date.</i>
	<i>Level</i>
	<i>Cited</i>

Citationizer: Table of Authority

<i>Cite Name</i>	<i>Level</i>
Title 63. Public Health and Safety	
<i>Cite</i>	<i>Name</i>
<i>63 O.S. 1-1914.2.</i>	<i>Placement of Temporary Managers</i>
	<i>Level</i>
	<i>Cited</i>



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1914.3 - Informal Dispute Resolution

Cite as: O.S. §, ___ __

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- A. An informal dispute resolution meeting may be conducted by the State Department of Health.
 - B. The State Department of Health shall assign all informal dispute resolutions to the unit or section charged with performing survey or inspection activity.

Historical Data

Laws 2005, HB 1688, c. 460, § 4, eff. November 1, 2005.

Citationizer[®] Summary of Documents Citing This Document

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1914.4 - Definitions

Cite as: O.S. §, ___ __

For purposes of this act:

1. "Deficiency" means a violation or alleged violation by a facility of applicable state or federal laws, rules, or regulations governing the operation or licensure of a facility;
2. "Deficiency identification number" means an alphanumeric designation of a deficiency by the State Department of Health that denotes the applicable state or federal rule, regulation, or law allegedly violated and that is used on the statement of deficiencies;
3. "Impartial decision maker" means an individual employed by or under contract with the State Department of Health to conduct an informal dispute resolution for the agency;
4. "Informal dispute resolution" means a nonjudicial process or forum before an impartial decision maker that provides a facility cited for deficiency with the opportunity to dispute a citation for deficiency;
5. "Party" means a facility requesting an informal dispute resolution, the State Department of Health, or both;
6. "State survey agency" means the State Department of Health, the federally designated state entity that performs Medicaid and Medicare surveys and inspections of Oklahoma facilities; and
7. "Statement of deficiencies" means a statement prepared by the State Department of Health citing the applicable state or federal laws, rules, or regulations violated by a facility and the facts supporting the citation.

Historical Data

Laws 2005, HB 1688, c. 460, § 5, eff. November 1, 2005.

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None Found.

Citationizer: Table of Authority

Cite **Name Level**

None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1914.5 - Written Request for Informal Dispute Resolution - Effect of Request

Cite as: O.S. §, ___ __

A. A facility that wishes to challenge a deficiency through the informal dispute resolution process shall make a written request to the State Department of Health within ten (10) calendar days of the receipt of the statement of deficiencies from the State Department of Health.

B. The written request for an informal dispute resolution shall include:

1. A list of all deficiencies that the facility wishes to challenge; and
2. A statement indicating whether the facility wants the informal dispute resolution to be conducted by telephone conference call, by record review of the impartial decision maker, or by a meeting in which the facility and the State Department of Health appear before the impartial decision maker.

C. A request for an informal dispute resolution shall not:

1. Stay any action for enforcement or imposition of remedies;
2. Affect or preclude the right of a facility to judicial or administrative appeal; or
3. Duplicate any procedures already held under the federal requirements for informal dispute resolution.

Historical Data

Laws 2005, HB 1688, c. 460, § 6, eff. November 1, 2005.

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1914.6 - Impartial Decision Maker - Duties

Cite as: O.S. §, ___ __

A. Upon receipt of a request for an informal dispute resolution from a facility, the State Department of Health shall assign the matter to an impartial decision maker.

B. The impartial decision maker shall:

1. Schedule a time and date for a meeting; and
2. Inform the parties of the time and date of the informal dispute resolution.

C. If the request for an informal dispute resolution includes a request by the facility for a meeting at which the facility may appear before the impartial decision maker, the impartial decision maker shall:

1. Arrange for facilities appropriate for conducting the meeting; and
2. Inform the parties of the location of the meeting.

D. Each party shall submit to the impartial decision maker all documentary evidence that the party believes has a bearing on or relevance to the deficiencies in dispute by the date specified by the impartial decision maker.

E. 1. If the request for an informal dispute resolution does not include a request by the facility for a meeting at which the facility may appear before the impartial decision maker, or upon agreement of the facility and the Department, the impartial decision maker may conduct the meeting by telephone conference call or by a review of documentary evidence submitted by the parties.

2. a. If the informal dispute resolution is conducted by record review, the impartial decision maker may request, and the facility shall provide, a written statement setting forth the facility's position on accepting, rejecting, or modifying each deficiency in dispute.

b. The written statement shall specify the documentary evidence that supports the position of the facility for each deficiency in dispute.

c. The facility shall provide its written statement to the impartial decision maker and the Department.

d. The Department shall then provide its written statement in rebuttal to the impartial decision maker and the facility.

Historical Data

Laws 2005, HB 1688, c. 460, § 7, eff. November 1, 2005.

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1914.7 - Impartial Decision Maker May be Employed by the State Department of Health

Cite as: O.S. §, ___ __

The impartial decision maker in the informal dispute resolution process may be an individual employed by or under contract with the State Department of Health.

Historical Data

Laws 2005, HB 1688, c. 460, § 8, eff. November 1, 2005.

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Cite **Name Level**

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1914.8 - Informal Dispute Resolution - Procedure, Participation, Appearances, Representation

Cite as: O.S. §, ___ __

- A. 1. In all informal dispute resolution cases except record review, the State Department of Health shall present the initial arguments.
- 2. The facility shall then present its arguments.
- B. 1. The informal dispute resolution shall be limited to no more than two (2) hours in length, with each party being permitted one (1) hour to present its arguments.
- 2. However, the impartial decision maker may grant each party additional equal time for good cause as determined by the impartial decision maker.
- C. 1. Rules of evidence or procedure shall not apply to the informal dispute resolution except as provided in this section.
- 2. The impartial decision maker may:
 - a. accept any information that the impartial decision maker deems material to the issue being presented, and
 - b. reject any information that the impartial decision maker deems immaterial to the issue being presented.
- D. 1. The informal dispute resolution may not be recorded.
- 2. However, the impartial decision maker may make written or recorded notes of the arguments.
- E. Only employees of the facility, attending physicians of residents of the facility at the time of the deficiency, pharmacists providing medications to residents of the facility at the time of the deficiency, and consultant pharmacists or nurse consultants utilized by the facility, or the medical director of the facility may appear or participate in the informal dispute resolution for, or on the behalf of, the facility.
- F. Only employees of the Department may appear or participate at the meeting for, or on behalf of, the Department.
- G. The State Long-Term Care Ombudsman, or designee, may appear at, or participate in, the meeting.
- H. No party may be represented by an attorney.

Historical Data

Laws 2005, HB 1688, c. 460, § 9, eff. November 1, 2005.

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1914.9 - Determinations of Impartial Decision Maker - State Survey Agency Determination - Amended

Statement of Deficiencies

Cite as: O.S. §, ___ __

A. 1. Upon the conclusion of all arguments by the parties at the informal dispute resolution, the impartial decision maker shall issue a written statement of findings that shall be entitled "Determinations".

2. The determinations shall include:

- a. a recitation of the deficiency identification numbers,
- b. a statement of whether a disputed deficiency should remain, be removed, or be modified on the statement of deficiencies, and
- c. the facts and persuasive arguments that support the finding of the impartial decision maker for each deficiency identification number.

B. 1. The determination of the impartial decision maker shall be provided to all parties.

2. The State Department of Health shall review the determination and shall issue a written document entitled "State Survey Agency Determination".

C. A state survey agency determination is not subject to appeal, reargument, or reconsideration.

D. The Department shall deliver a copy of the state survey agency determination to the facility and to the impartial decision maker.

E. 1. In accordance with the state survey agency determination, the Department shall issue an amended state of deficiencies if the state survey agency determination results in modification to any deficiencies cited in the original statement of deficiencies.

2. If the Department determines that amendments to the statement of deficiencies should result in changes to the scope or severity assigned to any deficiency, the amended statement of deficiencies shall reflect the changes to the scope or severity of any cited deficiency.

F. The amended statement of deficiencies shall be provided to the facility.

Historical Data

Laws 2005, HB 1688, c. 460, § 10, eff. November 1, 2005.

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1914.10 - Subject Matter of Informal Dispute Resolution

Cite as: O.S. §, ___ __

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- A. The informal dispute resolution process is limited to deficiencies cited on a statement of deficiencies.
 - B. 1. If the impartial decision maker finds that matters not subject to informal dispute resolution are presented, the impartial decision maker shall strike all documentary evidence related to or presented for the purpose of disputing the matter not subject to informal dispute resolution.
 - 2. The impartial decision maker may not include in the determination any matter not subject to informal dispute resolution.

Historical Data

Laws 2005, HB 1688, c. 460, § 11, eff. November 1, 2005.

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1914.11 - Definitions

Cite as: O.S. §, ___ __

For purposes of Sections 3 through 8 of this act:

1. "Impartial decision-making panel" means a group of individuals who are qualified volunteers and employees or contractors with the State Department of Health and shall consist of five (5) members as follows:

- a. two members shall be impartial representative volunteers who have experience in the operation of a long-term care setting, such as an administrator, operator or director of nursing,
- b. one member shall be an employee of the Department who has experience in the survey process,
- c. one member shall be a person representing the aging or disabled community, and
- d. one member shall be an impartial person who is not employed by the Protective Health Services, Long-Term Care Division of the State Department of Health; and

2. "Alternative informal dispute resolution" means a nonjudicial process or forum before an impartial decision-making panel that provides a facility cited for deficiency with the opportunity to dispute a citation for deficiency within the pilot program established in Sections 3 through 8 of this act.

Historical Data

Laws 2007, SB 738, c. 347, § 3, eff. November 1, 2007.

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1914.12 - Pilot Program - Alternative Informal Dispute Resolution

Cite as: O.S. §, ___ __

Upon written request, a long-term care facility may choose to participate in an informal dispute resolution panel to be offered by the State Department of Health as an alternative to the informal dispute resolution process outlined in Sections 1-1914.3 through 1-1914.10 of this title.

Historical Data

Laws 2007, SB 738, c. 347, § 4, eff. November 1, 2007; Amended by Laws 2009, HB 1729, c. 56, § 1, eff. November 1, 2009 ([superseded document available](#)).

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1914.13 - Request for Alternative Informal Dispute Resolution - Procedure

Cite as: O.S. §, ___ __

A. Upon receipt of a request for an alternative informal dispute resolution from a facility, the State Department of Health shall assign the matter to an impartial decision-making panel.

B. The Department shall:

1. Schedule a time and date for a meeting; and
2. Inform the parties of the time and date of the alternative informal dispute resolution.

C. If the request for an alternative informal dispute resolution includes a request by the facility for a meeting at which the facility may appear before the decision-making panel, the Department shall:

1. Arrange for facilities appropriate for conducting the meeting; and
2. Inform the parties of the location of the meeting.

D. Each party shall submit to the impartial decision-making panel all documentary evidence that the party believes has a bearing on or relevance to the deficiencies in dispute by the date specified by the Department.

E. 1. If the request for an alternative informal dispute resolution does not include a request by the facility for a meeting at which the facility may appear before the impartial decision-making panel, or upon agreement of the facility and the Department, the impartial decision-making panel may conduct the meeting by telephone conference call or by a review of documentary evidence submitted by the parties.

2. a. If the alternative informal dispute resolution is conducted by record review, the impartial decision-making panel may request, and the facility shall provide, a written statement setting forth the facility's position on accepting, rejecting, or modifying each deficiency in dispute.

b. The written statement shall specify the documentary evidence that supports the position of the facility for each deficiency in dispute.

c. The facility shall provide its written statement to the impartial decision-making panel and the Department.

d. The Department shall then provide its written statement in rebuttal to the impartial decision-making panel and the facility.

Historical Data

Laws 2007, SB 738, c. 347, § 5, eff. November 1, 2007.

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1914.14 - Alternative Informal Dispute Resolution Cases Except Record Review - Procedure - Participants

Cite as: O.S. §, ___ __

A. 1. In all alternative informal dispute resolution cases except record review, the State Department of Health shall present the initial arguments.

2. The facility shall then present its arguments.

B. 1. The alternative informal dispute resolution shall be limited to no more than two (2) hours in length, with each party being permitted one (1) hour to present its arguments;

2. However, the impartial decision-making panel may grant each party additional equal time for good cause as determined by the impartial decision making-panel.

C. 1. Rules of evidence or procedure shall not apply to the alternative informal dispute resolution except as provided in this section.

2. The impartial decision-making panel may:

a. accept any information that the impartial decision-making panel deems material to the issue being presented, and

b. reject any information that the impartial decision-making panel deems immaterial to the issue being presented.

D. 1. The alternative informal dispute resolution may not be recorded.

2. However, the impartial decision-making panel may make written or recorded notes of the arguments.

E. Only employees of the facility, attending physicians of residents of the facility at the time of the deficiency, pharmacists providing medications to residents of the facility at the time of the deficiency, and consultant pharmacists or nurse consultants utilized by the facility, or the medical director of the facility, may appear or participate in the alternative informal dispute resolution for, or on the behalf of, the facility.

F. Only employees of the Department may appear or participate at the meeting for, or on behalf of, the Department.

G. The State Long-Term Care Ombudsman or designee, may appear at, or participate in, the meeting.

H. No party may be represented by an attorney.

Historical Data

Laws 2007, SB 738, c. 347, § 6, eff. November 1, 2007.

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1914.15 - Alternative Dispute Resolution - Determinations - State Survey Agency Determination

Cite as: O.S. §, ___ __

A. 1. Upon the conclusion of all arguments by the parties at the alternative informal dispute resolution, the impartial decision-making panel shall issue a written statement of findings that shall be entitled "Determinations".

2. The determinations shall include:

a. a recitation of the deficiency identification numbers,

b. a statement of whether a disputed deficiency should remain, be removed, or be modified on the statement of deficiencies, and

c. the facts and persuasive arguments that support the finding of the impartial decision-making panel for each deficiency identification number.

B. 1. The determination of the impartial decision-making panel shall be provided to all parties.

2. The State Department of Health shall review the determination and shall issue a written document entitled "State Survey Agency Determination".

C. A state survey agency determination is not subject to appeal, reargument, or reconsideration.

D. The Department shall deliver a copy of the state survey agency determination to the facility and to the impartial decision-making panel.

E. 1. In accordance with the state survey agency determination, the Department shall issue an amended state of deficiencies if the state survey agency determination results in modification to any deficiencies cited in the original statement of deficiencies.

2. If the Department determines that amendments to the statement of deficiencies should result in changes to the scope or severity assigned to any deficiency, the amended statement of deficiencies shall reflect the changes to the scope or severity of any cited deficiency.

F. The amended statement of deficiencies shall be provided to the facility.

Historical Data

Laws 2007, SB 738, c. 347, § 7, eff. November 1, 2007.

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None Found.

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1914.16 - Alternative Informal Dispute Resolution Process Limited to Cited Deficiencies

Cite as: O.S. §, ___ __

A. The alternative informal dispute resolution process is limited to deficiencies cited on a statement of deficiencies.

B. 1. If the impartial decision-making panel finds that matters not subject to alternative informal dispute resolution are presented, the impartial decision-making panel shall strike all documentary evidence related to or presented for the purpose of disputing the matter not subject to alternative informal dispute resolution.

2. The impartial decision-making panel may not include in the determination any matter not subject to alternative informal dispute resolution.

Historical Data

Laws 2007, SB 738, c. 347, § 8, eff. November 1, 2007.

Citationizer[®] Summary of Documents Citing This Document

Cite **Name Level**

None Found.

Citationizer: Table of Authority

Cite **Name Level**

None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1916 - Prohibited Acts - Violations - Prosecution

Cite as: O.S. §, ___ __

A. No person, including any person at any facility operated by the Oklahoma Department of Veterans Affairs, shall:

1. Intentionally fail to correct or interfere with the correction of a violation within the time specified on the notice or approved plan of correction under this act as the maximum period given for correction, unless an extension is granted and the corrections are made before expiration of extension;
2. Intentionally prevent, interfere with, or attempt to impede in any way the work of any duly authorized representative of the Department in the investigation and enforcement of this act;
3. Intentionally prevent or attempt to prevent any such representative from examining any relevant books or records in the conduct of official duties under this act;
4. Intentionally prevent or interfere with any such representative in the preserving of evidence of any violation of this act or the rules promulgated under this act;
5. Intentionally retaliate or discriminate against any resident or employee for contacting or providing information to any state official, or for initiating, participating in, or testifying in an action for any remedy authorized under this act;
6. Willfully file any false, incomplete or intentionally misleading information required to be filed under this act, or willfully fail or refuse to file any information; or
7. Open or operate a facility without a license.

B. A violation of this section is a misdemeanor.

C. The district attorney of the county in which the facility is located, or the Attorney General, may be requested by the Department to initiate prosecutions under this section.

Historical Data

Laws 1980, HB 1853, c. 241, § 16, eff. October 1, 1980; Amended by Laws 2013, SB 629, c. 379, § 4, emerg. eff. May 23, 2013 ([superseded document available](#)).

Citationizer[®] Summary of Documents Citing This Document

Cite Name	Level
Oklahoma Supreme Court Cases	
Cite	Name
2006 OK 99, 152 P.3d 875.	STATE ex rel. OKLA. STATE DEPT. OF HEALTH v. ROBERTSON
	Level
	Discussed at Length

Citationizer: Table of Authority

Cite Name Level

None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1916.1 - Penalties for Violations

Cite as: O.S. §, ___ __

A. Any person who has been determined by the State Department of Health to have violated any provision of the Nursing Home Care Act or any rule promulgated or order issued pursuant to the provisions of the Nursing Home Care Act, may be liable for an administrative penalty for each day that said violation or violations continue to exist. Penalties of not less than Fifty Dollars (\$50.00) per day or more than Three Thousand Dollars (\$3,000.00) per day may be imposed for deficiencies that do not constitute immediate jeopardy to residents. Penalties of not less than Three Thousand Fifty Dollars (\$3,050.00) per day or more than Ten Thousand Dollars (\$10,000.00) per day may be imposed for deficiencies constituting immediate jeopardy to residents; provided, however, that specialized facilities for the developmentally disabled or nursing facilities licensed pursuant to this act, which do not participate in Medicaid or Medicare, shall be liable for the maximum penalty, not to exceed Ten Thousand Dollars (\$10,000.00) for any related series of violations.

B. The amount of the penalty shall be assessed by the Department pursuant to the provisions of subsection A of this section, after notice and opportunity for hearing. Within ten (10) working days of the inspection documenting the violation, the facility may appeal this decision pursuant to Article II of the Administrative Procedures Act. In determining the amount of the penalty, the Department shall include, but not be limited to, consideration of the nature, circumstances and gravity of the violation, the repetitive nature of the violation at this facility or others operated by the same entity, the previous degree of difficulty in obtaining compliance with the rules, and, with respect to the person found to have committed the violation, the degree of culpability, the facility's financial condition and substantial show of good faith in attempting to achieve compliance with the provisions of the Nursing Home Care Act.

C. Any license holder may elect to surrender his license in lieu of said fine but shall be forever barred from obtaining a reissuance of the license or any other license issued pursuant to the Nursing Home Care Act.

Historical Data

Laws 1989, HB 1249, c. 227, § 30; Amended by Laws 1991, HB 1616, c. 127, § 9, emerg. eff. April 29, 1991; Amended by Laws 1995, HB 1293, c. 230, § 16, emerg. eff. July 1, 1995.

Citationizer[®] Summary of Documents Citing This Document

Cite **Name Level**

None Found.

Citationizer: Table of Authority

Cite **Name Level**

None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1916.2 - Denial or Refusal to Renew - Suspension or Revocation of License - Administrative Penalties

Cite as: O.S. §, ___ __

The State Department of Health may deny, refuse to renew, suspend or revoke a license or assess administrative penalties to an applicant, licensee, or facility which has a history of noncompliance or incomplete or partial compliance with or repeated violations of the provisions of the Nursing Home Care Act or the standards, rules or regulations of the Board issued pursuant to the provisions of the Nursing Home Care Act or other satisfactory evidence which demonstrates that the applicant or licensee is unlikely to manage or operate a facility or to provide care or treatment to the residents of a home in a manner which warrants public trust.

Historical Data

Laws 1989, HB 1249, c. 227, § 31; Amended by Laws 1991, HB 1616, c. 127, § 10, emerg. eff. April 29, 1991.

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None Found.

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1917 - State Agencies to Assist in Carrying Out Provisions of Act

Cite as: O.S. §, ___ __

It shall be the duty of the Department of Human Services and the Director of the Oklahoma State Bureau of Investigation to assist the Commissioner in carrying out the provisions of this act insofar as the functions of these respective offices and departments are concerned with the health, welfare and safety of any person or persons cared for in facilities as defined herein.

Historical Data

Laws 1980, HB 1853, c. 241, § 17, eff. October 1, 1980.

Citationizer[®] Summary of Documents Citing This Document

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None Found.

Citationizer: Table of Authority

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1918 - Rights and Responsibilities

Cite as: 63 O.S. § 1-1918 (OSCN 2024)

A. All principles enumerated in this section shall be posted in a conspicuous, easily accessible location in each facility. Each resident and personally appointed representative of the resident, if any, shall be verbally advised and provided a written copy of such principles prior to or upon admission to the facility. The facility shall ensure that its staff is familiar with and observes the rights and responsibilities enumerated in this section. The facility shall make available to each resident, upon reasonable request, a current written statement of such rights and responsibilities.

B. A statement of rights and responsibilities shall include, but not be limited to, the following:

1. Every resident's civil and religious liberties, including the right to independent personal decisions and knowledge of available choices, shall not be infringed upon and the facility shall encourage and assist in the exercise of these rights;

2. Every resident shall have the right to have private communications, including telephonic communications and visits and consultations with a physician or an attorney, and meetings of family and resident groups or any other person or persons of the resident's choice, and may send and promptly receive, unopened, the resident's personal mail;

3. a. Every resident shall have the right, without fear of reprisal or discrimination, to:

(1) present grievances with respect to treatment or care that is or fails to be furnished on behalf of the resident or others to:

(a) the facility's staff,

(b) the facility's administrator,

(c) the facility's attending physician,

(d) the resident's personal physician, if any,

(e) governmental officials, or

(f) any other person, and

(2) organize or to join with other residents or individuals within or outside of the facility to work for improvements in resident care.

b. The family of a resident shall have the right to meet in the facility with other residents' families.

c. Every resident shall have the right to prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents;

4. Every resident shall have the right to manage such resident's own financial affairs, unless the resident delegates the responsibility, in writing, to the facility. The resident shall have at least a quarterly accounting of any personal financial transactions undertaken in the resident's behalf by the facility during any period of time the resident has delegated such responsibilities to the facility;

5. Every resident shall have the right to receive adequate and appropriate medical care consistent with established and recognized medical practice standards within the community. Every resident, unless adjudged to be mentally incapacitated, shall be fully informed by the resident's attending physician of the resident's medical condition and advised in advance of proposed treatment or changes in

treatment in terms and language that the resident can understand, unless medically contraindicated, and to participate in the planning of care and treatment or changes in care and treatment. Every resident shall have the right to refuse medication and treatment after being fully informed of and understanding the consequences of such actions unless adjudged to be mentally incapacitated;

6. Every resident shall receive respect and privacy in the medical care program of the resident. Case discussion, consultation, examination and treatment shall remain confidential and shall be conducted discreetly. Personal and medical records shall be confidential, and shall include such documentation or information so as to alert a health care provider or an emergency medical care facility of the existence of a directive to physicians or a living will;

7. Every resident shall have the right to reside and to receive services with reasonable accommodation of individual needs and preferences, except where the health or safety of the individual or other residents would be endangered;

8. a. Every resident shall be informed by the facility, at the time of admission, of the facility's policy regarding the provision of hospice services. The facility's policy shall:

(1) specify whether the facility provides hospice services, either directly or through contractual arrangements with other hospice providers,

(2) specify whether the facility permits hospice services to be provided in the facility by any other hospice services or only by hospice services contracted by the facility,

(3) provide that each resident shall receive a list of hospice services with which the facility contracts, and

(4) provide for complete disclosure to the resident of the facility's relationship with any hospice service that is the result of ownership or an ownership interest of five percent (5%) or more.

b. If the facility provides hospice services through contractual arrangements with hospice providers but does not contract with at least three entities providing hospice services within a fifty-mile radius of the facility, it shall, upon the request of a current facility resident, contract with additional hospice providers within a fifty-mile radius of the facility as necessary to provide the resident with a choice of three providers. This requirement shall cease to exist when the requesting resident is no longer living in the facility.

c. A facility shall, at the point that a resident requires hospice services, again inform the resident or the personally appointed representative of the resident, if any, verbally and in writing of the resident's right to hospice services pursuant to the facility's policy at the time of the resident's admission;

9. Every resident shall have the right to receive notice before the room or roommate of the resident in the facility is changed and if the resident has a telephone in his or her room, the resident must be informed of any charges to be incurred when moving;

10. Every resident shall have the right to retain and use personal clothing and possessions, unless medically contraindicated, and shall have the right to security in the storage and use of such clothing and possessions;

11. Every resident shall have the right to receive courteous and respectful care and treatment and a written statement of the services provided by the facility, including those required to be offered on an as-needed basis, and a statement of related charges, including any costs for services not covered under Medicare or Medicaid, or not covered by the facility's basic per diem rate;

12. Every resident shall be free from mental and physical abuse and neglect, as such terms are defined in Section 10-103 of Title 43A of the Oklahoma Statutes, corporal punishment, involuntary seclusion, and from any physical and chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident's medical symptoms, except those restraints authorized in writing by a physician for a specified period of time or as are necessitated by an emergency where the restraint may only be applied by a physician, qualified licensed nurse or other personnel under the supervision of the physician who shall set forth in writing the circumstances requiring the use of restraint. Use of a chemical or physical restraint shall require the consultation of a physician within twenty-four (24) hours of such emergency;

13. Every resident shall receive a statement of the facility's regulations and an explanation of the resident's responsibility to obey all reasonable regulations of the facility and to respect the personal rights and private property of the other residents;

14. Every resident shall receive a statement that, should they be adjudicated incompetent and have no ability to be restored to legal capacity, the above rights and responsibilities shall be exercised by a court-appointed representative;

- 15. No resident shall be required to perform services for a facility;
 - 16. Every resident shall have privacy for spousal visits. Every resident may share a room with the resident's spouse, if the spouse is residing in the same facility;
 - 17. When a physician indicates it is appropriate, a facility shall immediately notify the resident's next of kin, or representative of the resident's death or when the resident's death appears to be imminent;
 - 18. Every resident shall have the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility; and
 - 19. Every resident shall have the right to examine, upon reasonable request, the results of the most recent survey of the facility conducted by the State Department of Health with respect to the facility and any plan of correction in effect with respect to the facility.
- C. No licensed facility shall deny appropriate care on the basis of the resident's source of payment as defined in the regulations. Appropriate care shall not include duplication of services by a nursing home, hospice, or any combination of care providers.
- D. Each facility shall prepare a written plan and provide appropriate staff training to implement each resident's rights as stated in this section.
- E. Any person convicted of violating any provisions of this section shall be guilty of a misdemeanor, punishable by a fine of not less than One Hundred Dollars (\$100.00), nor more than Three Hundred Dollars (\$300.00), or imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.
- F. In addition to the penalties provided in this section, an action may be brought against an individual by any resident who is injured by any violation of this section, or who shall suffer injury from any person whose threats would cause a violation of this section if carried through, may maintain an action to prevent, restrain or enjoin a violation or threatened violation. If a violation or threatened violation of this section shall be established in any action, the court shall enjoin and restrain or otherwise prohibit the violation or threatened violation and assess in favor of the plaintiff and against the defendant the cost of the suit. If damages are alleged and proved in the action, the plaintiff shall be entitled to recover from the defendant the actual damages sustained by the plaintiff. If it is proved in an action that the defendant's conduct was willful or in reckless disregard of the rights provided by this section, punitive damages may be assessed.
- G. Any employee of a state agency that inspects any nursing facility or special facility shall report any flagrant violations of this act or any other statute to the administrative head of the state agency, who shall immediately take whatever steps are necessary to correct the situation including, when appropriate, reporting the violation to the district attorney of the county in which the violation occurred.
- H. Upon the death of a resident who has no sources of payment for funeral services, the facility shall immediately notify appropriate county officials who shall be responsible for funeral and burial procedures of the deceased in the same manner as with any indigent resident of the county.

Historical Data

Laws 1980, HB 1853, c. 241, § 18, eff. October 1, 1980; Amended by Laws 1981, HB 1378, c. 182, § 3; Amended by Laws 1982, SB 321, c. 171, § 1; Amended by Laws 1991, HB 1616, c. 127, § 11, emerg. eff. April 29, 1991; Amended by Laws 1992, SB 969, c. 173, § 1, emerg. eff. May 5, 1992; Amended by Laws 1996, SB 1080, c. 231, § 4, emerg. eff. July 1, 1996; Amended by Laws 2001, SB 345, c. 393, § 3, emerg. eff. June 4, 2001 ([superseded document available](#)); Amended by Laws 2002, SB 1657, c. 138, § 1, eff. November 1, 2002 ([superseded document available](#)); Amended by Laws 2003, SB 629, c. 390, § 8, emerg. eff. July 1, 2003 ([superseded document available](#)); Amended by Laws 2018, SB 1228, c. 238, § 1, eff. November 1, 2018 ([superseded document available](#)).

Citationizer® Summary of Documents Citing This Document

<i>Cite Name</i>	<i>Level</i>
Oklahoma Attorney General's Opinions	
<i>Cite</i>	<i>Name</i> <i>Level</i>
2017 OK AG 5,	Question Submitted by: Secretary Terry Cline, Ph.D., Secretary of Health and Human Services <i>Discussed</i>

Cite Name	Level	
Oklahoma Court of Criminal Appeals Cases		
<i>Cite</i>	<i>Name</i>	<i>Level</i>
<u>2001 OK CR 27, 33 P.3d 930, 72 OBJ 2954,</u>	<u>STATE v. THOMASON</u>	<i>Cited</i>
Oklahoma Court of Civil Appeals Cases		
<i>Cite</i>	<i>Name</i>	<i>Level</i>
<u>2005 OK CIV APP 54, 118 P.3d 772,</u>	<u>TILLERY v. TULSA CHRISTIAN CARE CENTER, INC.</u>	<i>Discussed at Length</i>
Oklahoma Supreme Court Cases		
<i>Cite</i>	<i>Name</i>	<i>Level</i>
<u>2001 OK 72, 41 P.3d 960, 72 OBJ 2708,</u>	<u>STATE ex rel. DEPT. OF TRANSPORTATION v. NORMAN INDUSTRIAL DEVELOPMENT CORP.</u>	<i>Cited</i>
<u>2004 OK 7, 85 P.3d 841,</u>	<u>FANNING v. BROWN</u>	<i>Cited</i>
<u>2004 OK 36, 92 P.3d 88,</u>	<u>ESTATE OF HICKS v. URBAN EAST, INC.</u>	<i>Cited</i>
<u>2006 OK 90, 155 P.3d 16,</u>	<u>BRUNER v. TIMBERLANE MANOR LIMITED PARTNERSHIP</u>	<i>Cited</i>
<u>2014 OK 80, 336 P.3d 468,</u>	<u>BOLER v. SECURITY HEALTH CARE, L.L.C.</u>	<i>Cited</i>
Oklahoma Session Laws - 2002		
<i>Cite</i>	<i>Name</i>	<i>Level</i>
<u>2002 O.S.L. 138, 2002 O.S.L. 138,</u>	<u>Public health and safety; relating to nursing homes; expanding resident's rights and responsibilities. Effective date.</u>	<i>Discussed</i>

Citationizer: Table of Authority

Cite Name	Level	
Title 63. Public Health and Safety		
<i>Cite</i>	<i>Name</i>	<i>Level</i>
<u>63 O.S. 1-1918,</u>	<u>Rights and Responsibilities</u>	<i>Cited</i>
<u>63 O.S. 1-1918,</u>	<u>Rights and Responsibilities</u>	<i>Cited</i>



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1918B - Assessing, Documenting, and Treating Pain - Nursing Home Residents

Cite as: O.S. §, ___ __

A. It is the intent of the Legislature that pain experienced by nursing home residents be assessed and treated promptly, effectively, and for as long as pain persists.

B. On and after July 1, 2005, every nursing facility licensed pursuant to the Nursing Home Care Act shall, as a condition of licensure, include pain as an item to be assessed at the same time as vital signs are taken. The nursing facility shall ensure that pain assessment is performed in a consistent manner that is appropriate to the patient. The pain assessment shall be noted in the patient's chart in a manner consistent with other vital signs.

C. The State Board of Health shall promulgate rules, pursuant to recommendations issued by the State Advisory Council on Pain Management, for assessing and documenting pain.

Historical Data

Laws 2004, HB 2305, c. 388, § 2, emerg. eff. June 3, 2004.

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Cite **Name Level**

None Found.

Citationizer: Table of Authority

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1918.1 - Purpose of Section - Use of Bubble Pack Units - Study - Promulgation of Rules - Report of Findings -

Terms Defined

Cite as: O.S. §, __ __

A. The purpose of this section is to reduce expensive and unnecessary wastage of excess drugs dispensed to residents of nursing homes. In order to determine if the use of bubble pack units and the return and reissuance of unadulterated drugs is cost-effective and administratively efficient there is hereby established a pilot program for dispensing and returning anti-ulcer and antiarthritics in bubble pack units. The pilot program shall terminate January 1, 1998.

B. For the purpose of this study, upon filling a prescription for residents of nursing facilities, a pharmacist shall dispense anti-ulcer and antiarthritics in bubble pack units when available.

C. Any prescription for anti-ulcer and antiarthritics dispensed by a pharmacist in bubble pack units for a resident of a nursing home that is unused and is unadulterated may be returned for credit to the issuing pharmacy. Such medication may be dispensed by the pharmacist to other nursing home patients. The Oklahoma Health Care Authority in concert with the State Board of Pharmacy shall promulgate permanent rules that will provide for the implementation of this subsection. The permanent rules shall be promulgated by the Board pursuant to the provisions of the Administrative Procedures Act.

D. The Oklahoma State Board of Health in concert with the State Board of Pharmacy shall promulgate rules to ensure the integrity of the collection of unadulterated anti-ulcer and antiarthritics within nursing facilities. The rules shall provide for a drug manifest form that shall accompany each shipment of unadulterated anti-ulcer and antiarthritics in bubble pack units from the nursing facility to the dispensing pharmacy.

E. The State Board of Health shall report the findings of the pilot program to the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Governor by April 1, 1998.

F. For purposes of this section:

1. "Bubble pack units" means a sealed unit of use container packaged by a pharmacy or pharmaceutical manufacturer that bears the name of the drug, expiration date, and the name of the pharmacy dispensing the drug;
2. "Nursing facility" means a facility as defined by Section 1-1902 of Title 63 of the Oklahoma Statutes;
3. "Unadulterated" means medications that are properly stored, labeled and not past the expiration date; and
4. "Antiarthritics" means legend nonsteroidal anti-inflammatory drugs.

Historical Data

Laws 1995, HB 1130, c. 299, § 1, eff. September 1, 1995.

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1919 - Person Authorized to Have Access to Facilities - Violations - Exemptions

Cite as: O.S. §, ___

A. Any employee or agent of a public agency or any representative of a community legal services program or any member of a nonprofit community supported agency which provides health or social services to the elderly, or any member of a church group, association of older persons or community service club which provides volunteers for service to nursing home residents shall be permitted access at reasonable hours, which shall be 10:00 a.m. to 8:00 p.m., to any individual resident of any facility, if the purpose of such agency, program or organization includes rendering assistance to residents without charge, but only if there is neither a commercial purpose nor affect to such access and if the purpose is to do any of the following:

1. Visit, talk with and make personal, social and legal services available to all residents;
2. Inform residents of their rights and entitlements and their corresponding obligations, under federal and state laws, by means of educational materials and discussions in groups and with individual residents;
3. Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance and Social Security benefits, as well as in all other matters in which residents are aggrieved. Assistance may include counseling and litigation; or
4. Engage in other methods of asserting, advising and representing residents so as to extend to them full enjoyment of their rights.

B. All persons entering a facility under this section shall promptly notify appropriate facility personnel of their presence. They shall, upon request, produce identification to establish their identity. No such person shall enter the immediate living area of any resident without first identifying himself and then receiving permission from the resident to enter. The rights of other residents present in the room shall be respected. A resident may terminate at any time a visit by a person having access to the resident's living area under this section.

C. This section shall not limit the power of the Department or other public agency otherwise permitted or required by law to enter and inspect a facility.

D. Notwithstanding subsection A of this section, the administrator of a facility may refuse access to the facility to any person if the presence of that person in the facility would be injurious to the health and safety of a resident or would threaten the security of the property of a resident or the facility, or if the person seeks access to the facility for commercial purposes. Any person refused access to a facility may within ten (10) days request a hearing. In that proceeding, the burden of proof as to the right of the facility to refuse access under this section shall be on the facility.

E. This section shall not apply to any inspection team of the Department or any other agency.

Historical Data

Laws 1980, HB 1853, c. 241, § 19, eff. October 1, 1980.

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Cite **Name Level**

None Found.

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1919.1 - Reasonable Access - Visitation

Cite as: 63 O.S. § 1-1919.1 (OSCN 2024)

A. Except as provided by [Section 10-111 of Title 43A](#) of the Oklahoma Statutes, every long-term care facility, as defined in [Section 1-1945 of Title 63](#) of the Oklahoma Statutes, must provide reasonable access to a resident by immediate family, compassionate caregivers, other relatives of the resident, essential support persons, and the Oklahoma Long-Term Care Ombudsman subject to the resident's or, if they are incapacitated, their legally appointed representative's right to deny or withdraw consent at any time.

Compassionate caregivers may be family members, friends, volunteers, or other individuals identified by a resident, the resident's family, or facility staff, who assist residents with activities of daily living, such as bathing, dressing, and eating, or who provide emotional, mental, or spiritual support to residents.

B. Every long-term care facility must provide reasonable access to a resident by health care providers who are contracted with the facility to provide such care, subject to the resident's right to deny or withdraw consent at any time.

C. Long-term care facilities shall include and submit to the State Department of Health in their emergency-preparedness plan procedures for visitation during an emergency. The visitation plan shall be made available by the facility to contracted health care providers, family members, essential support persons, and compassionate caregivers upon request. Visitation and access described in subsections A and B of this section may be subject to reasonable clinical and safety restrictions as ordered by the State Department of Health or the Centers for Medicare and Medicaid Services.

D. No long-term care facility shall unilaterally eliminate visitation for any reason; however, a facility may temporarily suspend visitation for a period not to exceed seventy-two (72) hours based upon the emergency-preparedness plan provided to the State Department of Health.

Historical Data

Laws 2021, HB 2566, c. 252, § 1, emerg. eff. April 27, 2021.

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None Found.

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1920 - Protection of Resident's Funds

Cite as: O.S. §, ___ __

To protect each resident's funds, the facility or home:

1. Shall reserve a portion of each resident's monthly income, in an amount not less than Twenty-five Dollars (\$25.00), as a personal needs allowance for use by the resident, or for use on behalf of the resident by his guardian, or other representative designated by the resident;
2. Shall at the time of admission, provide each resident, or his representative, with a written statement explaining the resident's rights regarding personal funds and listing the services for which the resident will be charged, and obtain a signed acknowledgment from each resident or his representative that he has received the statement;
3. May accept funds from a resident for safekeeping and managing, if the facility or home receives written authorization from the resident or his guardian; such authorization shall be attested to by a witness who has no pecuniary interest in the facility or home or its operations, and who is not connected in any way to facility or home personnel or the administrator in any manner whatsoever;
4. Shall maintain and allow each resident and responsible party access to a written record of all financial arrangements and transactions involving the individual resident's funds;
5. Shall provide each resident, or his representative with a written itemized statement on request, of all financial transactions involving the resident's funds;
6. Shall keep any funds received from a resident for safekeeping in an account separate from the facility's or home's funds and shall maintain such funds as required by the Department of Human Services and federal regulations;
7. Shall return to the resident, upon written request by the resident or his guardian, if court-appointed, all or any part of the resident's funds given the facility or home for safekeeping, including the interest accrued from deposits;
8. Shall place any monthly allowance to which a resident is entitled in that resident's personal account, or give it to the resident, unless the facility or home has written authorization from the resident or the resident's guardian or if the resident is a minor, his parent, to handle it differently;
9. Unless otherwise provided by state law, upon the death of a resident, shall provide the administrator or executor of the resident's estate with a complete accounting of all the resident's personal property, including any funds of the resident being held by the facility or home; and
10. If the facility or home is sold, shall provide the buyer with a written verification by a public accountant of all residents' monies and properties being transferred, and obtain a signed receipt from the new owner.

Historical Data

Laws 1980, HB 1853, c. 241, § 18, eff. October 1, 1980; Amended by Laws 1984, HB 1898, c. 128, § 4, eff. November 1, 1984; Amended by Laws 1985, HB 1426, c. 135, § 8, emerg. eff. June 7, 1985.

Citationizer[®] Summary of Documents Citing This Document

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None Found.

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1921 - Contracts - Provisions and Procedures

Cite as: O.S. §, ___ __

A. A written contract shall be executed between a person or his guardian or responsible party or if the resident is a minor, his parent, and a facility or its agent within one hundred twenty (120) days from the time a person is admitted to a facility, or at the expiration of the period of previous contract, or when the source of payment for the resident's care changes from private to public funds or from public to private funds; if a person is a resident of a facility on the effective date of this act and no legally enforceable contract exists, then a contract as described in this section shall be executed within sixty (60) days after the effective date of this act. If the facility receives or is to receive payment by the state or federal government, an individual contract with the nursing home is not required.

A resident shall not be discharged or transferred at the expiration of the term of a contract, except as provided in Sections 1-1926 through 1-1937 of this title.

B. The contract shall be executed between the resident or the resident's guardian or, if the resident is a minor, his parent or guardian and the licensee.

C. A copy of the contract shall be given to the resident or to the resident's representative at the time of the resident's admission to the facility.

D. A copy of the contract for a resident who is supported by nonpublic funds other than the resident's own funds shall be made available to the person providing the funds for the resident's support.

E. The contract shall be written in clear and unambiguous language and shall be printed in type no smaller than standard typewriter pica or elite type. The general form of the contract shall be prescribed by the Department.

F. The contract shall specify:

1. The term of the contract;
2. The services to be provided under the contract and the charges for the services;
3. The services that may be provided to supplement the contract and the charges for the services;
4. The sources liable for payments due under the contract;
5. The amount of deposit paid; and
6. The rights, duties and obligations of the resident, except that the specification of a resident's rights may be furnished on a separate document which complies with the requirements of Section 1-1918 of this title.

G. The contract shall designate the name of the resident's representative, if any.

H. The contract shall provide that if the resident dies or is compelled by a change in physical or mental health to leave the facility, the contract and all obligations under it shall terminate immediately. All charges shall be prorated as of the date on which the contract terminates, and, if any payments have been made in advance, the excess shall be refunded to the resident. This provision shall not apply to life-care contracts through which a facility agrees to provide maintenance and care for a resident throughout the remainder of his life or to continuing-care contract through which a facility agrees to supplement all available forms of financial support in providing maintenance and care for a resident throughout the remainder of his life.

Historical Data

Laws 1980, HB 1853, c. 241, § 21, eff. October 1, 1980; Amended by Laws 1981, HB 1378, c. 182, § 5.

Citationizer[®] Summary of Documents Citing This Document

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Oklahoma Court of Civil Appeals Cases		
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<u>2009 OK CIV APP 41, 210 P.3d 877,</u>	<u>WHITAKER v. HILL NURSING HOME, INC.</u>	Cited
Oklahoma Supreme Court Cases		
<i>Cite</i>	<i>Name</i>	<i>Level</i>
<u>2006 OK 90, 155 P.3d 16,</u>	<u>BRUNER v. TIMBERLANE MANOR LIMITED PARTNERSHIP</u>	Cited

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1922 - Residents' Advisory Council

Cite as: O.S. §, ___ __

A. Each facility shall establish a residents' advisory council. The administrator shall designate a member of the facility staff to coordinate the establishment of, and render assistance to, said council.

B. The composition of the residents' advisory council shall be specified by Department regulation, but no employee or affiliate of a facility shall be a member of any such council.

C. The residents' advisory council shall meet at least once each month with the staff coordinator who shall provide assistance to said council in preparing and disseminating a report of each meeting as specified by the regulations to all residents, the administrator, and the staff.

D. Records of the residents' advisory council meetings shall be maintained in the office of the administrator.

E. The residents' advisory council shall communicate to the administrator the opinions and concerns of the residents. The council shall review procedures for implementing residents' rights, facility responsibilities and make recommendations for changes or additions which will strengthen the facility's policies and procedures as they affect residents' rights and facility responsibilities.

F. The residents' advisory council shall be forum for:

1. Obtaining and disseminating information;
2. Soliciting and adopting recommendations for facility programming and improvements; and
3. Early identification and recommendation of orderly resolution of problems.

G. The residents' advisory council may present complaints as provided in Section 1-1924 [63-1-1924] of this title on behalf of a resident to the Department.

Historical Data

Laws 1980, HB 1853, c. 241, § 22, eff. October 1, 1980; Amended by Laws 1981, HB 1378, c. 182, § 6.

Citationizer[®] Summary of Documents Citing This Document

Cite **Name Level**

None Found.

Citationizer: Table of Authority

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1923 - Long-Term Care Facility Advisory Board

Cite as: 63 O.S. § 1-1923 (OSCN 2024)

A. There is hereby re-created, to continue until July 1, 2025, in accordance with the provisions of the Oklahoma Sunset Law, a Long-Term Care Facility Advisory Council which shall be composed as follows:

1. The Governor shall appoint a thirteen-member Long-Term Care Facility Advisory Council which shall advise the State Commissioner of Health. The Advisory Council shall be comprised of the following persons:

- a. one representative from the Oklahoma Health Care Authority, designated by the Administrator,
- b. one representative from the Department of Mental Health and Substance Abuse Services, designated by the Commissioner of Mental Health and Substance Abuse Services,
- c. one representative from the Department of Human Services, designated by the Director of Human Services,
- d. one member who shall be a licensed general practitioner of the medical or osteopathic profession,
- e. one member who shall be a registered pharmacist,
- f. one member who shall be a licensed registered nurse or licensed practical nurse,
- g. one member who shall be an operator-administrator of a nursing home which has a current license issued pursuant to the Nursing Home Care Act and who shall have had five (5) years' experience in the nursing home profession as an operator-administrator,
- h. one member who shall be an operator-administrator of a residential care home licensed pursuant to the provisions of the Residential Care Act,
- i. one member who shall be an owner-operator of an adult day care facility licensed pursuant to the provisions of the Adult Day Care Act,
- j. one member who shall be an owner-operator of a continuum of care facility or assisted living center licensed pursuant to the provisions of the Continuum of Care and Assisted Living Act,
- k. two members who shall be over the age of sixty-five (65) who shall represent the general public and have no long-term care professional work history, and
- l. one member who shall be over the age of sixty-five (65) who shall represent the general public and who advocates for individuals receiving long-term care services; and

2. Appointments shall be for two-year terms. Members shall serve at the pleasure of their designators. Members may be reappointed not to exceed two terms. In case of a vacancy, the Governor shall appoint individuals to fill the remainder of the term.

B. The State Department of Health shall provide administrative support to perform designated duties of the Advisory Council. The Department shall also provide space for meetings of the Advisory Council.

C. The Advisory Council shall annually elect a chair, vice-chair and secretary-treasurer, shall meet at least quarterly, and may hold such special meetings as may be necessary. The members of the Advisory Council shall be reimbursed as provided for by the State Travel Reimbursement Act.

D. The Advisory Council shall have the power and duty to:

1. Serve as an advisory body to the Department for the development and improvement of services to and care and treatment of residents of facilities subject to the provisions of the Nursing Home Care Act, homes subject to the provisions of the Residential Care Act and facilities subject to the provisions of the Adult Day Care Act;
2. Review and make recommendations regarding quality of services, care, and treatment provided to individuals receiving services from entities that are subject to the Nursing Home Care Act, the Residential Care Act and the Adult Day Care Act; and
3. Evaluate and review the standards, practices, and procedures regarding the administration and enforcement of the provisions of the Nursing Home Care Act, the Residential Care Act and the Adult Day Care Act.

Historical Data

Laws 1980, HB 1853, c. 241, § 23, eff. October 1, 1980; Amended by Laws 1984, HB 1898, c. 128, § 5, eff. November 1, 1984; Amended by Laws 1986, HB 1853, c. 16, § 1, emerg. eff. July 1, 1986; Amended by Laws 1987, HB 1092, c. 98, § 27, emerg. eff. May 20, 1987; Amended by Laws 1989, SB 88, c. 192, § 10, eff. November 1, 1989; Amended by Laws 1989, HB 178, c. 345, § 3, eff. October 1, 1989; Amended by Laws 1990, SB 866, c. 51, § 127, emerg. eff. April 9, 1990; Amended by Laws 1992, SB 631, c. 109, § 1, emerg. eff. April 20, 1992; Amended by Laws 1995, HB 1293, c. 230, § 17, emerg. eff. July 1, 1995; Amended by Laws 1998, HB 2225, c. 42, § 1, eff. April 2, 1998 ([superseded document available](#)); Amended by Laws 2001, SB 385, c. 17, § 1, emerg. eff. July 1, 2001 ([superseded document available](#)); Amended by Laws 2004, HB 2093, c. 25, § 1 ([superseded document available](#)); Amended by Laws 2010, HB 2285, c. 29, § 1 ([superseded document available](#)); Amended by Laws 2014, HB 3195, c. 60, § 1 ([superseded document available](#)); Amended by Laws 2020, HB 2823, c. 116, § 18, emerg. eff. July 1, 2020 ([superseded document available](#)); Amended by Laws 2023, SB 571, c. 197, § 1, eff. November 1, 2023 ([superseded document available](#)).

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63 O.S. 1-1923	Long-Term Care Facility Advisory Board Cited
63 O.S. 1-1923	Long-Term Care Facility Advisory Board Cited
63 O.S. 1-1923	Long-Term Care Facility Advisory Board Cited
63 O.S. 1-1923	Long-Term Care Facility Advisory Board Cited
63 O.S. 1-1923	Long-Term Care Facility Advisory Board Cited
63 O.S. 1-1923	Long-Term Care Facility Advisory Board Cited



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1923.1 - Establishment of Residents and Family State Council and Toll Free 24 Hour Hotline

Cite as: O.S. §, ___ __

The State Department of Health shall:

1. Establish a Residents and Family State Council which shall be composed of fifteen (15) members who are, or who have been within the last twelve (12) months, residents, family members, resident volunteer representatives or guardians of residents of nursing facilities licensed pursuant to the Nursing Home Care Act, but shall not include persons representing residents in facilities for the developmentally disabled. The Council shall annually elect a chair and vice-chair, and shall meet at least quarterly. Meetings shall be conducted in the various areas of the state with at least one meeting in each of the four quadrants of the state to allow for participation by family members and residents where possible. The members of the Council shall be reimbursed pursuant to the State Travel Reimbursement Act. The Council may present recommendations to the Long-Term Care Facility Advisory Board created in Section 1-1923 of this title and shall have the power and duty to advise the State Department of Health concerning the development and improvement of services to and care and treatment of residents of facilities subject to the provisions of the Nursing Home Care Act and make recommendations to the Department as necessary and appropriate. The members shall serve at the pleasure of the State Commissioner of Health; and
2. Establish a toll free, twenty-four-hour hotline for filing of complaints against facilities licensed pursuant to the provisions of the Nursing Home Care Act.

Historical Data

Laws 1995, HB 1293, c. 230, § 18, emerg. eff. July 1, 1995; Amended by Laws 2013, HB 1467, c. 229, § 52, eff. November 1, 2013 ([superseded document available](#)).

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1924 - Information Which May be Disclosed by Department

Cite as: O.S. §, ___

The following information is subject to disclosure to the public from the Department:

1. Information submitted under Section 40 of this act except information concerning the remuneration of personnel licensed, registered or certified by the Department and monthly charges for an individual private resident;
2. Records of license and certification inspections, surveys and evaluations of facilities, other reports of inspections, surveys and evaluations of resident care, and reports concerning a facility prepared pursuant to Titles XVIII and XIX of the Social Security Act, subject to the provisions of the Social Security Act; and
3. Complaints filed against a facility and complaint investigation reports, except that a complaint or complaint investigation report shall not be disclosed to a person other than the complainant or complainant's representative before it is disclosed to a facility as provided in Section 40 of this act and, further, except that a complainant or resident's name shall not be disclosed except as provided in Section 40 of this act.

Historical Data

Laws 1980, HB 1853, c. 241, § 24, eff. October 1, 1980.

Citationizer[®] Summary of Documents Citing This Document

Cite **Name Level**

None Found.

Citationizer: Table of Authority

Cite **Name Level**

None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1924.1 - Nursing Home Personnel to Notify Clergy of Patient's Faith if Death Impending

Cite as: O.S. §, ___ __

A. Nursing home personnel shall notify clergy of the faith of a patient, upon the impending death of the patient, when practicable.

B. The State Department of Health shall not use the provisions of subsection A of this section for any purpose relating to inspections or investigations.

Historical Data

Laws 2008, HB 1903, c. 281, § 1, eff. November 1, 2008.

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Cite **Name Level**

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1925 - Minimum Standards for Facilities

Cite as: O.S. §, ___ __

The State Department of Health shall prescribe minimum standards for facilities. These standards shall regulate:

1. Location and construction of the facility, including plumbing, heating, lighting, ventilation, and other physical conditions which shall ensure the health, safety and comfort of residents and protection from fire hazards;
2. Number and qualifications of all personnel, including management and nursing personnel, having responsibility for any part of the care given to residents; specifically, the Department shall establish staffing ratios for facilities which shall specify the number of staff hours per resident of care that are needed for professional nursing care for various types of facilities or areas within facilities;
3. All sanitary conditions within the facility and its surroundings, including water supply, sewage disposal, food handling, and general hygiene, which shall ensure the health and comfort of residents;
4. Diet related to the needs of each resident based on sound nutritional practice and on recommendations which may be made by the physicians attending the resident;
5. Equipment essential to the health and welfare of the residents;
6. Minimum levels of supplies including, but not limited to, food and other perishables;
7. Minimum financial solvency standards to ensure the operation of facilities; and
8. A program of rehabilitation for those residents who would benefit from such programs.

Historical Data

Laws 1980, HB 1853, c. 241, § 25, eff. October 1, 1980; Amended by Laws 2002, HB 2604, c. 230, § 9, eff. November 1, 2002 ([superseded document available](#)).

Citationizer[®] Summary of Documents Citing This Document

Cite Name	Level
Oklahoma Supreme Court Cases	
Cite	Name
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	Discussed
Oklahoma Session Laws - 2002	
Cite	Name
2002 O.S.L. 230, 2002 O.S.L. 230.	Public health; relating to the Nursing Home Care Act; modifying licensing requirements; modifying Board of Health membership; modifying employment requirements for nurse aides. Effective date.
	Cited

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Minimum Standards for Facilities

Cited



Title 63. Public Health and Safety

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Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1925.1 - Establishment of Rules and Regulations with Animals in Long-term Health Care Facilities

Cite as: O.S. §, ___ __

The State Board of Health shall establish rules and regulations allowing the use of visiting or residential animals in selected long-term health care facilities in this state. Long-term health care facilities which want animals shall be required to apply to the State Department of Health for approval for residential animals. Such rules and regulations shall be established giving consideration to disease prevention, sanitation, prevention of injury to patients and animals, and other concerns deemed appropriate by the Board.

Historical Data

Laws 1984, SB 333, c. 52, § 1, eff. November 1, 1984.

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1925.2 - Recalculation and Reimbursement from the Nursing Facility Quality Care Fund - Report

Cite as: 63 O.S. § 1-1925.2 (OSCN 2024)

A. The Oklahoma Health Care Authority shall fully recalculate and reimburse nursing facilities and Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID) from the Nursing Facility Quality of Care Fund beginning October 1, 2000, the average actual, audited costs reflected in previously submitted cost reports for the cost-reporting period that began July 1, 1998, and ended June 30, 1999, inflated by the federally published inflationary factors for the two (2) years appropriate to reflect present-day costs at the midpoint of the July 1, 2000, through June 30, 2001, rate year.

1. The recalculations provided for in this subsection shall be consistent for both nursing facilities and Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID).

2. The recalculated reimbursement rate shall be implemented September 1, 2000.

B. 1. From September 1, 2000, through August 31, 2001, all nursing facilities subject to the Nursing Home Care Act, in addition to other state and federal requirements related to the staffing of nursing facilities, shall maintain the following minimum direct-care-staff-to-resident ratios:

- a. from 7:00 a.m. to 3:00 p.m., one direct-care staff to every eight residents, or major fraction thereof,
- b. from 3:00 p.m. to 11:00 p.m., one direct-care staff to every twelve residents, or major fraction thereof, and
- c. from 11:00 p.m. to 7:00 a.m., one direct-care staff to every seventeen residents, or major fraction thereof.

2. From September 1, 2001, through August 31, 2003, nursing facilities subject to the Nursing Home Care Act and Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID) with seventeen or more beds shall maintain, in addition to other state and federal requirements related to the staffing of nursing facilities, the following minimum direct-care-staff-to-resident ratios:

- a. from 7:00 a.m. to 3:00 p.m., one direct-care staff to every seven residents, or major fraction thereof,
- b. from 3:00 p.m. to 11:00 p.m., one direct-care staff to every ten residents, or major fraction thereof, and
- c. from 11:00 p.m. to 7:00 a.m., one direct-care staff to every seventeen residents, or major fraction thereof.

3. On and after October 1, 2019, nursing facilities subject to the Nursing Home Care Act and Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID) with seventeen or more beds shall maintain, in addition to other state and federal requirements related to the staffing of nursing facilities, the following minimum direct-care-staff-to-resident ratios:

- a. from 7:00 a.m. to 3:00 p.m., one direct-care staff to every six residents, or major fraction thereof,
- b. from 3:00 p.m. to 11:00 p.m., one direct-care staff to every eight residents, or major fraction thereof, and
- c. from 11:00 p.m. to 7:00 a.m., one direct-care staff to every fifteen residents, or major fraction thereof.

4. Effective immediately, facilities shall have the option of varying the starting times for the eight-hour shifts by one (1) hour before or one (1) hour after the times designated in this section without overlapping shifts.

5. a. On and after January 1, 2020, a facility may implement twenty-four-hour-based staff scheduling; provided, however, such facility shall continue to maintain a direct-care service rate of at least two and nine tenths (2.9) hours of direct-care service per resident per day, the same to be calculated based on average direct care staff maintained over a twenty-four-hour period.

b. At no time shall direct-care staffing ratios in a facility with twenty-four-hour-based staff-scheduling privileges fall below one direct-care staff to every fifteen residents or major fraction thereof, and at least two direct-care staff shall be on duty and awake at all times.

c. As used in this paragraph, "twenty-four-hour-based-scheduling" means maintaining:

(1) a direct-care-staff-to-resident ratio based on overall hours of direct-care service per resident per day rate of not less than two and ninety one-hundredths (2.90) hours per day,

(2) a direct-care-staff-to-resident ratio of at least one direct-care staff person on duty to every fifteen residents or major fraction thereof at all times, and

(3) at least two direct-care staff persons on duty and awake at all times.

6. a. On and after January 1, 2004, the State Department of Health shall require a facility to maintain the shift-based, staff-to-resident ratios provided in paragraph 3 of this subsection if the facility has been determined by the Department to be deficient with regard to:

(1) the provisions of paragraph 3 of this subsection,

(2) fraudulent reporting of staffing on the Quality of Care Report, or

(3) a complaint or survey investigation that has determined substandard quality of care as a result of insufficient staffing.

b. The Department shall require a facility described in subparagraph a of this paragraph to achieve and maintain the shift-based, staff-to-resident ratios provided in paragraph 3 of this subsection for a minimum of three (3) months before being considered eligible to implement twenty-four-hour-based staff scheduling as defined in subparagraph c of paragraph 5 of this subsection.

c. Upon a subsequent determination by the Department that the facility has achieved and maintained for at least three (3) months the shift-based, staff-to-resident ratios described in paragraph 3 of this subsection, and has corrected any deficiency described in subparagraph a of this paragraph, the Department shall notify the facility of its eligibility to implement twenty-four-hour-based staff-scheduling privileges.

7. a. For facilities that utilize twenty-four-hour-based staff-scheduling privileges, the Department shall monitor and evaluate facility compliance with the twenty-four-hour-based staff-scheduling staffing provisions of paragraph 5 of this subsection through reviews of monthly staffing reports, results of complaint investigations and inspections.

b. If the Department identifies any quality-of-care problems related to insufficient staffing in such facility, the Department shall issue a directed plan of correction to the facility found to be out of compliance with the provisions of this subsection.

c. In a directed plan of correction, the Department shall require a facility described in subparagraph b of this paragraph to maintain shift-based, staff-to-resident ratios for the following periods of time:

(1) the first determination shall require that shift-based, staff-to-resident ratios be maintained until full compliance is achieved,

(2) the second determination within a two-year period shall require that shift-based, staff-to-resident ratios be maintained for a minimum period of twelve (12) months, and

(3) the third determination within a two-year period shall require that shift-based, staff-to-resident ratios be maintained. The facility may apply for permission to use twenty-four-hour staffing methodology after two (2) years.

C. Effective September 1, 2002, facilities shall post the names and titles of direct-care staff on duty each day in a conspicuous place, including the name and title of the supervising nurse.

D. The State Commissioner of Health shall promulgate rules prescribing staffing requirements for Intermediate Care Facilities for Individuals with Intellectual Disabilities serving six or fewer clients (ICFs/IID-6) and for Intermediate Care Facilities for Individuals with Intellectual Disabilities serving sixteen or fewer clients (ICFs/IID-16).

E. Facilities shall have the right to appeal and to the informal dispute resolution process with regard to penalties and sanctions imposed due to staffing noncompliance.

F. 1. When the state Medicaid program reimbursement rate reflects the sum of Ninety-four Dollars and eleven cents (\$94.11), plus the increases in actual audited costs over and above the actual audited costs reflected in the cost reports submitted for the most current cost-reporting period and the costs estimated by the Oklahoma Health Care Authority to increase the direct-care, flexible staff-scheduling staffing level from two and eighty-six one-hundredths (2.86) hours per day per occupied bed to three and two-tenths (3.2) hours per day per occupied bed, all nursing facilities subject to the provisions of the Nursing Home Care Act and Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID) with seventeen or more beds, in addition to other state and federal requirements related to the staffing of nursing facilities, shall maintain direct-care, flexible staff-scheduling staffing levels based on an overall three and two-tenths (3.2) hours per day per occupied bed.

2. When the state Medicaid program reimbursement rate reflects the sum of Ninety-four Dollars and eleven cents (\$94.11), plus the increases in actual audited costs over and above the actual audited costs reflected in the cost reports submitted for the most current cost-reporting period and the costs estimated by the Oklahoma Health Care Authority to increase the direct-care flexible staff-scheduling staffing level from three and two-tenths (3.2) hours per day per occupied bed to three and eight-tenths (3.8) hours per day per occupied bed, all nursing facilities subject to the provisions of the Nursing Home Care Act and Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID) with seventeen or more beds, in addition to other state and federal requirements related to the staffing of nursing facilities, shall maintain direct-care, flexible staff-scheduling staffing levels based on an overall three and eight-tenths (3.8) hours per day per occupied bed.

3. When the state Medicaid program reimbursement rate reflects the sum of Ninety-four Dollars and eleven cents (\$94.11), plus the increases in actual audited costs over and above the actual audited costs reflected in the cost reports submitted for the most current cost-reporting period and the costs estimated by the Oklahoma Health Care Authority to increase the direct-care, flexible staff-scheduling staffing level from three and eight-tenths (3.8) hours per day per occupied bed to four and one-tenth (4.1) hours per day per occupied bed, all nursing facilities subject to the provisions of the Nursing Home Care Act and Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID) with seventeen or more beds, in addition to other state and federal requirements related to the staffing of nursing facilities, shall maintain direct-care, flexible staff-scheduling staffing levels based on an overall four and one-tenth (4.1) hours per day per occupied bed.

4. The Commissioner shall promulgate rules for shift-based, staff-to-resident ratios for noncompliant facilities denoting the incremental increases reflected in direct-care, flexible staff-scheduling staffing levels.

5. In the event that the state Medicaid program reimbursement rate for facilities subject to the Nursing Home Care Act, and Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID) having seventeen or more beds is reduced below actual audited costs, the requirements for staffing ratio levels shall be adjusted to the appropriate levels provided in paragraphs 1 through 4 of this subsection.

G. For purposes of this subsection:

1. "Direct-care staff" means any nursing or therapy staff who provides direct, hands-on care to residents in a nursing facility;
2. Prior to September 1, 2003, activity and social services staff who are not providing direct, hands-on care to residents may be included in the direct-care-staff-to-resident ratio in any shift. On and after September 1, 2003, such persons shall not be included in the direct-care-staff-to-resident ratio, regardless of their licensure or certification status; and
3. The administrator shall not be counted in the direct-care-staff-to-resident ratio regardless of the administrator's licensure or certification status.

H. 1. The Oklahoma Health Care Authority shall require all nursing facilities subject to the provisions of the Nursing Home Care Act and Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID) with seventeen or more beds to submit a monthly report on staffing ratios on a form that the Authority shall develop.

2. The report shall document the extent to which such facilities are meeting or are failing to meet the minimum direct-care-staff-to-resident ratios specified by this section. Such report shall be available to the public upon request.

3. The Authority may assess administrative penalties for the failure of any facility to submit the report as required by the Authority. Provided, however:

- a. administrative penalties shall not accrue until the Authority notifies the facility in writing that the report was not timely submitted as required, and
- b. a minimum of a one-day penalty shall be assessed in all instances.
- 4. Administrative penalties shall not be assessed for computational errors made in preparing the report.
- 5. Monies collected from administrative penalties shall be deposited in the Nursing Facility Quality of Care Fund and utilized for the purposes specified in the Oklahoma Healthcare Initiative Act.

1. All entities regulated by this state that provide long-term care services shall utilize a single assessment tool to determine client services needs. The tool shall be developed by the Oklahoma Health Care Authority in consultation with the State Department of Health.

a. The Oklahoma Nursing Facility Funding Advisory Committee is hereby created and shall consist of the following:

- (1) four members selected by the Oklahoma Association of Health Care Providers,
- (2) three members selected by the Oklahoma Association of Homes and Services for the Aging, and
- (3) two members selected by the State Council on Aging.

The Chair shall be elected by the committee. No state employees may be appointed to serve.

b. The purpose of the advisory committee will be to develop a new methodology for calculating state Medicaid program reimbursements to nursing facilities by implementing facility-specific rates based on expenditures relating to direct care staffing. No nursing home will receive less than the current rate at the time of implementation of facility-specific rates pursuant to this subparagraph.

c. The advisory committee shall be staffed and advised by the Oklahoma Health Care Authority.

d. The new methodology will be submitted for approval to the Board of the Oklahoma Health Care Authority by January 15, 2005, and shall be finalized by July 1, 2005. The new methodology will apply only to new funds that become available for Medicaid nursing facility reimbursement after the methodology of this paragraph has been finalized. Existing funds paid to nursing homes will not be subject to the methodology of this paragraph. The methodology as outlined in this paragraph will only be applied to any new funding for nursing facilities appropriated above and beyond the funding amounts effective on January 15, 2005.

e. The new methodology shall divide the payment into two components:

- (1) direct care which includes allowable costs for registered nurses, licensed practical nurses, certified medication aides and certified nurse aides. The direct care component of the rate shall be a facility-specific rate, directly related to each facility's actual expenditures on direct care, and
- (2) other costs.

f. The Oklahoma Health Care Authority, in calculating the base year prospective direct care rate component, shall use the following criteria:

- (1) to construct an array of facility per diem allowable expenditures on direct care, the Authority shall use the most recent data available. The limit on this array shall be no less than the ninetieth percentile,
- (2) each facility's direct care base-year component of the rate shall be the lesser of the facility's allowable expenditures on direct care or the limit,
- (3) other rate components shall be determined by the Oklahoma Nursing Facility Funding Advisory Committee in accordance with federal regulations and requirements,
- (4) prior to July 1, 2020, the Authority shall seek federal approval to calculate the upper payment limit under the authority of CMS utilizing the Medicare equivalent payment rate, and

(5) if Medicaid payment rates to providers are adjusted, nursing home rates and Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID) rates shall not be adjusted less favorably than the average percentage-rate reduction or increase applicable to the majority of other provider groups.

g. (1) Effective October 1, 2019, if sufficient funding is appropriated for a rate increase, a new average rate for nursing facilities shall be established. The rate shall be equal to the statewide average cost as derived from audited cost reports for SFY 2018, ending June 30, 2018, after adjustment for inflation. After such new average rate has been established, the facility specific reimbursement rate shall be as follows:

(a) amounts up to the existing base rate amount shall continue to be distributed as a part of the base rate in accordance with the existing State Plan, and

(b) to the extent the new rate exceeds the rate effective before the effective date of this act, fifty percent (50%) of the resulting increase on October 1, 2019, shall be allocated toward an increase of the existing base reimbursement rate and distributed accordingly. The remaining fifty percent (50%) of the increase shall be allocated in accordance with the currently approved 70/30 reimbursement rate methodology as outlined in the existing State Plan.

(2) Any subsequent rate increases, as determined based on the provisions set forth in this subparagraph, shall be allocated in accordance with the currently approved 70/30 reimbursement rate methodology. The rate shall not exceed the upper payment limit established by the Medicare rate equivalent established by the federal CMS.

h. Effective October 1, 2019, in coordination with the rate adjustments identified in the preceding section, a portion of the funds shall be utilized as follows:

(1) effective October 1, 2019, the Oklahoma Health Care Authority shall increase the personal needs allowance for residents of nursing homes and Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID) from Fifty Dollars (\$50.00) per month to Seventy-five Dollars (\$75.00) per month per resident. The increase shall be funded by Medicaid nursing home providers, by way of a reduction of eighty-two cents (\$0.82) per day deducted from the base rate. Any additional cost shall be funded by the Nursing Facility Quality of Care Fund, and

(2) effective January 1, 2020, all clinical employees working in a licensed nursing facility shall be required to receive at least four (4) hours annually of Alzheimer's or Dementia training, to be provided and paid for by the facilities.

3. The Department of Human Services shall expand its statewide toll-free, Senior-Info Line for senior citizen services to include assistance with or information on long-term care services in this state.

4. The Oklahoma Health Care Authority shall develop a nursing facility cost-reporting system that reflects the most current costs experienced by nursing and specialized facilities. The Oklahoma Health Care Authority shall utilize the most current cost report data to estimate costs in determining daily per diem rates.

5. The Oklahoma Health Care Authority shall provide access to the detailed Medicaid payment audit adjustments and implement an appeal process for disputed payment audit adjustments to the provider. Additionally, the Oklahoma Health Care Authority shall make sufficient revisions to the nursing facility cost reporting forms and electronic data input system so as to clarify what expenses are allowable and appropriate for inclusion in cost calculations.

J. 1. When the state Medicaid program reimbursement rate reflects the sum of Ninety-four Dollars and eleven cents (\$94.11), plus the increases in actual audited costs, over and above the actual audited costs reflected in the cost reports submitted for the most current cost-reporting period, and the direct-care, flexible staff-scheduling staffing level has been prospectively funded at four and one-tenth (4.1) hours per day per occupied bed, the Authority may apportion funds for the implementation of the provisions of this section.

2. The Authority shall make application to the United States Centers for Medicare and Medicaid Service for a waiver of the uniform requirement on health-care-related taxes as permitted by Section 433.72 of 42 C.F.R.

3. Upon approval of the waiver, the Authority shall develop a program to implement the provisions of the waiver as it relates to all nursing facilities.

Laws 2000, HB 2019, c. 340, § 4, emerg. eff. July 1, 2000; Amended by Laws 2001, HB 1523, c. 331, § 2, emerg. eff. July 1, 2001 (repealed by Laws 2002, HB 2924, c. 22, § 34, emerg. eff. March 8, 2002); Amended by Laws 2001, SB 803, c. 428, § 7, emerg. eff. June 5, 2001([superseded document available](#)); Amended by Laws 2002, HB 2924, c. 22, § 22, emerg. eff. March 8, 2002 ([superseded document available](#)); Amended by Laws 2002, HB 2218, c. 470, § 1, emerg. eff. July 1, 2002 ([superseded document available](#)); Amended by Laws 2004, SB 1622, c. 294, § 1, emerg. eff. May 11, 2004 ([superseded document available](#)); Amended by Laws 2005, SB 642, c. 216, § 1, eff. November 1, 2005 ([superseded document available](#)); Amended by Laws 2019, SB 280, c. 489, § 3, eff. October 1, 2019 ([superseded document available](#)); Amended by Laws 2019, HB 2341, c. 475, § 48, eff. November 1, 2019 (repealed by Laws 2020, SB 1948, c. 161, § 56, emerg. eff. May 21, 2020) ([superseded document available](#)); Amended by Laws 2020, SB 1948, c. 161, § 55, emerg. eff. May 21, 2020 ([superseded document available](#)).

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63 O.S. 1-1925.2	Recalculation and Reimbursement from the Nursing Facility Quality Care Fund - Report Cited
63 O.S. 1-1925.2	Recalculation and Reimbursement from the Nursing Facility Quality Care Fund - Report Cited
63 O.S. 1-1925.2	Recalculation and Reimbursement from the Nursing Facility Quality Care Fund - Report Cited
63 O.S. 1-1925.2	Recalculation and Reimbursement from the Nursing Facility Quality Care Fund - Report Cited
63 O.S. 1-1925.2	Recalculation and Reimbursement from the Nursing Facility Quality Care Fund - Report Cited



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1925.4 - Duty to Prepare Emergency Evacuation Plan - Duty of Facility to Disclose Lack of Written Disaster Plan or Emergency Power Generator

Cite as: O.S. §, ___ __

A. Upon admittance into the facility, nursing facilities and specialized facilities that do not have emergency power generators available or a written disaster plan on file during an emergency situation shall provide a written disclosure to any resident or resident's caregiver stating that the facility does not have either a generator available or a written disaster plan on file during an emergency situation.

B. All nursing facilities, assisted living centers, residential care homes and specialized facilities shall have an emergency evacuation plan in place. Such plan shall be coordinated and on file at the local emergency management agency. Such plan shall also be filed with the State Department of Health.

C. For purposes of this section, "assisted living center" shall have the same meaning as specified in Section 1-890.2 of Title 63 of the Oklahoma Statutes, and "nursing facility", "residential care home" and "specialized facility" shall have the same meaning as specified in Section 1-1902 of Title 63 of the Oklahoma Statutes.

D. The State Board of Health may promulgate rules as necessary to implement the provisions of this section, including, but not limited to, requirements for disclosure and enforcement.

Historical Data

Laws 2012, SB 1401, c. 265, § 1, eff. November 1, 2012.

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1926 - Involuntary Transfer or Discharge of Resident - Grounds

Cite as: O.S. §, ___ __

A facility shall not involuntarily transfer or discharge a resident except for medical reasons, for the resident's safety or for the safety of other residents, or for nonpayment for the resident's stay, unless limited by the Federal Social Security Act.

Historical Data

Laws 1980, HB 1853, c. 241, § 26, eff. October 1, 1980.

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1927 - Notice of Involuntary Transfer or Discharge

Cite as: O.S. §, ___ __

Involuntary transfer or discharge of a resident from a facility shall be preceded by a minimum written notice of ten (10) days. The ten day requirement shall not apply in any of the following instances:

1. When an emergency transfer or discharge is mandated by the resident's health care needs and is in accordance with the written orders and medical justification of the attending physician; or
2. When the transfer or discharge is necessary for the physical safety of other residents as documented in the clinical record.

Historical Data

Laws 1980, HB 1853, c. 241, § 27, eff. October 1, 1980.

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1928 - Rules and Regulations for Transfer of Residents by Facility

Cite as: O.S. §, ___ __

The Department shall develop reasonable rules and regulations that establish appropriate criteria for the transfer of residents initiated by a facility or a residential care home, including notice and hearings if the resident is aggrieved by the decision. The primary purpose and emphasis of the departmental rules and regulations shall be the preservation of the health, welfare, and safety of the residents.

The process of developing these rules and regulations shall include the consideration of advice and comments from the Long-Term Care Facility Advisory Board, representatives of nursing homes, residential care homes, and representatives of statewide organizations for the elderly.

Historical Data

Laws 1980, HB 1853, c. 241, § 28, eff. October 1, 1980; Amended by Laws 1984, HB 1898, c. 128, § 6, eff. November 1, 1984; Amended by Laws 1987, HB 1092, c. 98, § 28, emerg. eff. May 20, 1987.

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1929 - Rules and Regulations for Transfer of Resident by Department

Cite as: O.S. §, ___

The Department shall develop reasonable rules and regulations that establish appropriate criteria for the transfer of residents initiated by the Department in emergency situations, including notice and hearings if the resident is aggrieved by the decision. The primary purpose and emphasis of the departmental rules and regulations shall be the preservation of the health, welfare, and safety of the residents. In addition, the Department of Human Services shall cooperate with the Health Department and the Department of Mental Health and Substance Abuse Services to provide assistance in relocation of residents, to provide casework services, and in other ways to minimize the impact of the transfer on the residents.

In the development of these rules and regulations, the Department shall consider advice and comments from the Long-Term Care Facility Advisory Board, representatives of the nursing home residential care home industries, and representatives of statewide organizations for the elderly.

Historical Data

Laws 1980, HB 1853, c. 241, § 29, eff. October 1, 1980; Amended by Laws 1984, HB 1898, c. 128, § 7, eff. November 1, 1984; Amended by Laws 1987, HB 1092, c. 98, § 29, emerg. eff. May 20, 1987; Amended by Laws 1990, SB 866, c. 51, § 128, emerg. eff. April 9, 1990.

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1930 - Voluntary Closing of Facility - Notice - Alternative Placement of Residents - Relocation Assistance

Cite as: O.S. §, ___ __

Any owner of a facility licensed under this act shall give ninety (90) days' notice prior to voluntarily closing a facility or closing any part of a facility, or prior to closing any part of a facility if closing such part will require the transfer or discharge of more than ten percent (10%) of the residents. Such notice shall be given to the Department, to any resident who must be transferred or discharged, to the resident's representative, and to a member of the resident's family, where practicable. Notice shall state the proposed date of closing and the reason for closing. The facility shall offer to assist the resident in securing an alternative placement and shall advise the resident on available alternatives. Where the resident is unable to choose an alternative placement and is not under guardianship, the Department shall be notified of the need for relocation assistance. The facility shall comply with all applicable laws and regulations until the date of closing, including those related to transfer or discharge of residents. The Department may place a relocation team in the facility if needed. Also, the Department may promulgate rules and regulations that establish criteria for the acceleration of the notice requirement if extraordinary circumstances warrant it.

Historical Data

Laws 1980, HB 1853, c. 241, § 30, eff. October 1, 1980.

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<i>2012 OK CIV APP 21, 273 P.3d 73,</i>	<i>H. A. SAND SPRINGS, LLC v. LAKESIDE CARE CENTER, LLC</i>
	<i>Discussed</i>

Citationizer: Table of Authority

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1930.1 - Written Notification to the State Department of Health on the Occurrence of Certain Events

Cite as: O.S. §, ___ __

A. The owner of a nursing facility shall notify the State Department of Health within twenty-four (24) hours of the occurrence of any of the events specified in subsection B of this section. Such notification may be in written form. When initial notification to the Department is made by telephone or telephone facsimile, it shall be followed by a written confirmation within five (5) calendar days.

B. The occurrence of any of the following events shall require notification pursuant to the provisions of subsection A of this section:

1. The owner of a facility receives notice that a judgment or tax lien has been levied against the facility or any of the assets of the facility or the licensee;
2. A financial institution refuses to honor a check or other instrument issued by the owner, operator or manager to its employees for a regular payroll;
3. The supplies, including food items and other perishables, on hand in the facility fall below the minimum specified in the Nursing Home Care Act or rules promulgated thereto by the State Board of Health;
4. The owner, operator or manager fails to make timely payment of any tax of any governmental agency;
5. The filing of a bankruptcy petition under Title 7 or Title 11 of the United States Code or any other laws of the United States, by any person or entity with a controlling interest in the facility;
6. The appointment of a trustee by the bankruptcy court; and
7. The filing of a petition in any jurisdiction by any person seeking appointment of a receiver for the facility.

Historical Data

Laws 2002, HB 2604, c. 230, § 10, eff. November 1, 2002; Amended by Laws 2003, HB 1442, c. 429, § 1, emerg. eff. June 6, 2003 ([superseded document available](#)).

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1930.2 - Duty of State Commissioner of Health to Protect Residents Under Certain Conditions; Court

Petition, Hearings, Receivership

Cite as: O.S. §, ___ __

A. Whenever a determination is made that one of the following conditions exists, the State Commissioner of Health shall take whatever steps necessary to protect the health, welfare and safety of the residents including, if necessary, petitioning the court to place the facility under the control of a receiver to ensure that the residents receive adequate care:

1. The facility is operating without a license;
2. The State Department of Health has suspended, revoked or refused to renew the existing license of the facility;
3. The facility is closing or has informed the Department that it intends to close and adequate arrangements for relocation of residents have not been made at least thirty (30) days prior to closure;
4. An emergency exists, whether or not the Department has initiated revocation or nonrenewal procedures, if because of the unwillingness or inability of the licensee to remedy the emergency, the appointment of a receiver is necessary; or
5. It is necessary to ensure that the residents get adequate care in a situation in which the residents' health and safety are threatened.

B. The court shall hold a hearing within five (5) days of the filing of the petition. The petition and notice of the hearing shall be served on the owner, administrator or designated agent of the facility and the petition and notice of hearing shall be posted in a conspicuous place in the facility not later than three (3) days before the time specified for the hearing, unless a different time limit is fixed by order of the court. The court shall appoint a receiver for a limited time period, not to exceed one hundred eighty (180) days, which shall automatically terminate the receivership unless extended by the court.

C. If a petition filed under this section alleges an emergency exists, the court may set the matter for hearing at the earliest possible time. The petitioner shall notify the licensee, administrator of the facility or registered agent of the licensee more than five (5) days prior to the hearing. Any form of written notice may be used. A receivership shall not be established ex parte by the court unless the Commissioner, under oath, has provided a statement that the Commissioner has personally determined that there is a life-endangering situation. A waiver of the five-day notice requirement may be approved by the court in life-endangering situations as determined and confirmed under oath, by the Commissioner.

Historical Data

Laws 2002, HB 2604, c. 230, § 11, eff. November 1, 2002.

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1930.3 - Court Appointed Receiver

Cite as: O.S. §, ___ __

A. The court may appoint any qualified person as a receiver, except it shall not appoint any owner or affiliate of the facility which is in receivership as its receiver. The State Department of Health shall maintain a list of such persons to operate facilities which the court may consider.

B. The receiver shall make provisions for the continued health, safety and welfare of all residents of the facility.

C. A receiver appointed under this section shall exercise those powers and shall perform those duties set out by the court. These powers and duties may include those generally ascribed to receivers and receiverships and may also include the powers and duties of trustees under the 1978 Bankruptcy Code. The court shall provide for the receiver to have sufficient power and duties to ensure that the residents receive adequate care.

D. All funds due to the facility from any source during the pendency of the receivership shall be made available to the receiver who shall use the funds to assure the health and safety of the facility's residents.

E. A receiver may be held liable in a personal capacity only for the receiver's own gross negligence, intentional acts or breaches of fiduciary duty.

F. Other provisions of this section notwithstanding, the Department may issue a license to a facility placed in receivership. The duration of a license issued under this section is limited to the duration of the receivership.

Historical Data

Laws 2002, HB 2604, c. 230, § 12, eff. November 1, 2002.

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1930.4 - Termination of Receivership

Cite as: O.S. §, ___ __

A. The court may terminate a receivership:

1. If the time period specified in the order appointing the receiver elapses and is not extended;
2. If the court determines that the receivership is no longer necessary because the conditions which gave rise to the receivership no longer exist or the State Department of Health grants the facility a new license; or
3. If all of the residents in the facility have been transferred or discharged.

B. 1. Within thirty (30) days after termination, the receiver shall give the court a complete accounting of all property of which the receiver has taken possession, of all funds collected, and of the expenses of the receivership.

2. If the operating funds exceed the reasonable expenses of the receivership, the court shall order payment of the surplus to the owner. If the operating funds are insufficient to cover the reasonable expenses of the receivership, the owner shall be liable for the deficiency.

3. The Department shall have a lien for any payment made to the receiver upon any beneficial interest, direct or indirect, of any owner in the following property:

- a. the building in which the facility is located,
- b. any fixtures, equipment or goods used in the operation of the facility,
- c. the land on which the facility is located, or
- d. the proceeds from any conveyance of property described in subparagraph a, b or c of this paragraph, made by the owner within one (1) year prior to the filing of the petition for receivership.

4. The receiver shall, within sixty (60) days after termination of the receivership, file a notice of any lien created under this section.

Historical Data

Laws 2002, HB 2604, c. 230, § 13, eff. November 1, 2002.

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1930.5 - Receivership Exempt from Criminal or Civil Liability

Cite as: O.S. §, ___ __

Notwithstanding the general rules of receiverships and trustees, nothing in Sections 10 through 13 of this act shall be deemed to relieve any owner, administrator or employee of a facility placed in receivership of any civil or criminal liability incurred, or any duty imposed by law, by reason of acts or omissions of the owner, administrator or employee prior to the appointment of a receiver; provided, that nothing contained in this act shall be construed to suspend during the receivership any obligation of the owner, administrator or employee for payment of taxes or other operating and maintenance expenses of the facility or of the owner, administrator, employee or any other person for the payment of mortgage or liens. The owner shall retain the right to sell or mortgage any facility under receivership, subject to approval of the court which ordered the receivership.

Historical Data

Laws 2002, HB 2604, c. 230, § 14, eff. November 1, 2002.

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1939 - Liability to Residents - Injunctive and Declaratory Relief - Damages - Waiver of Rights - Jury Trial - Retaliation Against Residents - Immunity - Report of Abuse or Neglect

Cite as: 63 O.S. § 1-1939 (OSCN 2024)

-
- A. The owner and licensee are liable to a resident for any intentional or negligent act or omission of their agents or employees which injures the resident. In addition, any state employee that aids, abets, assists, or conspires with an owner or licensee to perform an act that causes injury to a resident shall be individually liable.
- B. A resident may maintain an action under the Nursing Home Care Act for any other type of relief, including injunctive and declaratory relief, permitted by law.
- C. Any damages recoverable under this section, including minimum damages as provided by this section, may be recovered in any action which a court may authorize to be brought as a class action. The remedies provided in this section, are in addition to and cumulative with any other legal remedies available to a resident. Exhaustion of any available administrative remedies shall not be required prior to commencement of suit hereunder.
- D. Any waiver by a resident or the legal representative of the resident of the right to commence an action under this section, whether oral or in writing, shall be null and void, and without legal force or effect.
- E. Any party to an action brought under this section shall be entitled to a trial by jury and any waiver of the right to a trial by a jury, whether oral or in writing, prior to the commencement of an action, shall be null and void, and without legal force or effect.
- F. A licensee or its agents or employees shall not transfer, discharge, evict, harass, dismiss or retaliate against a resident, a resident's guardian or an employee or agent who makes a report, brings, or testifies in, an action under this section, or files a complaint because of a report, testimony or complaint.
- G. Any person, institution or agency, under the Nursing Home Care Act, participating in good faith in the making of a report, or in the investigation of such a report shall not be deemed to have violated any privileged communication and shall have immunity from any liability, civil or criminal, or any other proceedings, civil or criminal, as a consequence of making such report. The good faith of any persons required, or permitted to report cases of suspected resident abuse or neglect under this act shall be presumed.
- H. A facility employee or agent who becomes aware of abuse, neglect or exploitation of a resident prohibited by the Nursing Home Care Act shall immediately report the matter to the facility administrator. A facility administrator who becomes aware of abuse, neglect, or exploitation of a resident shall immediately act to rectify the problem and shall make a report of the incident and its correction to the Department.
- I. 1. The facility shall be responsible for reporting the following serious incidents to the Department within twenty-four (24) hours:
- a. communicable diseases,
 - b. deaths by unusual occurrence, including accidental deaths or deaths other than by natural causes, and deaths that may be attributed to a medical device,
 - c. missing residents. In addition, the facility shall make a report to local law enforcement agencies within two (2) hours if the resident is still missing,

d. situations arising where a rape or a criminal act is suspected. Such situations shall also be reported to local law enforcement immediately. The facility shall make every effort to preserve the scene of the suspected rape or crime until local law enforcement has arrived, and

e. resident abuse, neglect and misappropriation of the property of a resident.

2. All other incident reports shall be made in accordance with federal law.

3. All initial written reports of incidents or situations shall be mailed to the Department within five (5) working days after the incident or situation. The final report shall be filed with the Department when the full investigation is complete.

Historical Data

Laws 1980, HB 1853, c. 241, § 39, eff. October 1, 1980; Amended by Laws 2003, HB 1442, c. 429, § 2, emerg. eff. June 6, 2003 ([superseded document available](#)); Amended by Laws 2010, SB 1879, c. 221, § 1, eff. November 1, 2010 ([superseded document available](#)).

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<i>Cite Name</i>	<i>Level</i>	
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2017 OK AG 5,	Question Submitted by: Secretary Terry Cline, Ph.D., Secretary of Health and Human Services	Cited
Oklahoma Court of Civil Appeals Cases		
<i>Cite</i>	<i>Name</i>	<i>Level</i>
2010 OK CIV APP 115, 241 P.3d 674,	OSBORN v. BROOKDALE SENIOR LIVING, INC.	Discussed at Length
2016 OK CIV APP 30, 371 P.3d 1170,	WEAVER v. DOE	Discussed at Length
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2014 OK 80, 336 P.3d 468,	BOLER v. SECURITY HEALTH CARE, L.L.C.	Cited
2014 OK 102, 341 P.3d 71,	JOHNSON v. CONVALESCENT CENTER OF GRADY COUNTY LLC	Cited

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Title 63. Public Health and Safety

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Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1940 - Violations Declared Public Nuisance - Injunction - Complaints

Cite as: O.S. §, ___ __

- A. The operation or maintenance of a facility in violation of the Nursing Home Care Act or rules promulgated by the State Board of Health, pursuant thereto, is hereby declared a public nuisance, inimical to the public welfare.
- B. The State Commissioner of Health or the Department of Human Services, in the name of the people of the state, through the Attorney General, or the district attorney of the county in which the facility is located, may, in addition to other remedies herein provided, bring action for an injunction to restrain such violation or to enjoin the future operation or maintenance of any such facility.
- C. 1. Any person with personal knowledge or substantial specific information who believes that the Nursing Home Care Act, a rule promulgated thereto, or a federal certification rule applying to a facility may have been violated may file a complaint.
2. The complaint may be submitted to the State Department of Health, in writing, by telephone, or personally. An oral complaint shall be reduced to writing by the Department.
3. Any person who willfully or recklessly makes a false complaint or a report without a reasonable basis in fact for such a complaint, under the provisions of the Nursing Home Care Act, shall be liable in a civil suit for any actual damages suffered by a facility for any punitive damages set by the court or jury which may be allowed in the discretion of the court or jury when deemed proper by the court or jury.
4. The substance of the complaint shall be provided to the licensee, owner or administrator no earlier than at the commencement of the on-site inspection of the facility which takes place pursuant to the complaint.
5. Upon receipt of a complaint pursuant to this subsection, the Department shall determine whether the Nursing Home Care Act, a rule promulgated pursuant thereto, or a federal certification rule for facilities has been or is being violated and whether the Department has jurisdiction over the complaint area. If the Department does not have jurisdiction over the complaint area, the complaint shall not be investigated by the Department and notice of the decision not to investigate shall be given to the complainant. The complaint shall be immediately referred to the appropriate agency having jurisdiction over the complaint area. A report summarizing the complaint investigation shall be made in writing. The Department shall give priority to investigations of complaints which allege continuing violations or which threaten the health and safety of residents.
6. In all cases, the Department shall inform the complainant of its findings within ten (10) working days of its determination unless otherwise indicated by the complainant. The complainant may direct the Department to send a copy of such findings to one other person. The notice of such findings shall include a copy of the written determination, the remedial action taken, if any, and the state licensure or federal certification, or both, on which the violation is listed.
- D. 1. Upon receipt of a complaint submitted to the State Department of Health by the Department of Human Services or the Attorney General which alleges a violation of the Nursing Home Care Act, any rule promulgated thereto, or federal certification rules, and which also alleges that such violation is a serious threat to the health, safety and welfare of a resident of a nursing facility, the State Department of Health shall take immediate action to remedy the violation based upon the complaint of the Department of Human Services.
2. The Department of Human Services or the Attorney General as applicable shall be deemed a party pursuant to the Administrative Procedures Act for purposes of any complaint made by the Department of Human Services or the Attorney General as applicable to the State Department of Health for violations of the Nursing Home Care Act, rules promulgated thereto or federal certification rules.

a. Within thirty (30) days of receipt of a final investigative report submitted by the Department of Human Services or the Attorney General as applicable pursuant to this section, the State Department of Health shall provide the Department of Human Services with a written summary of any action taken pertaining to the complaint including, but not limited to, any inspection or actions which may be taken by the State Department of Health.

b. Whenever the Department of Human Services or the Attorney General as applicable believes that the conditions giving rise to a complaint alleging a serious threat to the health, safety and welfare of a resident of a nursing facility have not been adequately addressed, the Department of Human Services may request a hearing on the complaint as provided by Section 309 of Title 75 of the Oklahoma Statutes.

E. A written determination, notice of violation and remedial action taken concerning a complaint shall be available for public inspection at the facility.

F. The Department shall seek any remedial action provided under the Nursing Home Care Act for violations documented during complaint investigations.

G. The State Board of Health shall promulgate rules governing the receipt, investigation and resolution of complaints and reports of violations. The rules promulgated by the Board shall provide for the expeditious investigation and resolution of a complaint or report including, but not limited to:

1. An easily understood and readily accessible method of submitting complaints and reports regarding complaints;
2. Actions to be taken upon the receipt of a complaint or report of a complaint;
3. Establishing a priority for investigations of complaints. Specifically, the Department shall give higher priority to investigations of complaints which allege continuing violations or which threaten the health, safety or welfare of residents;
4. The timely investigation of the complaint or report of a complaint;
5. Written reports to the complainants or persons filing the complaint report;
6. Any necessary or appropriate remedial action as determined by the findings of the investigation;
7. The protection of the identity of the complainant, provided that the person is a current or past resident or resident's representative or designated guardian or a current or past employee of a facility;
8. Specific information to be included in investigative protocols which must include at a minimum an interview with:
 - a. the complainant,
 - b. the resident, if possible, and
 - c. any potential witness, collateral resource or affected resident; and
9. Any additional rules necessary for the timely and thorough investigation and resolution of complaints.

H. The Department is authorized to employ hearing officers, and hire attorneys to represent the Department and Commissioner to ensure that this and other laws pertaining to the Department are properly executed.

Historical Data

Laws 1980, HB 1853, c. 241, § 40, eff. October 1, 1980; Amended by Laws 1995, HB 1293, c. 230, § 19, emerg. eff. July 1, 1995; Amended by Laws 2000, HB 2019, c. 340, § 17, emerg. eff. July 1, 2000 ([superseded document available](#)); Amended by Laws 2001, HB 1727, c. 379 § 1, emerg. eff. June 4, 2001; Amended by Laws 2001, SB 345, c. 393, § 4, emerg. eff. June 4, 2001 ([superseded document available](#)); Laws 2001, SB 345, c. 393 repealed by Laws 2002, HB 2924, c. 22, § 34, emerg. eff. March 8, 2002 ([superseded document available](#)).

Citationizer[®] Summary of Documents Citing This Document

<i>Cite Name</i>	<i>Level</i>
Oklahoma Session Laws - 2002	
<i>Cite</i>	<i>Name</i>
<u>2002 O.S.L. 22, 2002 O.S.L. 22,</u>	<u>Duplicate sections; amending, merging, consolidating, and repealing duplicate sections. <i>Emergency.</i></u>
	<i>Level</i>
	<i>Discussed</i>

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Title 63. Public Health and Safety	
<i>Cite</i>	<i>Name</i>
<u>63 O.S. 1-1940,</u>	<u>Violations Declared Public Nuisance - Injunction - Complaints</u>
	<i>Level</i>
	<i>Cited</i>
<u>63 O.S. 1-1940,</u>	<u>Violations Declared Public Nuisance - Injunction - Complaints</u>
	<i>Level</i>
	<i>Cited</i>



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1941 - Copies of Complaints, Inspection or Survey Results to Ombudsman Program of Special Unit on Aging

Cite as: O.S. §, ___ __

All state agencies receiving complaints on, or conducting surveys or inspections of, nursing home facilities shall forward complete copies of complaints or of inspection or survey results to the Ombudsman Program of the Special Unit on Aging.

Historical Data

Laws 1980, HB 1853, c. 241, § 41, eff. October 1, 1980.

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Cite **Name Level**

None Found.

Citationizer: Table of Authority

Cite **Name Level**

None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1942 - Rules and Regulations

Cite as: O.S. §, ___ __

The Department shall have the power to adopt rules and regulations in furtherance of the purpose of this act.

Historical Data

Laws 1980, HB 1853, c. 241, § 42, eff. October 1, 1980.

Citationizer[®] Summary of Documents Citing This Document

<i>Cite Name</i>	<i>Level</i>	
Oklahoma Attorney General's Opinions		
<i>Cite</i>	<i>Name</i>	<i>Level</i>
<u>1986 OK AG 63.</u>	<u>Question Submitted by: The Honorable Lee Cate, Oklahoma State Senate</u>	Discussed
Oklahoma Supreme Court Cases		
<i>Cite</i>	<i>Name</i>	<i>Level</i>
<u>2016 OK 28, 376 P.3d 894.</u>	<u>MOORE v. WARR ACRES NURSING CENTER, LLC.</u>	Cited

Citationizer: Table of Authority

Cite **Name Level**

None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1943 - Application of Administrative Procedure Act

Cite as: O.S. §, ___ __

The provisions of the Oklahoma Administrative Procedures Act shall apply to all administrative rules and procedures of the Department under this act.

Historical Data

Laws 1980, HB 1853, c. 241, § 43, eff. October 1, 1980.

Citationizer[®] Summary of Documents Citing This Document

<i>Cite Name</i>	<i>Level</i>
Oklahoma Supreme Court Cases	
<i>Cite</i>	<i>Name</i>
<i>2005 OK 66, 124 P.3d 224.</i>	<i>CLONTS v. STATE ex rel. DEPARTMENT OF HEALTH</i>
	<i>Level</i>
	<i>Cited</i>

Citationizer: Table of Authority

Cite *Name Level*

None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1943.1 - Assignments of Long Term Care Administrators

Cite as: O.S. §, ___ __

The State Department of Health may authorize long-term care administrators to be the administrator of record for more than one facility, provided that the facilities are within a fifty-mile radius of each other, the sum total of the administrator's responsibility does not exceed more than one hundred twenty (120) occupied beds, and each facility retains an assistant administrator. This provision shall not apply to direct care staff.

Historical Data

Laws 2007, SB 738, c. 347, § 9, eff. November 1, 2007.

Citationizer[®] Summary of Documents Citing This Document

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None Found.

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Nursing Home Care Act (cont.)

Article Article 19 - Nursing Home Care Act

Section 1-1950 - Authority of Nursing Facility or Residential Care Facility to Maintain Bulk Supplies of Nonprescription Drugs - Dispensing to Residents - Promulgation of Rules for Proper Control and Dispensing

Cite as: O.S. §, ___

A. A nursing facility or a residential care facility is authorized to maintain bulk supplies of nonprescription drugs for dispensing to residents of such facility pursuant to the provisions of this section.

B. If ordered or otherwise authorized by a physician currently licensed to practice medicine in this state, nonprescription drugs may be dispensed to a resident of the nursing facility or residential care facility for nonscheduled dosage regimens.

C. 1. The State Board of Health shall promulgate rules necessary for proper control and dispensing of nonprescription drugs in nursing facilities and residential care facilities, relating to:

- a. specific nonprescription drugs to be dispensed,
- b. recordkeeping,
- c. storage of nonprescription drugs, and
- d. dispensing requirements.

2. Rules promulgated by the State Board of Health shall not require facilities to package nonprescription drugs in individual containers with individual labels.

Historical Data

Laws 1993, HB 1237, c. 119, § 1, eff. September 1, 1993.

Citationizer[®] Summary of Documents Citing This Document

<i>Cite Name</i>	<i>Level</i>
Oklahoma Attorney General's Opinions	
<i>Cite</i>	<i>Name</i>
<u>2007 OK AG 16,</u>	<u>Question Submitted by: The Honorable Gene Haynes, District Attorney, District 12</u>
	<i>Level</i>
	<i>Cited</i>
Oklahoma Court of Civil Appeals Cases	
<i>Cite</i>	<i>Name</i>
<u>2012 OK CIV APP 6, 270 P.3d 197,</u>	<u>JOHNSON v. ST. SIMEON'S EPISCOPAL HOME, INC.</u>
	<i>Level</i>
	<i>Discussed at Length</i>
Oklahoma Supreme Court Cases	
<i>Cite</i>	<i>Name</i>
<u>2006 OK 97, 151 P.3d 127,</u>	<u>SILVER v. CPC-SHERWOOD MANOR, INC.</u>
	<i>Level</i>
	<i>Discussed at Length</i>

Citationizer: Table of Authority

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1950.1 - Criminal History Background Checks for Employees - Exemptions

Cite as: 63 O.S. § 1-1950.1 (OSCN 2024)

A. For purposes of this section:

1. "Nurse aide" means any person who provides, for compensation, nursing care or health-related services to residents in a nursing facility, a specialized facility, a residential care home, continuum of care facility, assisted living center or an adult day care center and who is not a licensed health professional. Such term also means any person who provides such services to individuals in their own homes as an employee or contract provider of a home health or home care agency, or as a contract provider of the Medicaid State Plan Personal Care Program;
2. "Employer" means any of the following facilities, homes, agencies or programs which are subject to the provision of this section:
 - a. a nursing facility or specialized facility as such terms are defined in the Nursing Home Care Act,
 - b. a residential care home as such term is defined by the Residential Care Act,
 - c. an adult day care center as such term is defined in the Adult Day Care Act,
 - d. an assisted living center as such term is defined by the Continuum of Care and Assisted Living Act,
 - e. a continuum of care facility as such term is defined by the Continuum of Care and Assisted Living Act,
 - f. a home health or home care agency,
 - g. the Department of Human Services, in its capacity as an operator of any hospital or health care institution or as a contractor with providers under the Medicaid State Plan Personal Care Program,
 - h. any facility operated by the Oklahoma Department of Veterans Affairs, and
 - i. any facility approved and annually reviewed by the United States Department of Veterans Affairs as a medical foster home in which care is provided exclusively to three or fewer veterans;
3. "Home health or home care agency" means any person, partnership, association, corporation or other organization which administers, offers or provides health care services or supportive assistance for compensation to three or more ill, disabled, or infirm persons in the temporary or permanent residence of such persons, and includes any subunits or branch offices of a parent home health or home care agency;
4. "Bureau" means the Oklahoma State Bureau of Investigation; and
5. "Completion of the sentence" means the last day of the entire term of the incarceration imposed by the sentence including any term that is deferred, suspended or subject to parole.

B. Before any employer makes an offer to employ or to contract with a nurse aide to provide nursing care, health-related services or supportive assistance to any individual, the employer shall provide for a criminal history background check to be made on the nurse aide pursuant to the provisions of the Long-Term Care Security Act. If the employer is a facility, home or institution which is part of a larger complex of buildings, the requirement of a criminal history background check shall apply only to an offer of employment or contract made to a person who will work primarily in the immediate boundaries of the facility, home or institution.

Where the provisions of the Long-Term Care Security Act pertaining to registry screenings and national criminal history record check are not in effect pending an effective date established in rulemaking, an employer is authorized to obtain any criminal history background records maintained by the Bureau pursuant to the following:

1. The employer shall request the Bureau to conduct a criminal history background check on the nurse aide and shall provide to the Bureau any relevant information required by the Bureau to conduct the check. The employer shall pay a fee of Fifteen Dollars (\$15.00) to the Bureau for each criminal history background check that is conducted pursuant to such a request;
2. An employer may make an offer of temporary employment to a nurse aide pending the results of the criminal history background check. The employer in such instance shall provide to the Bureau the name and relevant information relating to the person within seventy-two (72) hours after the date the person accepts temporary employment. The employer shall not hire or contract with the nurse aide on a permanent basis until the results of the criminal history background check are received;
3. An employer may accept a criminal history background report less than one (1) year old of a person to whom such employer makes an offer of employment. The report shall be obtained from the previous employer or contractor of such person and shall only be obtained upon the written consent of such person; and
4. Every employer while subject to the provisions of this subsection shall inform each applicant for employment, or each prospective contract provider, as applicable, that the employer is required to obtain a criminal history background record before making an offer of permanent employment or contract to a nurse aide.

C. 1. If the results of a criminal history background check reveal that the subject person has been convicted of, pled guilty or no contest to, or received a deferred sentence for, a felony or misdemeanor offense for any of the following offenses in any state or federal jurisdiction, the employer shall not hire or contract with the person:

- a. abuse, neglect or financial exploitation of any person entrusted to the care or possession of such person,
- b. rape, incest or sodomy,
- c. child abuse,
- d. murder or attempted murder,
- e. manslaughter,
- f. kidnapping,
- g. aggravated assault and battery,
- h. assault and battery with a dangerous weapon, or
- i. arson in the first degree.

2. If less than seven (7) years have elapsed since the completion of sentence, and the results of a criminal history check reveal that the subject person has been convicted of, or pled guilty or no contest to, a felony or misdemeanor offense for any of the following offenses, in any state or federal jurisdiction, the employer shall not hire or contract with the person:

- a. assault,
- b. battery,
- c. indecent exposure and indecent exhibition, except where such offense disqualifies the applicant as a registered sex offender,
- d. pandering,
- e. burglary in the first or second degree,
- f. robbery in the first or second degree,
- g. robbery or attempted robbery with a dangerous weapon, or imitation firearm,
- h. arson in the second degree,

i. unlawful manufacture, distribution, prescription, or dispensing of a Schedule I through V drug as defined by the Uniform Controlled Dangerous Substances Act,

j. grand larceny, or

k. petit larceny or shoplifting.

D. An employer shall not employ or continue employing a person addicted to any Schedule I through V drug as specified by the Uniform Controlled Dangerous Substances Act unless the person produces evidence that the person has successfully completed a drug rehabilitation program.

E. All employment eligibility determination records received by the employer pursuant to this section are confidential and are for the exclusive use of the State Department of Health and the employer which requested the information. Except on court order or with the written consent of the person being investigated, the records shall not be released or otherwise disclosed to any other person or agency. These records shall be destroyed after one (1) year from the end of employment of the person to whom such records relate.

F. As part of the inspections required by the Nursing Home Care Act, Continuum of Care and Assisted Living Act, the Residential Care Act, and the Adult Day Care Act, the State Department of Health shall review the employment files of any facility, home or institution required to obtain a criminal history background determination to ensure such facilities, homes or institutions are in compliance with the provisions of this section.

Historical Data

Laws 1990, HB 2100, c. 149, § 1, eff. October 1, 1990; Amended by Laws 1991, HB 1690, c. 315, § 1, eff. January 1, 1992; Amended by Laws 1992, HB 2008, c. 139, § 1, eff. September 1, 1992; Amended by Laws 1992, HB 1615, c. 249, § 5, eff. September 1, 1992; Amended by Laws 2004, SB 1184, c. 287, § 1, emerg. eff. July 1, 2004; Amended by Laws 2004, HB 2723, c. 436, § 12, emerg. eff. June 4, 2004 ([superseded document available](#)); Amended by Laws 2010, SB 1289, c. 185, § 1, eff. November 1, 2010 ([superseded document available](#)); Amended by Laws 2012, HB 2582, c. 358, § 3, eff. November 1, 2012 ([superseded document available](#)); Amended by Laws 2013, SB 629, c. 379, § 5, emerg. eff. May 23, 2013 ([superseded document available](#)); Amended by Laws 2015, SB 115, c. 8, § 1, eff. November 1, 2015 ([superseded document available](#)).

Citationizer[®] Summary of Documents Citing This Document

<i>Cite Name</i>	<i>Level</i>
Title 63. Public Health and Safety	
<i>Cite</i>	<i>Name</i> <i>Level</i>
63 O.S. 1-822	License - Application - Nature - Oath - Zoning Statement - Qualifications - Statement of Ownership - Fees Cited
63 O.S. 1-1951	Power and Duties of State Department of Health - Certified Nursing Aides Discussed
63 O.S. 1-1962	Licensure Requirement - Applicability of Act Discussed at Length

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<i>Cite Name</i>	<i>Level</i>
Title 63. Public Health and Safety	
<i>Cite</i>	<i>Name</i> <i>Level</i>
63 O.S. 1-1950.1	Definitions - Criminal Arrest Checks - Exemptions Cited



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Nursing Home Care Act (cont.)

Article Article 19 - Nursing Home Care Act

Section 1-1950.2 - Construction of Act

Cite as: O.S. §, ___ __

Nothing contained in this act shall be construed as creating an employer-employee relationship between the Department of Human Services and anyone contracting with the Department of Human Services as a nontechnical medical care provider.

Historical Data

Laws 1991, HB 1690, c. 315, § 2, eff. January 1, 1992.

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Cite **Name Level**

None Found.

Citationizer: Table of Authority

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1950.3 - Use of Unlicensed Health Professionals as Nurses Aids - Competency Evaluation Program -

Penalties for Violations

Cite as: O.S. §, ___ __

A. 1. A nursing facility, specialized facility, continuum of care facility, assisted living center, adult day care or residential home, or facility operated by the Oklahoma Department of Veterans Affairs, shall not employ as a nurse aide, on a full-time, temporary, per diem, or any other basis, any individual who is not certified as a nurse aide in good standing and is not eligible for placement on the nurse aide registry maintained by the State Department of Health.

2. The Department may grant a temporary emergency waiver to the provisions of this paragraph to any nursing facility, continuum of care facility, assisted living center or adult day care or residential home which can demonstrate that such facility, home or institution has been unable to successfully meet its staffing requirements related to the provisions of this paragraph.

B. Such waiver shall require the following:

1. An individual employed as a nurse aide who is enrolled in a Department-approved training and competency evaluation program for nurse aides shall successfully complete such training and competency evaluations within four (4) months of entering the training program;

2. The individual shall obtain certification, and the Department shall place the nurse aide on the registry within thirty (30) days after demonstration of competency;

3. Any nursing facility, specialized facility, continuum of care facility, assisted living center, adult day care or residential care home that employs an individual who is in nurse aide training, as provided in this section, shall ensure that the trainee shall:

a. complete the required training and competency program as provided in rules prior to any direct contact with a resident or client,

b. not perform any service for which the trainee has not trained and been determined proficient by the instructor, and

c. be supervised at all times by no less than a licensed practical nurse; and

4. No employer may use as a nurse aide an individual who has not completed the nurse aide training and competency program within the required four-month period.

C. For purposes of this section, "four (4) months" means the equivalent of four (4) months of full-time employment as a nurse aide by any employer in any nursing facility, specialized facility, continuum of care facility, assisted living center, adult day care or residential care home.

D. 1. The Department may grant a trainee a one-time extension of the four-month training requirement if:

a. such requirement causes an undue hardship for the trainee due to unusual circumstances or illness, and

b. the trainee has demonstrated a good faith effort to complete the training and competency evaluation program.

2. The State Board of Health shall promulgate rules related to the review of and the process and conditions for such an extension.

E. 1. Certified medication aides, upon successful completion of competency standards or prescribed training courses, shall be eligible to distribute medications or treatments provided by paragraph 2 of this subsection within a:

a. correctional facility, as set forth in Section 623 of Title 57 of the Oklahoma Statutes,

b. correctional facility operated by a contractor of the Department of Corrections,

c. county or municipal jail,

d. nursing facility,

e. specialized facility,

f. continuum of care facility,

g. assisted living center,

h. adult day care,

i. residential care home, or

j. facilities operated by the Oklahoma Department of Veterans Affairs.

2. Certified medication aides may:

a. perform fingerstick blood sugars,

b. administer diabetic medications, including subcutaneous injections of insulin, provided that the certified medication aide has completed a Department-approved advanced training program on diabetes and the administration of diabetes medications, including injections,

c. administer medications, first aid treatments and nutrition; by oral, rectal, vaginal, otic, ophthalmic, nasal, skin, topical, transdermal, and nasogastric/gastrostomy tubes routes, and

d. administer oral metered dose inhalers and nebulizers;

3. The State Board of Health shall establish rules necessary to ensure the safety of medication administration by certified medication aides, including but not limited to:

a. competency and practice standards for medication aides,

b. maintaining a list of skills and functions that medication aides will be able to perform upon completion of certification course work,

c. certification and recertification requirements for medication aides,

d. development of criteria and procedures for approval or disapproval of training and competency evaluation programs, and

e. procedures for denying, suspending, withdrawing, or refusing to renew certification for a medication aide;

4. Each facility shall develop policies and procedures that comply with the provisions of this subsection and rules promulgated by the State Board of Health. This policy shall be reviewed and approved by the facility Medical Director, Director of Nurses and/or Registered Nurse Consultant.

F. Any person convicted of violating any of the provisions of this section or Section 1-1950.1 of this title shall be guilty of a misdemeanor, punishable by a fine of not less than One Hundred Dollars (\$100.00) nor more than Three Hundred Dollars (\$300.00), imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

Historical Data

Laws 1991, HB 1690, c. 315, § 3, eff. January 1, 1992; Amended by Laws 1999, SB 622, c. 129, § 1, eff. November 1, 1999 ([superseded document available](#)); Amended by Laws 2002, HB 2604, c. 230, § 15, eff. November 1, 2002 ([superseded document available](#)); Amended by Laws 2003, HB 1442, c. 429, § 3, emerg. eff. June 6, 2003 ([superseded document available](#)); Amended by Laws 2004, HB 2282, c. 420, § 1, eff. November 1, 2004 (repealed by Laws 2005, HB 2060, c. 1, § 92, emerg. eff. March 15, 2005); Amended by Laws 2004, HB 2723, c. 436, § 13, emerg. eff. June 4, 2004 ([superseded document available](#)); Multiple amendment repealed by Laws 2005, HB 2060, c. 1, § 92, emerg. eff. March 15, 2005 ([superseded document available](#)); Amended by Laws 2005,

HB 1688, c. 460, § 12, eff. November 1, 2005 (superseded document available); Amended by Laws 2006, HB 2518, c. 79, § 2, emerg. eff. April 21, 2006 (superseded document available); Amended by Laws 2011, SB 679, c. 255, § 1, eff. November 1, 2011 (superseded document available); Amended by Laws 2013, SB 629, c. 379, § 6, emerg. eff. May 29, 2013 (superseded document available).

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None Found.

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Cite Name	Level
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<i>Cite</i>	<i>Name Level</i>
<u>63 O.S. 1-1950.3,</u>	<u>Use of Unlicensed Health Professionals as Nurses Aids - Competency Evaluation Program - Penalties for Violations</u> <i>Cited</i>
<u>63 O.S. 1-1950.3,</u>	<u>Use of Unlicensed Health Professionals as Nurses Aids - Competency Evaluation Program - Penalties for Violations</u> <i>Cited</i>
<u>63 O.S. 1-1950.3,</u>	<u>Use of Unlicensed Health Professionals as Nurses Aids - Competency Evaluation Program - Penalties for Violations</u> <i>Cited</i>
<u>63 O.S. 1-1950.3,</u>	<u>Use of Unlicensed Health Professionals as Nurses Aids - Competency Evaluation Program - Penalties for Violations</u> <i>Cited</i>
<u>63 O.S. 1-1950.3,</u>	<u>Use of Unlicensed Health Professionals as Nurses Aids - Competency Evaluation Program - Penalties for Violations</u> <i>Cited</i>



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1950.4 - Uniform Employment Application for Nurse Aide Staff - Purpose - Training

Cite as: O.S. §, ___ __

A. 1. The State Department of Health, in conjunction with the Office of the State Long-term Care Ombudsman of the Department of Human Services, shall develop a uniform employment application to be used in the hiring of nurse aide staff by a nursing facility or a specialized facility as such terms are defined in the Nursing Home Care Act, a residential care home, as such term is defined by the Residential Care Act, an assisted living center as such term is defined by the Continuum of Care and Assisted Living Act, a continuum of care facility as defined by the Continuum of Care and Assisted Living Act, a hospice inpatient facility or program providing hospice services as such terms are defined by the Hospice Licensing Act, an adult day care center as such term is defined by the Adult Day Care Act, and a home care agency as defined by the Home Care Act. Such uniform application shall be used as the only application for employment of nurse aides in such facilities on and after January 1, 2001.

2. Nothing in this section shall prohibit the State Department of Health or any other state agency from requiring applicants for any position in the classified service to be certified by the state using the State of Oklahoma Employment Application.

B. The uniform employment application shall be designed to gather all pertinent information for entry into the nurse aide registry maintained by the State Department of Health. The uniform application shall also contain:

1. A signature from the applicant to confirm or deny any previous felony conviction;
2. A release statement for the applicant to sign giving the State Department of Health and the Oklahoma State Bureau of Investigation the authority to proceed with the state or national criminal history record checks; and
3. Such other information deemed necessary by the Department.

C. The Department shall provide implementation training on the use of the uniform employment application.

Historical Data

Laws 2000, HB 2019, c. 340, § 23, emerg. eff. July 1, 2000; Amended by Laws 2001, HB 1768, c. 381, § 25, emerg. eff. June 4, 2001 ([superseded document available](#)); Amended by Laws 2003, SB 591, c. 339, § 5, eff. November 1, 2003 ([superseded document available](#)); Amended by Laws 2012, HB 2582, c. 358, § 4, eff. November 1, 2012 ([superseded document available](#)).

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Title 63. Public Health and Safety

<i>Cite</i>	<i>Name</i>	<i>Level</i>
63 O.S. 1-1950.4	Uniform Employment Application for Nurse Aide Staff - Purpose - Training	Cited
63 O.S. 1-1950.4	Uniform Employment Application for Nurse Aide Staff - Purpose - Training	Cited



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1950.4a - Employment Application For Nurse Aides - Unlawful To Provide False Information Regarding Criminal Conviction - Penalties

Cite as: 63 O.S. § 1-1950.4a (OSCN 2024)

A. It shall be unlawful for any person to provide false information regarding a criminal conviction on the uniform employment application for nurse aides. The State Department of Health shall amend the uniform employment application to include a statement informing the applicant of this provision.

B. Any violation of the provisions of subsection A of this section shall constitute a misdemeanor. Every violator, upon conviction, shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00), by imprisonment in the county jail for a term of not more than one (1) year, or by both such fine and imprisonment.

Historical Data

Laws 2003, SB 678, c. 344, § 1, emerg. eff. May 29, 2003.

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None Found.

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Cite Name

Level

63 O.S. 1-1950.5.

Solicitation by a Care-giver

Cited

63 O.S. 1-1950.5.

Care-Giver Soliciting or Accepting Anything of Value

Cited



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Section 1-1950.7 - Nontechnical Services Workers Abuse Registry

Cite as: 63 O.S. § 1-1950.7 (OSCN 2024)

A. The State Department of Health shall establish a registry for those nontechnical services workers that have been noted to have committed abuse, verbal abuse, or exploitation of a resident in a nursing facility.

B. The State Board of Health shall promulgate rules to establish and maintain the nontechnical services worker abuse registry. Such rules may include, but need not be limited to:

1. A procedure for notation in the abuse registry of a final State Department of Health investigative finding or an Administrative Law Judge finding of abuse, verbal abuse, or exploitation, as these terms are defined in Section 10-103 of Title 43A of the Oklahoma Statutes, of an individual by a nontechnical services worker;

2. A procedure for notice and due process for a nontechnical services worker or applicant before the entering of such person's name in the abuse registry as having a final Department investigative finding or Administrative Law Judge finding of abuse, verbal abuse, or exploitation of an individual; and

3. Disclosure requirements for information in the abuse registry.

C. The nontechnical services worker abuse registry shall include, but not be limited to, the following information on each nontechnical services worker:

1. The individual's full name;

2. Information necessary to identify each individual;

3. The date the individual's name was placed in the abuse registry; and

4. Information on any final Department investigative finding or Administrative Law Judge finding of abuse, verbal abuse or exploitation, as these terms are defined in Section 10-103 of Title 43A of the Oklahoma Statutes, concerning the nontechnical services worker.

D. A nontechnical services worker or applicant who is adversely affected by an Administrative Law Judge finding of abuse, verbal abuse or exploitation of an individual may seek judicial review pursuant to the provisions of Article II of the Administrative Procedures Act. The finding of the Administrative Law Judge may be appealed to the district court in which the nontechnical services worker or applicant resides within thirty (30) days of the date of the decision. A copy of the petition shall be served by mail upon the general counsel of the Department.

Historical Data

Laws 2002, HB 2218, c. 470, § 3, emerg. eff. July 1, 2002.

Citationizer[®] Summary of Documents Citing This Document

Cite Name	Level
Title 10. Children	
<i>Cite</i>	<i>Name</i>
<u>10 O.S. 404.1</u> ,	<u>Criminal History Records Search and Child Care Restricted Registry for Individual Applying to Establish or Operate Child Care Facility</u>
	<i>Level</i>
	<i>Discussed at Length</i>

Cite Name	Level
<u>10 O.S. 404.1,</u>	<u>Criminal History Records Search and Child Care Restricted Registry for Individual</u> Discussed at Length <u>Applying to Establish or Operate Child Care Facility</u>

Citationizer: Table of Authority

Cite **Name Level**

None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Section 1-1950.8 - Nontechnical Services Workers - Criminal History Check and Abuse Registry Review

Cite as: O.S. §, __ __

A. 1. Before any nursing facility makes an offer to employ a nontechnical services worker applicant subject to subsection A of Section 1-1950.7 of this title on or after the effective date of Sections 1-1950.6 through 1-1950.9 of this title, to provide nontechnical services, the nursing facility shall:

a. provide for a criminal history records search to be conducted upon the nontechnical services worker applicant pursuant to the provisions of the Long-term Care Security Act, and

b. check with the Department to determine whether the name of the applicant seeking employment appears on the nontechnical services worker abuse registry created pursuant to the provisions of Section 1-1950.7 of this title. If the name of the applicant seeking employment with the nursing facility is listed on the abuse registry as having a final Department investigative finding or an Administrative Law Judge finding pursuant to the requirements of Section 1-1950.7 of this title, and the Department has allowed for notice and opportunity for due process for such applicant, the nursing facility shall not hire the applicant.

2. Where the provisions of the Long-term Care Security Act pertaining to registry screenings and national criminal history record checks are not in effect pending an effective date in rulemaking, an employer is authorized to obtain any criminal history background records maintained by the Oklahoma State Bureau of Investigation pursuant to the following:

a. the employer shall request the Bureau to conduct a criminal history background check on the nontechnical services worker and shall provide to the Bureau any relevant information required by the Bureau to conduct the check. The employer shall pay a fee of Fifteen Dollars (\$15.00) to the Bureau for each criminal history background check that is conducted pursuant to such a request,

b. an employer may make an offer of temporary employment to a nontechnical services worker pending the results of the criminal history background check. The employer in such instance shall provide to the Bureau the name and relevant information relating to the person within seventy-two (72) hours after the date the person accepts temporary employment. The employer shall not hire or contract with the nontechnical services worker on a permanent basis until the results of the criminal history background check are received,

c. an employer may accept a criminal history background report less than one (1) year old of a nontechnical services worker to whom such employer makes an offer of employment or employment contract. The report shall be obtained from the previous employer or contractor of such person and shall only be obtained upon the written consent of such person, and

d. every employer while subject to the provisions of this subsection shall inform each applicant for employment, or each prospective contract provider, as applicable, that the employer is required to obtain a criminal history background record before making an offer of permanent employment or contract to a nontechnical services worker.

B. Every nursing facility shall inform each nontechnical services worker applicant for employment of the requirement to obtain a criminal check and an abuse registry review before making an offer of permanent employment with a nontechnical services worker applicant.

C. A nursing facility shall not hire or contract with and shall immediately terminate the employment, contract or volunteer arrangement of any applicant, contract worker or employee for whom the results of a criminal history records search from any jurisdiction reveals that such person has a disqualifying criminal offense listed in subsection C of Section 1-1950.1 of this title.

D. All employment eligibility determination records received by the nursing facility are for the exclusive use of the State Department of Health and the nursing facility that requested the information. Except as otherwise provided by Sections 1-1950.6 through 1-1950.9 of this title or upon court order or with the written consent of the person being investigated, the employment eligibility determination records shall not be released or otherwise disclosed to any other person or agency.

E. Any person releasing or disclosing any information in violation of this section, upon conviction thereof, shall be guilty of a misdemeanor.

F. As part of any inspections required by law, the Department shall review the employment files of the nursing facility required to conduct a criminal history records search to ensure compliance with the provisions of this section.

Historical Data

Laws 2002, HB 2218, c. 470, § 4, emerg. eff. July 1, 2002; Amended by Laws 2012, HB 2582, c. 358, § 5, eff. November 1, 2012 (superseded document available).

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None Found.

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Section 1-1950.9 - Misdemeanor Violations

Cite as: O.S. §, __ __

Any violation of the provisions of Sections 2 through 4 of this act shall be deemed a misdemeanor and, upon conviction or plea of guilty or nolo contendere, shall be punishable by a fine of not less than Three Hundred Dollars (\$300.00), but not more than One Thousand Dollars (\$1,000.00). In addition to the fine, such violator may be imprisoned in the county jail for not more than thirty (30) days. Each day that the violation continues shall be considered to be a separate violation.

Historical Data

Laws 2002, HB 2218, c. 470, § 5, emerg. eff. July 1, 2002.

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None Found.

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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1951 - Power and Duties of State Department of Health - Certified Nursing Aides

Cite as: O.S. §, ___ __

A. The State Department of Health shall have the power and duty to:

1. Issue certificates of training and competency for nurse aides;
2. Approve training and competency programs including, but not limited to, education-based programs and employer-based programs, including those programs established pursuant to Section 223.1 of Title 72 of the Oklahoma Statutes;
3. Determine curricula and standards for training and competency programs. The Department shall require such training to include a minimum of ten (10) hours of training in the care of Alzheimer's patients;
4. Establish and maintain a registry for certified nurse aides and for nurse aide trainees;
5. Establish categories and standards for nurse aide certification and registration, including feeding assistants as defined in 42 CFR Parts 483 and 488;
6. Exercise all incidental powers as necessary and proper to implement and enforce the provisions of this section; and
7. Suspend or revoke any certification issued to any nurse aide, if:
 - a. the nurse aide is found to meet any of the requirements contained in subsection D of Section 1-1947 of this title,
 - b. the nurse aide is found to meet any of the requirements contained in subsection C of Section 1-1950.1 of this title, or
 - c. the nurse aide is found to have committed abuse, neglect or exploitation of a resident or misappropriation of resident or client property pursuant to the requirements contained in paragraph 7 of subsection D of this section. The action to revoke or suspend may be included with the filing of any action pursuant to the requirements of paragraph 7 of subsection D of this section.

B. The State Board of Health shall promulgate rules to implement the provisions of this section and shall have power to assess fees.

1. Each person certified as a nurse aide pursuant to the provisions of this section shall be required to pay certification and recertification fees in amounts to be determined by the State Board of Health, not to exceed Fifteen Dollars (\$15.00).
2. In addition to the certification and recertification fees, the State Board of Health may impose fees for training or education programs conducted or approved by the Department, except for those programs operated by the Oklahoma Department of Veterans Affairs.
3. All revenues collected as a result of fees authorized in this section and imposed by the Board shall be deposited into the Public Health Special Fund.

C. Only a person who has qualified as a certified nurse aide and who holds a valid current nurse aide certificate for use in this state shall have the right and privilege of using the title Certified Nurse Aide and to use the abbreviation CNA after the name of such person. Any person who violates the provisions of this section shall be subject to a civil monetary penalty to be assessed by the Department.

D. A person qualified by the Department as a certified nurse aide shall be deemed to have met the requirements to work as a home health aide pursuant to the provisions of the Home Care Act and shall require no further licensure for performing services within the scope of practice of home health aides.

E. 1. The State Department of Health shall establish and maintain a certified nurse aide, nurse aide trainee and feeding assistant registry that:

- a. is sufficiently accessible to promptly meet the needs of the public and employers, and
- b. provides a process for notification and investigation of alleged abuse, exploitation or neglect of residents of a facility or home, clients of an agency or center, or of misappropriation of resident or client property.

2. The registry shall contain information as to whether a nurse aide has:

- a. successfully completed a certified nurse aide training and competency examination,
- b. met all the requirements for certification, or
- c. received a waiver from the Board.

3. The registry shall include, but not be limited to, the following information on each certified nurse aide or nurse aide trainee:

- a. the full name of the individual,
- b. information necessary to identify each individual. Certified nurse aides and nurse aide trainees shall maintain with the registry current residential addresses and shall notify the registry, in writing, of any change of name. Notification of change of name shall require certified copies of any marriage license or other court document which reflects the change of name. Notice of change of address or telephone number shall be made within ten (10) days of the effected change. Notice shall not be accepted over the phone,
- c. the date the individual became eligible for placement in the registry, and
- d. information on any finding of the Department of abuse, neglect or exploitation by the certified nurse aide or nurse aide trainee, including:

(1) documentation of the Department's investigation, including the nature of the allegation and the evidence that led the Department to confirm the allegation,

(2) the date of the hearing, if requested by the certified nurse aide or nurse aide trainee, and

(3) statement by the individual disputing the finding if the individual chooses to make one.

4. The Department shall include the information specified in subparagraph d of paragraph 3 of this subsection in the registry within ten (10) working days of the substantiating finding and it shall remain in the registry, unless:

- a. it has been determined by an administrative law judge, a district court or an appeal court that the finding was in error, or
- b. the Board is notified of the death of the certified nurse aide or nurse aide trainee.

5. Upon receipt of an allegation of abuse, exploitation or neglect of a resident or client, or an allegation of misappropriation of resident or client property by a certified nurse aide or nurse aide trainee, the Department shall place a pending notation in the registry until a final determination has been made. If the investigation, or administrative hearing held to determine whether the certified nurse aide or nurse aide trainee is in violation of the law or rules promulgated pursuant thereto, reveals that the abuse, exploitation or neglect, or misappropriation of resident or client property was unsubstantiated, the pending notation shall be removed within twenty-four (24) hours of receipt of notice by the Department.

6. The Department shall, after notice to the individuals involved and a reasonable opportunity for a hearing, make a finding as to the accuracy of the allegations.

7. If the Department after notice and opportunity for hearing determines with clear and convincing evidence that abuse, neglect or exploitation, or misappropriation of resident or client property has occurred and the alleged perpetrator is the person who committed the prohibited act, notice of the findings shall be sent to the nurse aide and to the district attorney for the county where the abuse, neglect or exploitation, or misappropriation of resident or client property occurred and to the Medicaid Fraud Control Unit of the Attorney General's Office. Notice of ineligibility to work as a nurse aide in a long-term care facility, a residential care facility, assisted living facility, day care facility, or any entity that requires certification of nurse aides, and notice of any further appeal rights shall also be sent to the nurse aide.

8. In any proceeding in which the Department is required to serve notice or an order on an individual, the Department may send written correspondence to the address on file with the registry. If the correspondence is returned and a notation of the United States Postal Service indicates "unclaimed" or "moved" or "refused" or any other nondelivery markings and the records of the registry indicate that no change of address as required by this subsection has been received by the registry, the notice and any subsequent notices or orders shall be deemed by the court as having been legally served for all purposes.

9. The Department shall require that each facility check the nurse aide registry before hiring a person to work as a nurse aide. If the registry indicates that an individual has been found, as a result of a hearing, to be personally responsible for abuse, neglect or exploitation, that individual shall not be hired by the facility.

10. If the state finds that any other individual employed by the facility has neglected, abused, misappropriated property or exploited in a facility, the Department shall notify the appropriate licensing authority and the district attorney for the county where the abuse, neglect or exploitation, or misappropriation of resident or client property occurred.

11. Upon a written request by a certified nurse aide or nurse aide trainee, the Board shall provide within twenty (20) working days all information on the record of the certified nurse aide or nurse aide trainee when a finding of abuse, exploitation or neglect is confirmed and placed in the registry.

12. Upon request and except for the names of residents and clients, the Department shall disclose all of the information relating to the confirmed determination of abuse, exploitation and neglect by the certified nurse aide or nurse aide trainee to the person requesting such information, and may disclose additional information the Department determines necessary.

13. A person who has acted in good faith to comply with state reporting requirements and this section of law shall be immune from liability for reporting allegations of abuse, neglect or exploitation.

F. Each nurse aide trainee shall wear a badge which clearly identifies the person as a nurse aide trainee. Such badge shall be furnished by the facility employing the trainee. The badge shall be nontransferable and shall include the first and last name of the trainee.

G. 1. For purposes of this section, "feeding assistant" means an individual who is paid to feed residents by a facility or who is used under an arrangement with another agency or organization and meets the requirements cited in 42 CFR Parts 483 and 488.

2. Each facility that employs or contracts employment of a feeding assistant shall maintain a record of all individuals, used by the facility as feeding assistants, who have successfully completed a training course approved by the state for paid feeding assistants.

Laws 1996, SB 1177, c. 336, § 8, eff. November 1, 1996; Amended by Laws 2002, HB 2604, c. 230, § 16, eff. November 1, 2002 ([superseded document available](#)); Amended by Laws 2005, SB 950, c. 235, § 1, eff. November 1, 2005 (repealed by Laws 2006, HB 3139, c. 16, § 45, emerg. eff. March 29, 2006); Amended by Laws 2005, HB 1688, c. 460, § 13, eff. November 1, 2005 ([superseded document available](#)); Amended by Laws 2006, HB 3139, c. 16, § 44, emerg. eff. March 29, 2006 ([superseded document available](#)); Amended by Laws 2012, HB 2582, c. 358, § 6, eff. November 1, 2012 ([superseded document available](#)); Amended by Laws 2013, SB 629, c. 379, § 7, emerg. eff. May 23, 2013 ([superseded document available](#)); Amended by Laws 2015, HB 1435, c. 122, § 1, eff. November 1, 2015 ([superseded document available](#)); Amended by Laws 2017, SB 180, c. 77, § 2, eff. November 1, 2017 ([superseded document available](#)).

Citationizer[®] Summary of Documents Citing This Document

<i>Cite Name</i>	<i>Level</i>
Oklahoma Attorney General's Opinions	
<i>Cite</i>	<i>Name</i> <i>Level</i>
<u>2001 OK AG 7</u>	<u>Question Submitted by: Jerry Regier, Acting Director, Dept of Health and Secretary of Health and Human Services</u> <i>Discussed at Length</i>
Oklahoma Court of Civil Appeals Cases	
<i>Cite</i>	<i>Name</i> <i>Level</i>
<u>2010 OK CIV APP 73, 239 P.3d 973</u>	<u>LAMB v. STATE ex rel. PROTECTIVE HEALTH SERVICES OF THE STATE HEALTH DEPT.</u> <i>Discussed</i>

Cite Name	Level	
<i>Cite</i>	<i>Name</i>	<i>Level</i>
<u>2009 OK 61, 222 P.3d 1058,</u>	<u>STATE ex rel. PROTECTIVE HEALTH SERVICES STATE DEPT. OF HEALTH v. VAUGHN</u>	Discussed at Length

Oklahoma Session Laws - 2002

<i>Cite</i>	<i>Name</i>	<i>Level</i>
<u>2002 O.S.L. 230, 2002 O.S.L. 230,</u>	<u>Public health; relating to the Nursing Home Care Act; modifying licensing requirements; modifying Board of Health membership; modifying employment requirements for nurse aides. Effective date.</u>	Cited

Title 63. Public Health and Safety

<i>Cite</i>	<i>Name</i>	<i>Level</i>
<u>63 O.S. 1-1962,</u>	<u>Licensure Requirement - Applicability of Act</u>	Cited

Citationizer: Table of Authority

Cite Name	Level	
Title 63. Public Health and Safety		
<i>Cite</i>	<i>Name</i>	<i>Level</i>
<u>63 O.S. 1-1951,</u>	<u>Power and Duties of State Department of Health - Certified Nursing Aides.</u>	Cited
<u>63 O.S. 1-1950.1,</u>	<u>Criminal History Background Checks for Employees - Exemptions</u>	Discussed
<u>63 O.S. 1-1951,</u>	<u>Power and Duties of State Department of Health - Certified Nursing Aides</u>	Cited
<u>63 O.S. 1-1951,</u>	<u>Power and Duties of State Department of Health - Certified Nursing Aides</u>	Cited
<u>63 O.S. 1-1951,</u>	<u>Power and Duties of State Department of Health - Certified Nursing Aides</u>	Cited
<u>63 O.S. 1-1951,</u>	<u>Power and Duties of State Department of Health - Certified Nursing Aides</u>	Cited
<u>63 O.S. 1-1951,</u>	<u>Power and Duties of State Department of Health - Certified Nursing Aides</u>	Cited
<u>63 O.S. 1-1951,</u>	<u>Power and Duties of State Department of Health - Certified Nursing Aides</u>	Cited
Title 72. Soldiers and Sailors		
<i>Cite</i>	<i>Name</i>	<i>Level</i>
<u>72 O.S. 223.1,</u>	<u>Nurse Aides Training Program</u>	Cited

Historical Data



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1951.1 - State Board of Health and the War Veterans Commission to Promulgate Rules

Cite as: O.S. §, ___ __

The State Board of Health and the War Veterans Commission shall promulgate rules to implement the provisions of this act.

Historical Data

Laws 2013, SB 629, c. 379, § 8, emerg. eff. May 23, 2013.

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Nursing Home Care Act (cont.)

Section 1-1980 - Use of Proceeds from Fees

Cite as: O.S. §, ___ __

The owner of any nursing home, assisted living center, residential care home, continuum of care facility, independent living facility, life care community, long-term care facility or any other facility offering similar services which may or may not be subject to the licensing requirements of the State Department of Health shall be authorized to use the proceeds from any fees required by and paid to the facility unless named and specifically prohibited by the Long-Term Care Insurance Act for business expenses, including the payment of principal, interest or costs of borrowing related to debt incurred for purposes of capital asset acquisition or the improvement or expansion of the facility.

Historical Data

Laws 2008, SB 1420, c. 305, § 9, emerg. eff. June 2, 2008.

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OAC 310:675

Nursing and Specialized Facilities

Rule text was pulled from the official record on the Oklahoma Office of Administrative Rules (OAR) web page on 02-08-24. Rules are subject to change through the rule promulgation process. When rule promulgation results in rule change, updated language is published to the official OAR site a few weeks after the effective date of the rule change. *Emergency rules are not published to the OAR site.

CHAPTER 675. NURSING AND SPECIALIZED FACILITIES

EDITOR'S NOTE: Numerous rules in this Chapter were added or revised by the Oklahoma State Department of Health in 2007. However, after these rules, as identified below, had been promulgated in the Oklahoma Register and published in the 2007 OAC Supplement, the Department discovered that an earlier draft of the rules, which had NOT been adopted by the State Board of Health, had been inadvertently submitted to the Legislature, Governor, and Secretary of State for review, final adoption, and promulgation [see 24 Ok Reg 2030, effective 6-25-07]:310:675-1-2310:675-7-5.1310:675-7-12.1310:675-7-17.1310:675-7-18.1310:675-7-21310:675-9-13.1310:675-13-7310:675-21-1 through 310:675-21-5Appendix BUpon discovery of this error; the agency initiated another rulemaking action, and the rules were readopted in 2008. After review and final adoption, those rules were promulgated at 25 Ok Reg 2482, effective 7-11-08. [See also Editor's Note published at 25 Ok Reg 2482]

[Authority:63 O.S., §§ 1-104 and 1-1901 et seq.]

[Source:Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS

310:675-1-1. Purpose

The purpose of this Chapter is to implement the "Nursing Home Care Act" (63 O.S. 1991, §§ 1-1901 et seq.) and to establish the minimum criteria for the issuance or renewal of a nursing or specialized facility license.

[Source: Amended at 9 Ok Reg 3163, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1639, eff 6-1-93]

310:675-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning unless the context clearly indicates otherwise:

"Act" means Title 63 of the Oklahoma Statutes, Sections 1-1901 and following as amended also known as the Nursing Home Care Act.

"Allied health professional" means one of the following persons: physician assistant, physical, speech, or occupational therapist, occupational therapy assistant, physical therapy assistant, or qualified social worker.

"Antipsychotic drug" means a drug, sometimes called a major tranquilizer, used to treat symptoms of severe psychiatric disorders, including but not limited to schizophrenia and bipolar disorder.

"Attendant" means the person having control of an animal/pet visiting or in residence in a facility.

"Approval" means the mandatory state government process by which an agency or program is reviewed, and publicly proclaimed, to render a service worthy of note.

"CEP" means the nurse aide competency evaluation program.

"Certification" means the process by which a non-governmental agency, or association, or governmental agency attests that an individual or facility has met certain predetermined standards specified by the certifying body.

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

"Certified nurse aide" means any person who provides, for compensation, nursing care or health-related services to residents of a facility, who is not a licensed health professional and has completed a Department approved training and competency program.

"Charge nurse" means a registered nurse or licensed practical nurse responsible for supervising nursing services on a specific shift.

"Chemical restraints" means the use of a medication for the purpose of discipline, convenience, or in an emergency situation to control mood or behavior and not required to treat the resident's symptoms.

"Consultant registered nurse" means a registered nurse who provides consultation to the director of nursing and administrator concerning the delivery of nursing care for all residents in the facility.

"Denial" means a decision made by the appropriate body to disapprove an application.

"Direct care staff" means nursing, activity, social and therapy staff.

"Director of nursing" means either a registered nurse or licensed practical nurse, who has the authority and responsibility to administer nursing services within the facility.

"Emergency" means, for the purposes of Title 63 O.S. § 1-1912, a serious, potentially life-threatening or life-endangering situation in which immediate action is necessary to ensure the health, safety, or welfare of residents, and for which the facility:

- (A) does not have a plan acceptable to the Department to ensure health, safety or welfare of residents; or
- (B) refuses to remedy the situation.

"Health related services" means any medically directed service provided by any person in a facility that may include but is not limited to, the following:

- (A) Positioning and turning of residents;
- (B) Self-help skill training;
- (C) Assistance with prosthetic/assistive devices;
- (D) Medication administration;
- (E) Nutrition and hydration;
- (F) Monitoring of resident vital signs;
- (G) Catheter and nasogastric care;
- (H) Behavior modification programs;
- (I) Administering a medically related care plan; and
- (J) Restorative services.

"In charge" and **"supervision"** means the administrator must have the requisite authorization from the licensee to make those purchases and incur those necessarily attendant debts in order to comply with the rules promulgated by the Board and all pertinent state statutes.

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

"Licensed health professional" means one of the following: a physician; dentist, podiatrist, chiropractor, physician assistant, nurse practitioner; pharmacist; physical, speech, or occupational therapist; registered nurse, licensed practical nurse; licensed or certified social worker; or licensed/registered dietician.

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

"Licensed pharmacist" means a person who is a graduate of an accredited pharmacy program and is currently licensed by the Oklahoma Board of Pharmacy.

"Licensed practical nurse" means a person who is a graduate of a state approved practical nursing education program, or who meets other qualifications established by the Oklahoma Board of Nursing, and is currently licensed by the Oklahoma Board of Nursing.

"Licensure" means the process by which the Department grants to persons or entities the right to establish, operate, or maintain any facility.

"Local law enforcement" means:

- (A) The municipal police department, if the facility is within the jurisdiction of any municipality of this state, or
- (B) The county sheriff, if the facility is outside the jurisdiction of any municipality within this state.

"Long-term care facility" means:

- (A) a nursing facility as defined in 63 O.S. § 1-1902;
- (B) a continuum of care facility as defined under the Continuum of Care and Assisted Living Act; or
- (C) the nursing care component of a life care community as defined by the Long-term Care Insurance Act.

"Manager" or "supervisor" means the person or entity which performs administrative services for the licensee. The manager or supervisor is not legally responsible for the decisions and liabilities of the licensee, and does not stand to gain or lose financially as a result of the operation of the facility. The manager is paid a fee or salary for services, and the primary remuneration shall not be based upon the financial performance of the facility.

"Misappropriation of resident's property" means the taking, secretion, misapplication, deprivation, transfer, or attempted transfer to any person not entitled to receive any property, real or personal, or anything of value belonging to or under the legal control of a resident, without the effective consent of the resident 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 resident's property.

"Nurse aide" means any person providing nursing or nursing related services to residents in a facility, but does not include an individual who is a licensed health professional, or who volunteers to provide such services without monetary compensation.

"Nurse aide trainee" means any person who has been employed by a facility to provide nursing care or health related services, and is enrolled in but has not completed a Department approved training and competency program.

"Orientation" means the training for a particular job activity given to all employees.

"Perishables" means food supplies, to include dietary supplements and intravenous feedings, medical supplies, and medications.

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

"Prescribing clinician" means:

- (A) an allopathic or osteopathic physician licensed by and in good standing with the Oklahoma State Board of Medical Licensure and Supervision or the Oklahoma State Board of Osteopathic Examiners, as appropriate;
- (B) a physician assistant licensed by and in good standing with the Oklahoma State Board of Medical Licensure and Supervision; or
- (C) an Advanced Practice Registered Nurse licensed by and in good standing with the Oklahoma Board of Nursing.

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

"Registered/licensed dietitian" means a person who is registered as a dietitian by the American Dietetic Association and licensed by the Oklahoma Board of Medical Licensure and Supervision.

"Registered nurse" means a person who is a graduate of a state approved registered nursing education program, and who is currently licensed by the Oklahoma Board of Nursing.

"Registry" means a Department maintained list of individuals who have successfully completed a nurse aide training and competency evaluation program, or a competency evaluation program, approved by the Department.

"Representative of a resident" means a representative of a resident as defined by 63 O.S. § 1-1902.

"Resident" means a resident as defined by 63 O.S. § 1902.

"Revoke" means to rescind approval of a previous action.

"Specialized facility" means any facility 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 developmentally disabled persons, infants and/or children, or Alzheimer's and dementia residents.

"Standards of nursing practice" means an authoritative statement that describes a level of care or performance common to the profession of nursing by which the quality of nursing practice can be judged. Standards of nursing practice include both standards of care and standards of professional performance.

"Standards of care" means a description of a competent level of care demonstrated by a process of accurate assessment and diagnosis, planning, appropriate interventions, and predicted patient outcomes. (Appendix B of this Chapter.)

"Standards of professional performance" means a description of a competent level of behavior in the professional role including activities related to quality assurance, education, consultation, research,

ethics, resource utilization, accountability, peer review, and interdisciplinary collaboration.

"Suspended license" means a license that is issued for a period not to exceed three years to a facility which has temporarily closed or ceased operations.

"Training and competency evaluation program" means a program approved by the Department to instruct and evaluate individuals to act as nurse aides.

"Transfer" means the move of a resident from one facility to another facility.

"Intra-facility transfer" means the moving of a resident from one room to another within a facility.

"Transfer of ownership" means a change of substantial, or controlling interest, in the ownership of a facility. A change of less than five percent (5%) of the interest of the owner does not constitute a transfer of ownership unless it also results in a change of control of the owner.

"Willful violation" means:

- (A) a pattern of violation of staffing requirement;
- (B) a violation of staffing requirement in which the facility knew or should have known staffing would be insufficient to meet the requirement yet took no action to avert the violation; or
- (C) the reporting of materially inaccurate or misleading information of staffing to the Health Care Authority.

[Source: Amended at 9 Ok Reg 3163, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1639, eff 6-1-93; Amended at 18 Ok Reg 2533, eff 6-25-01; Amended at 18 Ok Reg 3599, eff 8-22-01 through 7-14-02 (emergency)¹; Amended at 20 Ok Reg 2399, eff 7-11-03; Amended at 24 Ok Reg 2030, eff 6-25-07²; Amended at 25 Ok Reg 2482, eff 7-11-08; Amended at 36 Ok Reg 1748, eff 9-13-19; Amended at 37 Ok Reg 1448, eff 9-11-20]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency amendatory action, the last effective permanent text is reinstated. Therefore, on 7-15-02 (after the 7-14-02 expiration of the emergency action), the text of 310:675-1-2 reverted back to the permanent text that became effective 6-25-01, as was last published in the 2001 Edition of the OAC, and remained as such until amended again by permanent action on 7-11-03.

EDITOR'S NOTE: ²See Editor's Note at beginning of this Chapter.

310:675-1-3. Staff identification

Each facility shall ensure that each staff member wears an identification badge that clearly indicates the staff member's name and title.

[Source: Added at 18 Ok Reg 2533, eff 6-25-01]

310:675-1-4. Purpose, authority and indoor tobacco smoke

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

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

(c) Smoking or possessing a lighted tobacco product is prohibited in a facility and within fifteen (15) feet of each entrance to a facility and of any air intakes; provided however, the facility may provide a smoking room available to the residents and their guests and another room available to the employees.

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

- (1) It is completely enclosed;
- (2) It is exhausted directly to the outside and maintained under negative pressure sufficient to prevent any tobacco smoke from entering non-smoking areas of the building;

(3) It allows for visual observation of the residents from outside of the smoking room; and

(4) The plans are reviewed and approved by the Department.

(e) To enable better observation and supervision of residents who wish to smoke outside, a facility may designate a smoking area outside an entrance other than the main entrance which may be closer than fifteen (15) feet to the entrance providing consideration is given to minimizing the possibility of smoke entering the building.

(f) The walkway to the main entrance shall also be smoke free.

(g) No ashtray shall be located closer than fifteen (15) feet to an entrance, except in an indoor smoking room or a designated outdoor smoking area under paragraph "c" above.

(h) Should construction requirements not be in agreement with this rule, the stricter rule shall apply.

(i) The facility's tobacco use policy shall be clearly posted near the main entrance, and prospective residents or their legal representatives shall be notified of the policy prior to the residents' acceptance for admission.

[Source: Added at 19 Ok Reg 2098, eff 7-1-02]

310:675-1-5. Relocation of a resident by the Department in emergency

(a) The Department may relocate a resident in an emergency when:

(1) The Department determines that the resident is in immediate jeopardy which cannot be rectified without relocation; or

(2) The facility has substantial quality of care non-compliance with the rules and/or certification standards and when actual harm has occurred in the facility; or

(3) The facility is unable to meet the needs of the resident.

(b) The Department may order the removal of all the residents to close the facility.

(c) The Department shall involve the resident and the resident's family or representative in the decision to relocate the resident; however, the Department may move the resident without the consent of the resident or the family if necessary to preserve the health, welfare or safety of the resident. If the resident does not consent, then if possible a member of the Adult Protective Services staff must agree in writing that the resident needs to be moved.

(d) The Department shall give written notice to the resident and to the facility of the reasons for the discharge or transfer if the resident or the resident's families do not agree to transfer the resident.

(e) If the resident has no specific preference, the Department shall relocate the residents to the nearest facility capable of care for the resident if acceptable to the resident.

(f) Should a resident be aggrieved by the decision of the Department to relocate or transfer that resident, the Department shall conduct a hearing before relocating the resident unless to do so will fail to preserve the health, welfare or safety of the resident.

(g) The hearing will be conducted following Chapter 2 of this title and the Administrative Procedures Act.

(h) The hearing will be conducted at the facility, and will be attended by the Administrative Law Judge and the Department's legal counsel. The Department will maintain a record on the case as it would for another individual proceeding.

(i) The Administrative Law Judge shall make this case a priority and shall issue a written opinion within one working day from the close of the hearing.

(j) The Administrative Law Judge's order shall include findings of fact, conclusions of law and an order that the transfer was according to law or not.

(k) The order may be appealed to District Court as in any other individual proceeding under the Administrative Procedures Act.

[Source: Added at 20 Ok Reg 2399, eff 7-11-03]

310:675-1-6. Waiver

(a) The Commissioner of Health, in accordance with 63 O.S. Section 1-1900.2, may waive provisions of the Nursing Home Care Act and this Chapter, if the Department of Health determines that such waiver would not endanger the life, safety or health of any resident of a nursing facility and the waiver application meets the requirements specified in this section and 63 O.S. Section 1-1900.2.

- (b) Any facility requesting a waiver shall apply in writing to the Department of Health. Such application shall include:
- (1) The specific statute(s) or regulation(s) for which the waiver is requested;
 - (2) Reason(s) for requesting a waiver;
 - (3) An explanation of how the requested waiver fosters the development of resident autonomy, individualization and culture change in support of a deinstitutionalization model;
 - (4) The specific relief requested; and
 - (5) Any documentation which supports the application for waiver.
- (c) In consideration of any application for waiver, the Commissioner of Health may consider the following:
- (1) Compliance with 63 O.S. Section 1-1900.2;
 - (2) The level of care provided;
 - (3) The maximum resident capacity;
 - (4) The impact of a waiver on care provided;
 - (5) Alternative policies or procedures proposed; and
 - (6) Compliance history with provisions of the Nursing Home Care Act and this Chapter.
- (d) The Department of Health shall consider each request for a waiver and shall approve or disapprove the request in writing within sixty (60) business days of receipt of the request.
- (e) If the Department of Health finds that an application is incomplete, the Department shall advise the applicant in writing and offer an opportunity to submit additional or clarifying information. The applicant shall have thirty (30) business days to submit additional or clarifying information in writing to the Department of Health upon receipt of written notification.
- (f) The facility that is granted a waiver shall notify residents of the facility or, where appropriate, the guardians or legal representatives of such residents of the waiver in writing.
- (g) An applicant who disagrees with the Department's decision regarding the waiver application may file a written petition requesting review by an administrative law judge in an individual proceeding under the Oklahoma Administrative Procedures Act.
- (h) The Department may revoke a waiver through an administrative proceeding in accordance with the Oklahoma Administrative Procedures Act upon finding the nursing facility is operating in violation of the waiver or the waiver endangers the life, safety or health of any resident in the nursing facility.

[Source: Added at 28 Ok Reg 1371, eff 6-25-11]

SUBCHAPTER 3. LICENSES

310:675-3-1. License required [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-3-1.1. Application for licensure

- (a) No person or entity shall operate a facility without first obtaining a license.
- (b) The applicant shall file a licensure application in a timely manner, on the forms provided by the Department, with a check for the filing fee payable to the Oklahoma State Department of Health. The filing fee is set by statute, and currently is calculated as Ten Dollars (\$10.00) per licensed bed.
- (c) The facility owner shall be the applicant for the license, unless a receiver has been appointed. If there is a receiver, the receiver shall be the applicant.
- (d) If the facility is leased, then the person or entity to whom the facility is leased shall be the applicant. If the lessee does not assume all rights to the facility and the lessor reserves some participatory rights in the operation of the facility, then both entities shall make joint application for the license.
- (e) The applicant for license shall disclose the name, address, and tax identification number of a person or entity who has the legal duties of filing employment tax returns and paying employment taxes with respect to staff required to meet the needs of facility residents, including but not limited to administrators, nurses, nurse aides, certified medication aides, dietitians, nutritionists, food service staff, qualified intellectual disability professional, and activities, social services, maintenance and housekeeping personnel.

(f) An application is not considered to be filed unless it is accompanied by the application fee. The application fee, however, shall not be required from a receiver or temporary manager appointed by, or at the request of, the Department.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93; Amended at 11 Ok Reg 3193, eff 6-27-94; Amended at 13 Ok Reg 2511, eff 6-27-96; Amended at 21 Ok Reg 2805, eff 7-12-04; Amended at 23 Ok Reg 3167, eff 7-26-06 (emergency); Amended at 24 Ok Reg 2043, eff 6-25-07; Amended at 26 Ok Reg 2059, eff 6-25-09; Amended at 36 Ok Reg 1748, eff 9-13-19]

310:675-3-2. Application for licensure/relicensure [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-3-2.1. Deadlines for filing

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

- (1) The application for an initial license of a new facility shall be filed at least thirty days before beginning operations.
- (2) The application for an initial license, following a transfer of ownership or operation, shall be filed at least thirty days before the final transfer. In the case of the appointment of a receiver as operator, this thirty day advance filing requirement may be waived if the Commissioner finds that an emergency exists which threatens the welfare of the facility residents. If an emergency is found to exist, the receiver shall file the license application before beginning operation of the facility.
- (3) The application for renewal of license of an existing facility, with no transfer of ownership or operation, shall be filed by the renewal date specified on the existing license.
- (4) An application for a suspended license, with no transfer of ownership or operation, shall be filed within thirty (30) days of relocation of all residents or the date the facility ceases operation.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93; Amended at 13 Ok Reg 2511, eff 6-27-96; Amended at 20 Ok Reg 2399, eff 7-11-03]

310:675-3-3. Probationary and conditional licenses [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-3-3.1. Where to file

- (a) Each initial, renewal or suspended license application, and each Notice of Change requesting an increase in beds, and the applicable license fee shall be delivered or sent to the Department at the address specified on the application or notice form. The effective date of filing shall be the date the application or notice and any required fee are received. No initial or renewal license or increase in licensed beds shall bear an effective date of issuance that is earlier than the effective date of filing.
- (b) The completed application forms and the license fee shall not be given to Department personnel at the facility site.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93; Amended at 20 Ok Reg 2399, eff 7-11-03]

310:675-3-4. Denial of license

The Department's consideration of financial insufficiency as a reason for denial of a license pursuant to 63 O.S. Section 1-1906(C)(4), may include, but is not limited to, the following bases:

- (1) The applicant or any person or entity disclosed pursuant to 310:675-3-1.1(e) is not current with filing and payment requirements for state and/or federal taxes;
- (2) The State of Oklahoma has filed a tax warrant or warrants against the applicant or any person or entity disclosed pursuant to 310:675-3-1.1(e); or
- (3) The Internal Revenue Service has filed a notice of federal tax lien against the applicant or any person or entity disclosed pursuant to 310:675-3-1.1(e).

310:675-3-4.1. Forms

The applicant for a license shall file application forms as follows:

- (1) For an initial license of a new facility, or for an existing facility following a transfer of ownership or operation, the applicant shall file these forms: License Application; Disclosure Statement of Owner, Lessee and Manager, with Detail Attachment and Affirmation Attachment; the Staffing Projection and Professional Certification; and the Certification of Tax Liens and Timely Payment of Taxes.
- (2) For renewal or suspension of a current license, the applicant shall file the License Application form, and the Certification of Tax Liens and Timely Payment of Taxes. The application forms shall provide for the facility to file an abbreviated report if no change has been made since the time of the last application.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93; Amended at 20 Ok Reg 2399, eff 7-11-03; Amended at 21 Ok Reg 2805, eff 7-12-04; Amended at 23 Ok Reg 3167, eff 7-26-06 (emergency); Amended at 24 Ok Reg 2043, eff 6-25-07]

310:675-3-5. Suspension/revocation of license

- (a) The period for an extension granted pursuant to 63 O.S. Supp. 2002 Section 1-1906(H)(2) shall not exceed three (3) years.
- (b) During the period of suspension, the licensee shall file a Periodic Report for Suspended License that demonstrates the facility's progress towards reopening the facility or the extenuating or unusual circumstances for requesting the extension of the suspended license, in the form of, but not limited to: contract for sale, contract with real estate agent or builder, or a pending Certificate of Need application.
- (c) The facility shall file periodic reports at least once every six months. The Department shall send a notice to each facility's contact, at least thirty (30) days prior to the due date of the periodic report.
- (d) The Department's consideration of financial insufficiency as a reason for suspension or revocation of a license pursuant to 63 O.S. Section 1-1906(E)(4), may include, but is not limited to, the following bases:
 - (1) The applicant or any person or entity disclosed pursuant to 310:675-3-1.1(e) is not current with filing and payment requirements for state and/or federal taxes;
 - (2) The State of Oklahoma has filed a tax warrant or warrants against the applicant or any person or entity disclosed pursuant to 310:675-3-1.1(e); or
 - (3) The Internal Revenue Service has filed a notice of federal tax lien against the applicant or any person or entity disclosed pursuant to 310:675-3-1.1(e).

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93; Amended at 20 Ok Reg 2399, eff 7-11-03; Amended at 21 Ok Reg 2805, eff 7-12-04; Amended at 26 Ok Reg 2059, eff 6-25-09]

310:675-3-5.1. Description of forms

- (a) The forms used to apply for a facility license are the following.
 - (1) The License Application for a Nursing or Specialized Facility (Form 953-A) requires: identification of the type of license; the name and address of the facility; the administrator's name; the number and type of beds; the applicant's name; confirmation of changes in the owner, lessee, manager or any person or entity disclosed pursuant to 310:675-3-1.1(e); a zoning statement for new facilities; and an oath affirming the truth, correctness and completeness of the information provided.
 - (2) The Disclosure Statement of Owner, Lessee and Manager for a Nursing or Specialized Facility (Form 953-B) requires: the names and types of legal entities for the owner, lessee and manager; name, address and tax identification number for any person or entity disclosed pursuant to 310:675-3-1.1(e); and an oath affirming the truth, correctness and completeness of the information provided.
 - (3) The Detail Attachment (Form 953-C) supplements the Disclosure Statement (Form 953-B) and requires the names and addresses for the following as applicable:
 - (A) All shareholders owning 5% or more of a corporate entity and all officers of a corporate entity;

- (B) All partners of a general partnership;
- (C) All general partners and all limited partners that own 5% or more of a limited partnership;
- (D) All members that own 5% or more of a limited liability company and all managers of a limited liability company;
- (E) All beneficiaries that hold a 5% or more beneficial interest in a trust and all trustees of the trust;
- (F) All persons or entities that own a 5% or more interest in a joint venture;
- (G) All persons or entities that own a 5% or more interest in an association;
- (H) The owners holding a 5% or more interest of any other type of legal entity; and
- (I) Any other person holding at least a five percent (5%) interest in any entity which owns, operates, or manages the facility.
- (J) As a substitute to submitting a Disclosure Statement and Detail Attachment, if the owner, lessee and/or manager is an entity that is publicly traded and is required to file periodic reports under the Securities and Exchange Act of 1934, or is a wholly owned subsidiary of such a publicly held company, the applicant may submit the applicable portions of the most recent annual and quarterly reports required by the Securities and Exchange Commission (SEC). The applicant shall include an index reflecting where each item of information required to be disclosed pursuant to the Disclosure Statement and Detail Attachment may be located in the SEC filings. Submission of the complete SEC filing is not required. Only those portions applicable to the Disclosure Statement and Detail Attachment are to be submitted.
- (K) The required disclosure shall also be made by all persons or entities with an ownership interest in any entity required to be disclosed in paragraphs (A) through (I) of this section that is equal to a 5% or more indirect ownership interest in the owner, lessee and/or manager. The disclosure shall be made at each level of the organization to the extent required by this subsection.
- (L) For purposes of subsection (K), the percentage of indirect ownership interest in the owner, lessee and/or manager is determined by multiplying the percentages of ownership in each entity. For example, if A owns 10 % of the stock in a corporation that owns 80 % of the applicant for license, A's interest equates to an 8 % indirect ownership interest in the applicant and must be reported. Conversely, if B owns 80 percent of the stock of a corporation that owns a 5% interest of the stock of the applicant, B's interest equates to a 4% indirect ownership interest in the applicant and need not be reported.

(4) The Affirmation Attachment (Form 953-D) supplements the Disclosure Statement (Form 953-B) and requires the following: the names and addresses of individuals, members, officers and/or registered agents required to be disclosed for the applicant pursuant to 310:675-3-5.1(a)(3); and an affirmation from each of the above concerning their age, character and health.

(5) The Staffing Projection and Professional Certification for a Nursing or Specialized Facility (Form 953-E) requires: a projected staffing pattern; and a certification from the director of nursing, the physician on call for medical emergencies, and the pharmacist providing consultation and emergency pharmacy services.

(6) The Periodic Report for Suspended License (Form 953-F) requires: the name and address of the facility; the applicant's name and address, contact person and address; report of progress in reopening the facility; request for extension based on extenuating circumstances; and an oath affirming the truth, correctness and completeness of the information provided.

(b) The Notice of Change requests information on the name and address of the facility; the administrator; the number and type of beds; the applicant; confirmation of changes in the owner, lessee or manager; and any change in disclosure of persons or entities pursuant 310:675-3-1.1(e).

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93; Amended at 20 Ok Reg 2399, eff 7-11-03; Amended at 21 Ok Reg 2805, eff 7-12-04; Amended at 21 Ok Reg 2454, eff 7-11-05; Amended at 23 Ok Reg 3167, eff 7-26-06 (emergency); Amended at 24 Ok Reg 2043, eff 6-25-07; Amended at 26 Ok Reg 2059, eff 6-25-09]

310:675-3-6. Transfer of ownership [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-3-7. Certificate of approval [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-3-8. Notice of change

(a) If changes occur so that information previously submitted in a facility's license application is no longer correct, the facility shall notify the Department. Notice is required of changes to the following information:

- (1) Facility identification including facility business name, mailing address, telephone number or facsimile number;
- (2) Changes in licensed bed capacity, including proposed increases;
- (3) The administrator;
- (4) Owner, lessee or manager disclosure or detail information that does not otherwise necessitate an initial license;
- (5) Disclosure of persons or entities required to be disclosed pursuant 310:675-3-1.1(e); and

(b) The facility shall file the Notice of Change form with the Department on or before the effective date of the change, with the following exceptions.

- (1) When a change is unexpected or beyond the control of the facility, the facility shall provide notice to the Department within five (5) working days after the change.
- (2) For an increase in licensed bed capacity, the facility shall file the notice of change prior to the requested license amendment date. The notice of change shall be accompanied by the \$10 per-bed license fee pursuant to 63 O.S. Section 1-1905(A), prorated by the number of beds to be added and the proportion of time remaining on the license until expiration. Prior to occupying additional beds, the facility shall obtain an amended license from the Department.

(c) Following receipt of information that an applicant or any person or entity disclosed pursuant 310:675-3-1.1(e) is not in compliance with the tax filing, payment or disclosure requirements of 310:675-3-1.1. or 63 O.S. Section 1-1930.1, the Department may require an applicant or licensee to submit proof that the applicant or person or entity disclosed pursuant to 310:675-3-1.1(e) is in compliance with state or federal taxes. Such proof may include a letter from the taxing agency, a file-stamped copy of a return, a receipt for a tax payment, or a tax transcript or account.

[Source: Added at 20 Ok Reg 2399, eff 7-11-03; Amended at 21 Ok Reg 2805, eff 7-12-04; Amended at 21 Ok Reg 2454, eff 7-11-05; Amended at 23 Ok Reg 3167, eff 7-26-06 (emergency); Amended at 24 Ok Reg 2043, eff 6-25-07; Amended at 26 Ok Reg 2059, eff 6-25-09]

SUBCHAPTER 5. PHYSICAL PLANT

310:675-5-1. Application

(a) The requirements of this Subchapter shall be applicable to all new construction of, or modification to, long-term care facilities.

(b) In the determination of compliance with fire safety regulations, the State Fire Marshal and the Department may utilize a system of value equivalents, such as the NFPA 101A Guide on Alternative Approaches to Life Safety, 2010 Edition, which provides alternative methods for achieving compliance with the regulations.

[Source: Amended at 36 Ok Reg 1748, eff 9-13-19]

310:675-5-2. General considerations

(a) Facilities shall be available and accessible to the physically handicapped (public, staff, and patients).

(b) Each facility shall have parking space to satisfy the minimum needs of residents, employees, staff, and visitors. Space shall be provided for emergency and delivery vehicles.

310:675-5-3. Nursing unit

Each nursing unit shall provide the following:

- (1) Resident room with a maximum capacity of four residents.
- (2) Resident room with a minimum room area exclusive of toilet rooms, closets, lockers, wardrobes, alcoves or vestibules, shall be 100 sq. ft. in single bed rooms and 80 sq. ft. per bed in multi-bed rooms. Except that in specialized facilities serving only infants and/or children the minimum space per unit shall be 60 sq. ft. per crib. The maximum capacity of pediatric nurseries or rooms for infants or children utilizing cribs shall be twenty.
- (3) One lavatory shall be provided in each resident room. The lavatory may be omitted from a single-bed or a 2-bed room when a lavatory is located in an adjoining toilet room which serves that room only.
- (4) Each resident shall have access to a toilet room without entering the general corridor area. One toilet room shall serve no more than four (4) beds and no more than two (2) resident rooms. The toilet room shall contain a water closet and a lavatory. The lavatory may be omitted from a toilet room which serves single-bed and 2-bed rooms if each such resident's room contains a lavatory.
- (5) Each resident shall have a wardrobe, locker, or closet with minimum clear dimensions of 1'10" (55.9cm.) by 1'8" (50.8 cm.). A clothes rod and adjustable shelf shall be provided.
- (6) Visual privacy shall be provided each resident in multi-bed rooms. Design for privacy shall not restrict resident access to entry, lavatory, or toilet.
- (7) No resident room shall be located more than 120 ft. (36.6 m.) from the soiled workroom or the soiled holding room.

310:675-5-4. Service areas

The following shall be located in or readily available to each nursing unit:

- (1) Nurses' station with space for nurse's charting, doctor's charting, storage for administrative supplies, and handwashing facilities. (This handwashing facility could serve the drug distribution station, if conveniently located.)
- (2) Toilet room(s) for nursing staff.
- (3) Room for examination and treatment of residents may be omitted if all resident rooms are single-bed rooms. This room shall have a minimum floor area of 120 sq. ft. (11.15 sq. m.), excluding space for vestibule, toilet, closets and work counters (whether fixed or moveable). The minimum room dimension shall be 10'0" (3.05 m.) and shall contain a lavatory or sink equipped for handwashing, a work counter, storage facilities, and a desk, counter, or shelf space for writing.
- (4) Clean workroom/clean holding room.
 - (A) The clean workroom shall contain a work counter, handwashing, and storage facilities.
 - (B) The clean holding room shall be part of a system for storage and distribution of clean and sterile supply materials and shall be similar to the clean workroom except that the work counter and handwashing facilities may be omitted.
- (5) Soiled workroom/soiled holding room.
 - (A) The soiled workroom shall contain a clinical sink or equivalent flushing rim fixture, sink equipped for handwashing, work counter, waste receptacle, and linen receptacle.
 - (B) A soiled holding room shall be part of a system for collection and disposal of soiled materials and shall be similar to the soiled workroom except that the clinical sink and work counter may be omitted.
- (6) Drug distribution station. Provision shall be made for convenient and prompt 24 hour distribution of medicine to residents. This may be a medicine preparation room or unit, a self-contained medicine dispensing unit, or another approved system. If used, a medicine preparation room shall be under the nursing staff's visual control and contain a work counter, refrigerator, and locked storage for biologicals and drugs and shall have a minimum area of 50 sq. ft. (4.65 sq. m.). A medicine dispensing unit may be located at the nurse's station, in the clean workroom, or in an alcove or other space under direct control of the nursing or pharmacy staff.
- (7) Clean linen storage. Provide a separate closet or a designated area within the clean workroom. If a closed cart system is used, storage may be in an alcove.

(8) Equipment storage room. This shall be for equipment such as I.V. Stands, inhalators, air mattresses, and walkers. A parking for stretchers and wheelchairs shall be located out of path of normal traffic.

(9) Residents' bathing facilities. Bathtubs or showers shall be provided at the rate of at least one (1) for each twenty (20) beds which are not otherwise served by bathing facilities within residents' rooms. At least one bathtub shall be provided in each nursing unit. The Department may require more than one (1) bathtub or shower for each twenty (20) beds depending on the design of the facility and on the needs of any special population being served. Each tub or shower shall be in an individual room or enclosure which provides space for the private use of the bathing fixture, for drying and dressing, and for a wheelchair and an attendant. Showers in central bathing facilities shall be at least 4'0" (1.22 m.) square, without curbs, and designed to permit use by a wheelchair resident with an assisting attendant.

(10) Resident's toilet facilities. The minimum dimensions of a room containing only a water closet shall be 3'0" (91 cm.) by 6'0" (1.83 m.). Additional space shall be provided if a lavatory is located within the same room. Water closets may be located to be usable by wheelchair residents. A toilet room shall be accessible to each central bathing area without going through the general corridor.

(11) Sterilizing facilities. A system for the sterilization of equipment and supplies shall be provided.

[Source: Amended at 13 Ok Reg 2511, eff 6-27-96]

310:675-5-5. Resident's dining and recreation areas

The total areas set aside for these purposes shall not be less than 30 sq. ft. (2.79 sq. m.) per bed for the first 100 beds with a minimum size of not less than 225 sq. ft. (20.9 sq. m.) and 27 sq. ft. (2.51 sq. m.) per bed for all beds in excess of 100. Additional space shall be provided for outpatients if they participate in a day care program or are regularly fed in the facility. Storage space shall be provided for recreation equipment and supplies.

310:675-5-6. Physical therapy facilities

The following elements shall be provided in skilled nursing facilities:

- (1) Treatment areas shall have space and equipment for all modalities to be utilized. Provision shall be made for cubicle curtains around each individual treatment area, handwashing facility(ies) (One lavatory or sink may serve more than one cubicle), and facilities for the collection of soiled linen and other material.
- (2) Exercise area.
- (3) Storage for clean linen, supplies, and equipment.
- (4) Resident's dressing areas, showers, lockers, and toilet rooms.
- (5) Service sink.

310:675-5-7. Occupational therapy facilities

The following elements shall be provided in skilled nursing facilities:

- (1) Activities area shall include sink or lavatory and facilities for collection of waste products prior to disposal.
- (2) Storage for supplies and equipment. (May be planned and arranged for shared use by physical therapy patients and staff.)
- (3) Resident's dressing areas, showers, lockers, and toilet rooms. (May be planned and arranged for shared use by physical therapy patients and staff.)

310:675-5-8. Personal care unit

Separate room and appropriate equipment shall be provided for hair care and grooming needs of residents.

310:675-5-9. Dietary facilities

Shall be provided in such size as required to implement the type of food service system selected:

- (1) Control station for receiving food supplies²³⁴

- (2) Storage space for four (4) days' supply including cold storage.
- (3) Food preparation facilities as required by program. Conventional food preparation systems require space and equipment for preparing, cooking, and baking. Convenience food service systems such as frozen prepared meals, bulk packaged entrees, individual packaged portions, or systems using contractual commissary services will require space and equipment for thawing, portioning, cooking, and/or baking.
- (4) Handwashing facility(ies) in the food preparation Area.
- (5) Resident meal service space including facilities for tray assembly and distribution.
- (6) Dining Area for ambulatory residents, staff, and visitors.
- (7) Warewashing in a room or an alcove separate from food preparation and serving areas. This shall be provided for receiving, scraping, sorting, and stacking soiled tableware and for transferring clean tableware to the using areas. A lavatory shall be conveniently available.
- (8) Potwashing facilities.
- (9) Sanitizing facilities and storage areas for cans, carts, and mobile tray conveyors.
- (10) Waste storage facilities in a separate room which is easily accessible to the outside for direct pickup or disposal.
- (11) Office or suitable work space for the dietitian or the dietary service manager.
- (12) Toilets for dietary staff with handwashing facility immediately available.
- (13) Janitor's closet located within the dietary department. It shall contain a floor receptor or service sink and storage space for housekeeping equipment and supplies.
- (14) Self-dispensing icemaking facilities. May be in area separate from food preparation area but must be easily cleanable and convenient to dietary facilities. Bulk ice dispensing units must be accessible only to authorized staff members.

310:675-5-10. Pharmacy unit

Provision shall be made for the procurement, storage, administration and accounting of drugs and other pharmacy products. This may be by arrangement with convenient off-site facility but must include provision for 24 hour emergency service.

310:675-5-11. Administration and public areas

The following elements shall be provided:

- (1) Entrance at grade level sheltered from the weather and able to accommodate wheelchairs.
- (2) Lobby. It shall include:
 - (A) Reception and information counter or desk.
 - (B) Waiting space(s).
 - (C) Public toilet facilities.
 - (D) Public telephone(s).
 - (E) Drinking fountain(s).
- (3) General or individual office(s) for business transactions, private interviews, medical and financial records, and administrative and professional staff
- (4) Multipurpose room for conferences, meetings, and health education purposes including facilities for showing visual aids.
- (5) Storage for office equipment and supplies.

310:675-5-12. Linen services

(a) If linen is to be processed on the site, the following shall be provided:

- (1) Laundry processing room with commercial type equipment which can process seven (7) days' needs within a regularly scheduled work week. Handwashing facilities shall be provided.
- (2) Soiled linen receiving, holding, and sorting room with handwashing facilities.
- (3) Storage for laundry supplies.
- (4) Clean linen inspection and mending room or area.
- (5) Clean linen storage, issuing, and holding room or area.
- (6) Janitor's closet containing a floor receptor or service sink and storage space for housekeeping equipment and supplies.

(7) Sanitizing facilities and storage area for carts. The sanitizing facilities may be combined with those required for dietary facilities.

(b) If linen is processed off the site, the following shall be provided:

- (1) Soiled linen holding room.
- (2) Clean linen receiving, holding, inspection and storage room(s).
- (3) Sanitizing facilities and storage area for carts.

310:675-5-13. General stores

(a) **Facility storage.** General storage room(s) shall have a total area of not less than ten (10) sq. ft. (.93 sq. m.) per bed and shall generally be concentrated in one area.

(b) **Resident storage.** Separate storage space with provisions for locking and security control shall be provided for resident's personal effects which are not kept in resident's room.

310:675-5-14. Employee's facilities

Employees facilities such as lounges and toilets, to accommodate the needs of all personnel and volunteers shall be provided.

310:675-5-15. Janitor's closets

Janitor's closets shall be provided throughout the facility to maintain a clean and sanitary environment. These shall contain a floor receptor or service sink and storage space for housekeeping equipment and supplies.

310:675-5-16. Engineering service and equipment area

The following shall be provided:

- (1) Equipment room(s) or separate building(s) for boilers, mechanical equipment, and electrical equipment.
- (2) Maintenance shop(s) of size and equipment to support functions described in narrative program.
- (3) Storage room(s) for building maintenance supplies (may be part of maintenance shop in nursing homes of less than 100 beds).
- (4) Yard equipment storage. A separate room or building for yard maintenance equipment and supplies, if applicable. Any fuel or oil for mowers or other yard implements must be stored under cover at least 30 ft. away from any building utilized by residents.

310:675-5-17. Waste processing services

310:675-5-17.¹ Waste processing services

Space and facilities shall be provided for the sanitary storage and disposal of waste by incineration, mechanical destruction, compaction, containerization, removal, or by a combination of these techniques.

***EDITOR'S NOTE:** ¹In the initial codification of this agency's rules on 12-31-91, this Section was misnumbered as 310:675-3-17. Upon discovery of this error on 9-12-94, the number was changed to 310:675-5-17.*

310:675-5-18. Design and construction

The requirements in applicable portions of the National Fire Protection Association (NFPA) 101: Life Safety Code, 2012 Edition and 2012 Life Safety Code Tentative Interim Amendments (TIA) 12-1, 12-2, 12-3, and 12-4; and NFPA 99 Health Care Facility Code (HCFC), 2012 edition, excluding chapters 7, 8, 12 and 13, and 2012 HCFC TIA 12-2, 12-3, 12-4, 12-5 and 12-6, adopted in 81 Federal Register 26871 by the Centers for Medicare and Medicaid Services on July 5, 2016, are incorporated by reference. For Medicare or Medicaid certified nursing or specialized facilities, the Life Safety Code adopted by the Centers for Medicare & Medicaid Services prevails if there is a conflict between the Life Safety Code and this Chapter. A high degree of safety for the occupants shall be provided to minimize the incidence of accidents with special consideration for residents who will be ambulatory to assist them in self care. Hazards such as sharp corners shall be avoided.

(1) **Existing facilities.** Nonconforming portions which because of financial hardship are not being totally modernized, shall comply with NFPA 101, 2012 Edition, Chapters 19 or 43.

(2) **New construction projects including additions and alterations.** Details and finishes shall comply with the following:

(A) Items such as drinking fountains, telephone booths, vending machines, and portable equipment shall be located so as not to restrict corridor traffic or reduce the corridor width below the required minimum.

(B) All rooms containing bathtubs, sitz baths, showers, and water closets, subject to occupancy by residents, shall be equipped with doors and hardware which will permit access from the outside in any emergency. When such rooms have only one opening or are small, the doors shall be capable of opening outward or be otherwise designed to be opened without need to push against a resident who may have collapsed within the room.

(C) The minimum width of all doors to resident rooms and rooms needing access for beds shall be 3'8" (1.12 m.). Doors to rooms needing access for stretchers and to resident's toilet rooms and other rooms needing access for wheelchairs shall have a minimum width of 2'10" (86.3 cm.).

(D) Doors on all openings between corridors and rooms or spaces subject to occupancy, except elevator doors, shall be swing type. Openings to showers, baths, resident's toilets, and other small wet type areas not subject to fire hazard are exempt from this requirement.

(E) Windows and outer doors which may be frequently left in an open position shall be provided with insect screens. Windows shall be designed to prevent accidental falls when open.

(F) Resident rooms intended for occupancy of 24 hours or more shall have windows operable without the use of tools and shall have sills not more than 3'0" (91 cm.) above the floor. Windows in buildings designed with an engineered smoke control system in accordance with NFPA 90A are not required to be operable. However, attention is called to the fact that natural ventilation possible with operable windows may in some areas permit a reduction in energy requirements.

(G) Doors, except doors to spaces such as small closets which are not subject to occupancy, shall not swing into corridors in a manner that might obstruct traffic flow or reduce the required corridor width. (Large walk-in type closets are considered as occupiable spaces.)

(H) Safety glazing shall be of materials and at locations required by the Oklahoma Safety Glazing Material Law.

(I) Thresholds and expansion joint covers shall be made flush with the floor surface to facilitate use of wheelchairs and carts and shall be constructed to restrict the passage of smoke.

(J) Grab bars shall be provided at all residents' toilets, showers, tubs, and sitz baths. The bar shall have 1 1/2" (3.8 cm.) clearance to walls and shall have sufficient strength and anchorage to sustain a concentrated load of 250 lbs. (113.4 kg.).

(K) Recessed soap dishes shall be provided in showers and bathrooms.

(L) Handrails shall be provided on both sides of corridors used by residents. A clear distance of 1 1/2" (3.8 cm.) shall be provided between the handrail and the wall. Ends of handrails and grab bars shall be constructed to prevent snagging the clothes of residents.

(M) Location and arrangement of handwashing facilities shall permit their proper use and operation.

(N) Lavatories and handwashing facilities shall be securely anchored to withstand an applied vertical load of not less than 250 lbs. (113.4 kg.) on the front of the fixture.

(O) Mirrors shall be arranged for convenient use by residents in wheelchairs as well as by residents in a standing position. Mirrors shall not be installed at handwashing fixtures in food preparation areas.

(P) Provisions for hand drying shall be included at all handwashing facilities. These shall be single-use separate, individual paper or cloth units enclosed in such a way as to provide protection against the dust or soil and ensure single unit dispensing. Hot air dryers are

permitted provided that installation is such to preclude possible contamination by recirculation of air.

(Q) The minimum ceiling height shall be 8'0" (2.44 m.) with the following exceptions:

- (i) Boiler rooms shall have ceiling clearances not less than 2'6" (76 cm.) above the main boiler header and connecting piping.
- (ii) Rooms containing ceiling-mounted equipment shall have height required to accommodate the equipment.
- (iii) Ceilings in corridors, storage rooms, toilet rooms, and other minor rooms shall be not less than 7'8" (2.34 m.).
- (iv) Suspended tracks, rails and pipes located in path of normal traffic shall not be less than 6'8" (2.03 m.) above the floor.

(R) Recreation rooms, exercise rooms, and similar spaces where impact noise may be generated shall not be located directly over resident bed areas unless special provisions are made to minimize such noise.

(S) Rooms containing heat producing equipment (such as boiler or heater rooms and laundries) shall be insulated and ventilated to prevent any floor surface above from exceeding a temperature 10° F. (6° C.) above the ambient room temperature.

(3) **Finishes.**

(A) Floor materials shall be easily cleanable and have wear resistance appropriate for the location involved. Floors in areas used for food preparation or food assembly shall be water-resistant and grease-proof. Joints in tile and similar material in such areas shall be resistant to food acids. In all areas frequently subject to wet cleaning methods, floor materials shall not be physically affected by germicidal and cleaning solutions. Floors that are subject to traffic while wet (such as shower and bath areas, kitchens, and similar work areas) shall have a non-slip surface.

(B) Wall bases in kitchens, soiled workrooms, and other areas which are frequently subject to wet cleaning methods shall be made integral and covered with the floor, tightly sealed within the wall, and constructed without voids that can harbor insects.

(C) Wall finishes shall be washable and, in the immediate area of plumbing fixtures, shall be smooth and moisture resistant. Finish trim, and wall and floor constructions in dietary and food preparation areas shall be free from spaces that can harbor rodents and insects.

(D) Floor and wall penetrations by pipes, ducts, and conduits shall be tightly sealed to minimize entry of rodents and insects. Joints of structural elements shall be similarly sealed.

(E) Ceilings throughout shall be easily cleanable. Ceilings in the dietary and food preparation areas shall have a finished ceiling covering all overhead piping and duct work. Finished ceilings may be omitted in mechanical and equipment spaces, shops, general storage areas, and similar spaces, unless required for fire-resistive purposes.

[Source: Amended at 34 Ok Reg 1305, eff 10-1-17; Amended at 36 Ok Reg 1748, eff 9-13-19]

310:675-5-19. Elevators

All buildings having resident's facilities (such as bedrooms, dining rooms, or recreation areas) or resident services (such as diagnostic or therapy) located on other than the main entrance floor shall have electric or electrohydraulic elevators.

(1) Number of elevators.

(A) At least one (1) hospital-type elevator shall be installed where one (1) to fifty-nine (59) resident beds are located on any floor other than the main entrance floor.

(B) At least two (2), one of which shall be hospital-type, shall be installed where 60 to 200 resident beds are located on floors other than the main entrance floor, or where the major resident services are located on a floor other than those containing resident beds. (Elevator service may be reduced for those floors which provide only partial resident services).

(C) At least three (3), one of which shall be hospital-type, shall be installed where 201 to 350 resident beds are located on floors other than the main entrance floor, or where the

major resident services are located on a floor other than those containing resident beds. (Elevator service may be reduced for those floors which provide only partial resident services.)

(D) For facilities with more than 350 resident beds, the number of elevators shall be determined from a study of the facility plan and the estimated vertical transportation requirements.

(2) **Cars and platforms.** Cars of hospital-type elevators shall have inside dimensions that will accommodate a resident bed and attendants, and shall be at least 5'10" (1.52 m.) wide by 7'6" (2.29 m.) deep. The car door shall have a clear opening of not less than 3'8" (1.12 m.).

(3) **Leveling.** Elevators shall be equipped with an automatic leveling device of the two-way automatic maintaining type with an accuracy of 1/2" (1.3 cm.).

(4) **Operation.** Elevators, except freight elevators, shall be equipped with a two-way special service switch to permit cars to bypass all landing button calls and be dispatched directly to any floor.

(5) **Elevator controls, alarm buttons, and telephones.** These shall be accessible to wheelchair occupants.

(6) **Elevator call buttons, controls, and door safety stop.** These shall be of a type that will not be activated by heat or smoke.

(7) **Control buttons and signals.** These shall be such as to be usable by the blind.

(8) **Field inspection and tests.** These shall be made and the owner shall be furnished written certification that the installation meets the requirements set forth in this Section and all applicable safety regulations and codes. Installation shall comply with ANSI 17.1-1971.

310:675-5-20. Mechanical requirements

(a) Steam and hot water systems.

(1) Boilers shall have the capacity, based upon the net ratings published by Hydronics Institute, to supply the normal requirements of all systems and equipment. The number and arrangement of boilers shall be such that when one boiler breaks down or routine maintenance requires that one boiler be temporarily taken out of service, the capacity of the remaining boiler(s) shall be at least 70% of the total required capacity, except that in areas with a design temperature of 20 ° F. (-7 ° C.) or more, based on the Median of Extremes in the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Handbook of Fundamentals, the remaining boiler(s) do not have to include boiler capacity for space heaters.

(2) Boiler feed pumps, heating circulating pumps, condensate return pumps, and fuel oil pumps shall be connected and installed to provide normal and standby service.

(3) Supply and return mains and risers of cooling, heating and process systems shall be valved to isolate the various sections of each system. Each piece of equipment shall be valved at the supply and return ends, except that vacuum condensate return need not be valved at each piece of equipment.

(b) Heating and ventilating systems.

(1) **Design.** The design of heating and ventilating systems shall comply with the requirements of ASHRAE 170, 2008 Edition, as referenced by NFPA99, 2012 Edition.

(2) **Ventilation system details.** All air-supply and air-exhaust systems shall be mechanically operated. All fans serving exhaust systems shall be located at the discharge end of the system.

(A) Outdoor air intakes shall be located as far as practical but not less than 25' 0" (7.62 m.) from exhaust outlets or ventilating systems, combustion equipment stacks, medical vacuum systems, plumbing vent stacks, or from areas which may collect vehicular exhaust and other noxious fumes (plumbing and vacuum vents that terminate above the level of the top of the air intakes may be located as close as 10' 0" (3.05 m.)). The bottom of outdoor air intakes serving central systems shall be located as high as practical but not less than 6' 0" (1.83 m.) above ground level, or if installed above the roof, 3' 0" (91 cm.) above roof level.

(B) The bottoms of ventilation openings shall not be less than 3" (7.6 cm.) above the floor of any room.

(C) All central ventilation or air conditioning systems shall be equipped with filters. the filter bed shall be located upstream of the air conditioning equipment, unless a prefilter is employed. In this case, the prefilter shall be upstream of the equipment and the main filter bed may be located further downstream.

(D) Filter frames shall be durable and carefully dimensioned and shall provide an airtight fit with the enclosing ductwork. All joints between filter segments and the enclosing ductwork shall be gasketed or sealed to provide a positive seal against air leakage.

(c) **Plumbing and other piping systems.** These systems shall be designed and installed in accordance with the requirements of PHCC National Standard Plumbing Code, Chapter 14, "Medical Care Facility Plumbing Equipment."

(d) **Plumbing fixtures.** The material used for plumbing fixtures shall be of non-absorptive acid resistant material.

(1) The water supply spout for lavatories and sinks required in resident care areas of skilled nursing facilities only shall be mounted so that its discharge point is a minimum distance of 5" (12.7 cm.) above the rim of the fixture. In all facilities all fixtures used by medical and nursing staff, and all lavatories used by residents and food handlers shall be trimmed with valves which can be operated without the use of hands (single lever devices may be used subject to the above). Where blade handles are used for this purpose, they shall not exceed 4 1/2" (11.4 cm.) in length, except that handles on clinical sinks shall be not less than 6" (15.2 cm.) long.

(2) Clinical sinks shall have an integral trap in which the upper portion of a visible trap seal provides a water surface.

(3) Shower bases and tubs shall provide non-slip surfaces for standing residents.

(e) **Water supply systems.**

(1) Systems shall be designed to supply water at sufficient pressure to operate all fixtures and equipment during maximum demand periods.

(2) Each water service main, branch main, riser, and branch to a group of fixtures shall be valved. Stop valves shall be provided at each fixture.

(3) Backflow preventers (vacuum breakers) shall be installed on hose bibbs, janitors' sinks, bedpan flushing attachments, and on all other fixtures to which hoses or tubing can be attached.

(4) Flush valves installed on plumbing fixtures shall be of a quiet operating type, equipped with silencers.

(f) **Hot water heaters and tanks.**

(1) The hot water heating equipment shall have sufficient capacity to supply water at the temperature and amounts indicated. (See Appendix A). Water temperatures to be taken at hot water points of use or inlet to processing equipment.

(2) Storage tank(s) shall be fabricated of corrosion-resistant metal lined with non-corrosive material.

(g) **Drainage systems.**

(1) Insofar as possible, drainage piping shall not be installed within the ceiling nor installed in an exposed location in food preparation centers, food serving facilities, food storage areas, and other critical areas. Special precautions shall be taken to protect these areas from possible leakage or condensation from necessary overhead piping systems.

(2) Building sewers shall discharge into a community sewerage system. Where such a system is not available, a facility providing sewage treatment must conform to applicable local and State regulations.

(h) **Identification.** All piping in the HVAC service water systems shall be color coded or otherwise marked for easy identification.

[Source: Amended at 36 Ok Reg 1748, eff 9-13-19]

310:675-5-21. Electrical requirements

All material including equipment, conductors, control, and signaling devices shall be installed to provide a complete electrical system with the necessary characteristics and capacity to supply the electrical facilities shown in the specifications or indicated on the plans. All materials shall be listed as complying

with available standards of Underwriter's Laboratories, Inc., or other similarly established standards. All electrical installations and systems shall be tested to show that the equipment is installed and operates as planned or specified.

- (1) **Panelboards.** Panelboards serving lighting and appliance circuits shall be located on the same floor as the circuits they serve. This requirement does not apply to emergency system circuits.
- (2) **Lighting.** All spaces occupied by people, machinery, equipment within buildings, approaches to buildings, and parking lots shall have lighting.
 - (A) Residents' rooms shall have general lighting and night lighting. A reading light shall be provided for each resident. Flexible light arms shall be mechanically controlled to prevent the bulb from coming in contact with bed linen. At least one light fixture for night lighting shall be switched at the entrance to each resident room. All switches for control of lighting in resident areas shall be of quiet operating type.
 - (B) Nursing unit corridors shall have general illumination with provisions for reduction of light level at night.
- (3) **Receptacles (convenience outlets).**
 - (A) Resident room shall have duplex grounding type receptacles as follows: One location each side of the head of each bed, one for television if used, and one on another wall.
 - (B) Duplex grounding receptacles for general use shall be installed in all corridors approximately 50'0" (15.24 m.) apart and within 25'0" (7.62 m.) of ends of corridors.
- (4) **Notification system.**
 - (A) **Resident areas.** Each room, toilet and bathing area shall have a means for residents to directly contact nursing staff. This communication may be through audible or visual signs, electronic systems and may include "wireless systems."
 - (B) **Wireless nurse call system.** Facilities may substitute a wireless nurse call system for wired call systems or operate both a wireless and a wired nurse call system in parallel.
 - (C) **Resident's emergency.** A nurse's call emergency button shall be provided for resident's use at each resident's toilet, bath, and shower room. Such button shall be usable by a collapsed resident lying on the floor (inclusion of a pull cord will satisfy this item.)
- (5) **Emergency electric service.** Emergency electric service shall be provided in accordance with NFPA 99, 2012 Edition.

[Source: Amended at 28 Ok Reg 1371, eff 6-25-11; Amended at 36 Ok Reg 1748, eff 9-13-19]

310:675-5-22. Exceptions and temporary waivers

- (a) These standards are not intended to restrict innovations and improvements in design or construction techniques. Accordingly, the Department may approve plans and specifications which contain deviations if it is determined that the respective intent or objective of this Chapter has been met.
- (b) A nursing facility may submit a request for exception or temporary waiver if the rules in this Chapter create an unreasonable hardship, or if the design and construction for the nursing facility property offers improved or compensating features with equivalent outcomes to this Chapter.
- (c) The Department may permit exceptions and temporary waivers of this Chapter if the Department determines that such exceptions or temporary waivers comply with the requirements of 63 O.S. Section 1-1901 et seq., and the following:
 - (1) Any nursing facility requesting an exception or temporary waiver shall apply in writing on a form provided by the Department. The form shall include:
 - (A) The section(s) of this Chapter for which the exception or temporary waiver is requested;
 - (B) Reason(s) for requesting an exception or temporary waiver;
 - (C) The specific relief requested;
 - (D) Any supporting requirements in the Facility Guidelines Institute (FGI): Guidelines for Design and Construction of Residential Health, Care, and Support Facilities, 2014 Edition; and
 - (E) Any documentation which supports the application for exception.

(2) In consideration of a request for exception or temporary waiver, the Department shall consider the following:

- (A) Compliance with 63 O.S. Section 1-1901 et seq.;
- (B) The level of care provided;
- (C) The impact of an exception on care provided;
- (D) Alternative policies or procedures proposed;
- (E) Compliance with the Facility Guidelines Institute (FGI): Guidelines for Design and Construction of Residential Health, Care, and Support Facilities, 2014 Edition; and
- (F) Compliance history with provisions of the Life Safety Code and this Chapter.

(3) The Department shall permit or disallow the exception or waiver in writing within forty-five (45) calendar days after receipt of the request.

(4) If the Department finds that a request is incomplete, the Department shall advise the nursing facility in writing and offer an opportunity to submit additional or clarifying information. The applicant shall have thirty (30) calendar days after receipt of notification to submit additional or clarifying information in writing to the Department of Health, or the request shall be considered withdrawn.

(5) A nursing facility which disagrees with the Department's decision regarding the exception or temporary waiver may file a written petition requesting relief through an individual proceeding pursuant to OAC 310:2 (relating to Procedures of the State Department of Health).

(6) The Department may revoke an exception or temporary waiver through an administrative proceeding in accordance with OAC 310:2 and the Oklahoma Administrative Procedures Act upon finding the nursing facility is operating in violation of the exception or temporary waiver, or the exception or temporary waiver jeopardizes patient care and safety or constitutes a distinct hazard to life.

(7) The Department shall publish decisions on requests for exceptions and waivers and make them available to facilities and the public.

[Source: Added at 34 Ok Reg 1305, eff 10-1-17]

310:675-5-23. Submission of plans and specifications and related requests for services

(a) **Submission of plans.** Before construction is begun, plans and specifications, covering the construction of new buildings or major alterations to existing buildings shall be submitted to the Department for review as provided in OAC 310:675-5-24 or OAC 310:675-5-25.

(1) Plans and specifications are required for the following alterations:

- (A) Changes that affect path of egress;
- (B) Change of use or occupancy;
- (C) Repurposing of spaces;
- (D) Structural modifications;
- (E) Heating, ventilation and air conditioning (HVAC) modifications;
- (F) Electrical modifications that affect the essential electrical system;
- (G) Changes that require modification or relocation of fire alarm initiation or notification devices;
- (H) Changes that require modification or relocation of any portion of the automatic fire sprinkler system;
- (I) Replacement of fixed medical equipment if the alteration requires any work noted in (A) through (H) of this paragraph;
- (J) Replacement of or modifications to any required magnetic or radiation shielding;
- (K) Changes to or addition of any egress control devices or systems.

(2) Plans and specifications are not required for the following alterations:

- (A) Painting, papering tiling, carpeting, cabinets, counter tops and similar finish work provided that the new finishes shall meet the requirements of this Chapter;
- (B) Ordinary repairs and maintenance;
- (C) Modifications to nurse call or other signaling/communication/information technology systems provided the modifications meet the requirements of this Chapter; or

(D) Replacement of fixed or moveable medical equipment that does not affect electrical, HVAC, or shielding requirements noted above.

(b) **Fees.** Each construction project submission shall be accompanied by the appropriate review fee based on the cost of design and construction of the project. Fees for plan and specification reviews and related Department services are as follows:

- (1) Design and construction plans and specifications fee: two one-hundredths percent (0.02%) of the cost of design and construction of the project, with a minimum fee of Fifty Dollars (\$50.00) and a maximum fee of One Thousand Dollars (\$1,000.00);
- (2) Request for exception or temporary waiver fee: Five Hundred Dollars (\$500.00);
- (3) Application for self-certification fee: Five Hundred Dollars (\$500.00);
- (4) Courtesy construction inspection fee: Five Hundred Dollars (\$500.00);
- (5) Professional consultation or technical assistance fee: Five Hundred Dollars (\$500.00) for each eight hours or major fraction thereof of staff time. For technical assistance requiring travel, the fee may be increased to include the Department's costs for travel.

(c) **Fees when greater than two (2) submittals required.** The fee for review of design and construction plans and specifications shall cover the cost of review for up to two (2) stage one and two (2) stage two submittals and one final inspection. If a stage one or stage two submittal is not approved after two (2) submissions, another review fee shall be required with the third submittal. If a fast-track stage package is not approved after the second submittal, another review fee based on the cost of the project shall be required with the third submittal of the package.

(d) **Review process.** Design and construction plans and specifications shall be reviewed in accordance with the following process.

- (1) Unless otherwise provided in this Subchapter, the Department shall have ten (10) calendar days in which to initially determine if the filed application is administratively complete
 - (A) Upon determining that the application is not administratively complete, the Department shall immediately notify the applicant in writing and shall indicate with reasonable specificity the inadequacies and measures necessary to complete the application. Such notification shall not require nor preclude further review of the application and further requests for specific information. If the Department fails to notify the applicant as specified in this Paragraph, the period for technical review shall begin at the close of the administrative completeness review period. Upon submission of correction of inadequacies, the Department shall have an additional ten (10) calendar days to review the application for completeness.
 - (B) Upon determination that the application is administratively complete, the Department shall immediately notify the applicant in writing. The period for technical review begins.
- (2) The Department shall have forty-five (45) calendar days from the date a completed application is filed to review each application for technical compliance with the relevant regulations and reach a final determination. The Department shall provide the results of the review, including a statement of any deficiencies, in writing. The written notice shall offer the applicant an opportunity to discuss the results of the review with the Department.
 - (A) The time period for technical review is tolled (the clock stops) when the Department has asked for supplemental information and advised the applicant that the time period is tolled pending receipt.
 - (B) To make up for time lost in reviewing inadequate materials, a request for supplemental information may specify that up to 30 additional calendar days may be added to the deadline for technical review, unless the request for supplemental information is a second or later request that identifies new deficiencies not previously identified
 - (C) An application shall be deemed withdrawn if the applicant fails to supplement an application within 90 calendar days after the Department's request, unless the time is extended by agreement for good cause.
 - (D) Extensions may be made as provided by law.

310:675-5-24. Preparation of plans and specifications

(a) **Stage one.** Preliminary plans and outline specifications shall be submitted and include sufficient information for approval by the Department of the following: scope of project; project location; required fire-safety and exiting criteria; building-construction type, compartmentation showing fire and smoke barriers, bed count and services; the assignment of all spaces, areas, and rooms for each floor level, including the basement. A nursing facility has the option, at its own risk, to bypass the stage one submittal and proceed directly to submittal of stage two documents. After the first review and before Department approval of stage one plans, the nursing facility at its own risk may choose to make a stage two submittal; a nursing facility electing this option would not be eligible for the fast track process.

(b) **Stage two.** A proposed construction document shall be submitted that includes final drawings and specifications adequate for approval by the Department. All final plans and specifications shall be appropriately sealed and signed by an architect registered by the State of Oklahoma. All construction modifications of approved documents are subject to review and approval, and shall be submitted timely.

(1) **Fast-track projects.** The fast track process applies only to stage two submittals. A stage one submittal and functional program must be approved before entering the fast track process.

(A) Equipment and built-in furnishings are to be identified in the stage one submittal.

(B) The nursing facility has the option to submit two packages: civil, landscaping and structural in stage one, and the balance of the components in stage two.

(C) Fast-track projects shall have prior approval and be submitted in no more than four (4) separate packages.

(i) Site work, foundation, structural, underslab mechanical, electrical, plumbing work, and related specifications.

(ii) Complete architectural plans and specifications.

(iii) All mechanical, electrical, and plumbing plans and specifications.

(iv) Equipment and furnishings.

(2) **Radiation protection.** Any project that includes radiology or special imaging equipment used in medical diagnosis, treatment, and therapy of residents, shall include plans, specifications, and shielding criteria, prepared by a qualified medical physicist. These plans shall be submitted and approved by the Department prior to installation of the equipment.

(c) **Reserved.**

(d) **Floor plan scale.** Floor plans are to be submitted at a scale of one-eighth (1/8) inch equals one (1) foot, with additional clarifying documents as required.

(e) **Application form.** The submittal shall be made using a Department application form which requests information required by this Chapter and specifies the number of copies and format for document submittal.

[Source: Added at 34 Ok Reg 1305, eff 10-1-17; Amended at 36 Ok Reg 1748, eff 9-13-19]

310:675-5-25. Self-certification of plans

(a) The Department shall make available consultation and technical assistance services covering the requirements of this section to a nursing facility considering self-certification of plans. The consultation and technical assistance is subject to the fees specified in OAC 310:675-5-23. The consultation is optional and not a prerequisite for filing a request through the self-certification review process.

(b) The nursing facility and the project architect or engineer may elect to request approval of design and construction plans through a self-certification review process. The nursing facility and the project architect or engineer shall submit a self-certification request on a form provided by the Department, along with the review fee specified in OAC 310:675-5-23. The form shall be signed by the nursing facility and the project architect or engineer attesting that the plans and specifications are based upon and comply with the requirements of this Chapter. The form shall require information necessary to demonstrate compliance with OAC 310:675-5-25(c).

(c) To be eligible for self-certification, projects must comply with the following requirements:

(1) The project involves any portion of the nursing facility where residents are intended to be examined or treated and the total cost of design and construction is two million and five hundred thousand dollars (\$2,500,000) or less; or

- (2) The project involves only portions of the nursing facility where residents are not intended to be examined or treated; and
- (3) The project architect or engineer attesting the application has held a license to practice architecture or engineering for at least five (5) years prior to the submittal of the application, is licensed to practice in Oklahoma; and
- (4) The nursing facility owner/operator acknowledges that the Department retains the authority to:
 - (A) Perform audits of the self-certification review program and select projects at random for review;
 - (B) Review final construction documents;
 - (C) Conduct on-site inspections of the project;
 - (D) Withdraw approval based on the failure of the nursing facility or project architect or engineer to comply with the requirements of this Chapter; and
- (5) The nursing facility agrees to make changes required by the Department to bring the construction project into compliance with this Chapter.

(d) Within twenty-one (21) days after receipt of a complete application, the Department shall approve or deny the application for self-certification and send notification to the nursing facility. If the application is denied, the nursing facility shall have thirty (30) calendar days to submit additional or supplemental information demonstrating that the application complies with the requirements for self-certification of plans and specifications. The Department shall have fourteen (14) calendar days after receipt of supplemental information to reconsider the initial denial and issue a final approval or denial of the self-certification request.

(e) After denial of the application for self-certification and prior to the start of construction, the nursing facility shall pay the applicable fee for plan review specified in OAC 310:667-47-1(b)(1) through (5). Upon receipt of the plan review fee, the Department shall review the nursing facility's plans in accordance with the process in OAC 310:675-5-23.

[Source: Added at 34 Ok Reg 1305, eff 10-1-17]

SUBCHAPTER 7. ADMINISTRATION

310:675-7-1. Governing authority [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-1.1. Administrator

(a) The administrator shall be a person who has the authority and responsibility for the total operation of the facility, subject only to the policies adopted by the governing authority and who is licensed by the Oklahoma State Board of Examiners for Nursing Home Administrators.

(b) The administrator, or the owner, shall designate a person in the facility to act on behalf of the administrator during the administrator's absence from the facility. Authority shall be granted to the designated person to allow normal management responsibilities to be exercised.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-2. Administrator [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-2.1. Medical director

The facility shall designate a licensed physician to serve as medical director. The medical director is responsible for implementation of resident medical care policies and the coordination of medical care in the facility.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-3. Residents' rights and responsibilities

Each resident or resident's representative shall receive a copy of the resident statutory rights at the time of admission. A copy of the resident rights shall be posted in an easily accessible, conspicuous place in the facility. The facility shall ensure that its staff is familiar with, and observes, the resident rights. [63 O.S. 1991 § 1-1918.]

[Source: Amended at 9 Ok Reg 3163, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-4. Resident transfers or discharge

(a) **Reasons for transfer or discharge.** Involuntary transfer or discharge of a resident may be initiated by a facility only for one or more of the following:

(1) Medical reasons, including needs that the facility is unable to meet, as documented by the attending physician, in consultation with the medical director if the medical director and attending physician are not the same person.

(2) The resident's safety, or for the safety of other residents, as documented by the clinical record. The facility shall show through medical records that:

(A) the resident has had a comprehensive assessment by an interdisciplinary team and alternative measures have been attempted unsuccessfully; or

(B) the resident is a danger to himself, herself or other resident as documented by the medical record and the facility is not capable of managing that resident.

(3) The non-payment of charges for the resident's care as documented by the facility's business records for services for more than 30 days.

(b) **Procedures.** Procedures for involuntary transfer or discharge by the facility are as follows:

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

(2) The ten day requirement shall not apply when an emergency transfer is mandated by the resident's health care needs and is in accordance with the attending physician's written orders and medical justification; or the transfer or discharge is necessary for the physical safety of other residents as documented in the clinical record. The facility shall not use a discharge to a hospital as a reason for failing to re-admit a resident after release from the hospital to the first available bed in a semi-private room. Such action shall be considered to be an involuntary discharge subject to all the requirements of this section, unless the discharge was required by the Department.

(3) The written notice shall include:

(A) A full explanation of the reasons for the transfer or discharge;

(B) The date of the notice;

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

(D) The date by which the resident must leave the facility; and

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

(4) Failure of the facility to give the notice as substantially specified above shall result in an order without hearing from the Department denying the right of the facility to discharge the resident.

(5) If a written request for a hearing is properly filed by an eligible aggrieved party, the Department shall convene a hearing within ten working days of receipt of the request. The request may be in the form of a letter or a formal request for hearing from the resident or resident's representative. In the event that the resident is unable to write, a verbal request made to the hearing clerk shall be sufficient. The Department shall reduce the verbal request to writing and send a copy to the resident. The request should state the reason for the discharge and attach a copy of the letter from the facility.

(6) During the pendency of the hearing, the facility shall not discharge the resident unless the discharge was required by the Department or is an emergency situation. If the resident relocates

from the facility but wants to be readmitted, the Department may proceed with the hearing and the facility shall be required to readmit the resident to the first available bed in a semi-private room if the discharge is found not to meet the requirements of the Nursing Home Care Act and OAC 310:675.

(7) The Department shall provide the Administrative Law Judge and the space for the hearing. The parties, including the resident and the facility, may be represented by counsel or may represent themselves.

(8) The hearing shall be conducted at the Oklahoma State Department of Health building unless there is a request for the hearing to be held at the facility or at another place. Providing the hearing room in such a case shall be the responsibility of the parties. The Department shall maintain a record on the case as it does for any other individual proceeding.

(9) The hearing shall be conducted in accordance with the Department's procedures, Chapter 2 of this Title. The Administrative Law Judge's order shall include findings of fact, conclusions of law and an order as to whether or not the transfer or discharge was according to law. If a facility receives federal funds for services, it shall also comply with the certification standards. The more restrictive rule toward the facility shall be applied.

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

(11) If the discharge is according to law, the order shall give the facility the right to discharge the resident.

(12) The scope of the hearing may include:

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

(13) The Administrative Law Judge shall render a written decision within ten working days of the close of the record.

(14) If the Administrative Law Judge sustains the facility, the facility may proceed with the discharge. If the Administrative Law Judge finds in favor of the resident, the facility shall withdraw its notice of intent to transfer or discharge the resident. The decision of the Administrative Law Judge shall be final and binding on all parties unless appealed under the Administrative Procedures Act.

(c) Room relocation

(1) If a facility wants to relocate a resident from one room to another, the facility shall give the resident at least forty-eight hours written notice. The notice shall include the cost of transferring the resident's telephone, if applicable.

(2) If the resident or the resident's representative agrees in writing to the relocation, the relocation may take place in less than forty-eight hours.

(3) No hearing is required if the resident requests or agrees to relocation from one room to another.

[Source: Amended at 9 Ok Reg 3163, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1639, eff 6-1-93; Amended at 20 Ok Reg 2399, eff 7-11-03; Amended at 26 Ok Reg 2059, eff 6-25-09]

310:675-7-4.1. Resident admission and continued residency based on administration of antipsychotic drugs

(a) Reasons for denial of admission or continued residency. No long-term care facility shall deny admission or continued residency to a person on the basis of the person's or his or her representative's refusal to the administration of antipsychotic drugs, unless:

- (1) The prescribing clinician or care facility can demonstrate that the resident's refusal would place the health and safety of the resident, the facility staff, other residents or visitors at risk.
- (2) The alleged risk shall be documented in detail and presented to the resident or the representative of the resident, to the State Department of Health and to the Long-Term Care Ombudsman; and shall inform the resident or the representative of the resident of the resident's right to appeal.

(b) Procedures. Procedures for resident appeal are as follows:

- (1) Written documentation of the alleged risk associated with the administration of antipsychotic drugs shall be provided to the resident or representative of the resident, to the State Department of Health and to the Long-Term Care Ombudsman; and shall inform the resident or the representative of the resident of the resident's right to appeal the denial of admission or denial of continued residency to the State Department of Health. The documentation of the alleged risk shall include:
 - (A) A description of all nonpharmacological or alternative care options attempted; and
 - (B) Why all nonpharmacological or alternative care options attempted were unsuccessful; and
 - (C) Why the prescribing clinician determined alternative treatments were not medically appropriate for the condition following a physical examination.
- (2) Procedures for antipsychotic drug refusal and the facility's notice of admission denial or continued residency are as follows:
 - (A) If a resident or a resident's representative is aggrieved by the facility's decision to deny admission or continued residency regarding the refusal of antipsychotic drugs at 63 O.S. 1-881(E)(2) the resident or resident's representative may file within ten (10) days of notice a written request for a hearing with the Department by sending a letter to the Hearing Clerk, Oklahoma State Department of Health, 1000 NE Tenth Street, Oklahoma City, OK 73117.
 - (B) The written notice shall include:
 - (i) A full explanation of the reason for the denial of admission of residency or denial of continued residency;
 - (ii) The date of the notice; and
 - (iii) The date notice was given to the resident and the resident's representative.
- (3) Failure of the facility to give the notice as substantially specified shall result in an order without hearing from the Department denying the right of the facility to discharge or deny admission to the resident.
- (4) If a written request for a hearing is properly filed by an eligible aggrieved party, the Department shall convene a hearing within ten working days of receipt of the request. The request may be in the form of a letter or a formal request for hearing from the resident or resident's representative. In the event that the resident is unable to write, a verbal request made to the hearing clerk shall be sufficient. The Department shall reduce the verbal request to writing and send a copy to the resident. The request shall state the objection to the notice of denial of admission of residency or denial of continued residency and attach a copy of the notice from the facility.
- (5) During the pendency of the hearing, the facility shall not discharge or deny admission or readmission for the resident unless the discharge or admission denial was required by the Department or is an emergency situation. If the resident relocates from the facility but wants to be admitted or readmitted, the Department may proceed with the hearing and the facility shall be required to admit or readmit the resident to the first available bed in a semi-private room if the discharge is found not to meet the requirements of the Nursing Home Care Act and OAC 310:675.
- (6) The Department shall provide the Administrative Law Judge and the space for the hearing. The parties, including the resident and the facility, may be represented by counsel or may represent themselves.
- (7) The hearing shall be conducted at the Oklahoma State Department of Health building unless there is a request for the hearing to be held at the facility or at another place. Providing the hearing room in such a case shall be the responsibility of the parties. The Department shall maintain a record on the case as it does for any other individual proceeding.
- (8) The hearing shall be conducted in accordance with the Department's procedures, Chapter 2 of this Title. The Administrative Law Judge's order shall include findings of fact, conclusions of law and an order as to whether or not the transfer or discharge was according to law. If a facility receives federal funds for services, it shall also comply with the certification standards. The more restrictive rule toward the facility shall be applied.
- (9) If the Administrative Law Judge finds the notice of continued residency or denied admission was not according to law, the Department shall review, investigate and issue deficiencies as appropriate.

(10) If the notice of continued residency or denied admission is according to law, the order shall give the facility the right to discharge or deny admission to the resident.

(11) The scope of the hearing may include:

(A) Inadequate notice;

(B) Continued residency or admission denial based on reason not stated in the law;

(C) Sufficiency of the evidence to support the continued residency or admission denial; or

(D) The finding of emergency.

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

(13) If the Administrative Law Judge sustains the facility, the facility may proceed with the discharge. If the Administrative Law Judge finds in favor of the resident, the facility shall withdraw its notice of intent to transfer, discharge or deny admission of the resident. The decision of the Administrative Law Judge shall be final and binding on all parties unless appealed under the Administrative Procedures Act.

[Source: Added at 37 Ok Reg 1448, eff 9-11-20]

310:675-7-5. Complaint procedures [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-5.1. Reports to state and federal agencies

(a) **Timeline for reporting.** All reports to the Department shall be made within twenty-four (24) hours of the reportable incident unless otherwise noted. A follow-up report of the incident shall be submitted to the Department within five (5) Department business days after the incident. The final report shall be filed with the Department within ten (10) Department business days after the incident.

(b) **Reporting abuse, neglect or misappropriation.** The facility shall report to the Department allegations and incidents of *resident abuse, neglect or misappropriation of residents' property* [63 O.S. §1-1939(A)(1)(e)]. This requirement does not supersede reporting requirements in Title 43A of the Oklahoma Statutes (relating to the Protective Services for the Elderly and for Incapacitated Adults Act).

(d) **Reporting to licensing boards.** The facility shall also report allegations and incidents of resident abuse, neglect, or misappropriation of residents' property by licensed personnel to the appropriate licensing board.

(d) **Reporting communicable diseases.** The facility shall report *communicable diseases* [63 O.S. §1-1939(A)(1)(a)] and injuries as specified by the Department in OAC 310:515 (relating to communicable disease and injury reporting).

(e) **Reporting certain deaths.** The facility shall report *deaths by unusual occurrence, such as accidental deaths or deaths other than by natural causes, and deaths that may be attributed to a medical device*, [63 O.S. §1-1939(A)(1)(b)] according to applicable state and federal laws. The facility shall also report such deaths to the Department.

(f) **Reporting missing residents.** The facility shall report *missing residents* to the Department after a search of the facility and facility grounds and a determination by the facility that the resident is missing. *In addition, the facility shall make a report to local law enforcement agencies within two (2) hours if the resident is still missing* [63 O.S. §1-1939(A)(1)(c)].

(g) **Reporting criminal acts.** The facility shall report *situations arising where a criminal intent is suspected. Such situations shall also be reported to local law enforcement* [63 O.S. §1-1939(A)(1)(d)].

Where physical harm has occurred to a resident as a result of a suspected criminal act, a report shall immediately be made to the municipal police department or to the sheriff's office in the county in which the harm occurred. A facility that is not clear whether the incident should be reported to local law enforcement should consult with local law enforcement.

(h) **Reporting utility failures.** The facility shall report to the Department utility failures of more than eight (8) hours.

(i) **Reporting certain injuries.** The facility shall report to the Department incidents that result in: fractures, injury requiring treatment at a hospital, a physician's diagnosis of closed head injury or

concussion, or head injuries that require more than first aid.

(j) **Reporting storm damage.** The facility shall report to the Department storm damage resulting in relocation of a resident from a currently assigned room.

(k) **Reporting fires.** The facility shall report to the Department all accidental fires and fires not planned or supervised by facility staff occurring on the licensed real estate.

(l) **Reports made following local emergency response.** In lieu of making incident reports during an emergency response to a natural or man-made disaster, the facility may coordinate its communications, status reports and assistance requests through the local emergency response coordinator, and file a final report with the Department within ten (10) days after conclusion of the emergency response.

(m) **Reporting nurse aides.** The facility shall report to the Department allegations and incidents of abuse, neglect, or misappropriation of resident property by a nurse aide by submitting a completed Nurse Aide Abuse, Neglect, Misappropriation of Resident Property Form (ODH Form 718), which requires the following:

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

(n) **Content of reports to the department.** Reports to the Department made pursuant to this section shall contain the following:

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

(o) **Form for incident reports to the Department.** Facilities shall use the Incident Report Form, ODH Form 283, to report incidents required to be reported to the Department under OAC 310:675-7-5.1. The ODH Form 283 shall require: the facility name, address and identification number; the date, location and type of incident; parties notified in response to the incident; description of the incident; the relevant resident history; summary of the investigation; and name of person completing the report.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93; Amended at 20 Ok Reg 2399, eff 7-11-03; Amended at 24 Ok Reg 2030, eff 6-25-07¹; Amended at 25 Ok Reg 2482, eff 7-11-08; Amended at 34 Ok Reg 1305, eff 10-1-17]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

310:675-7-6. Resident's advisory council [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-6.1. Complaints

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

(1) The facility shall list in its procedures and shall require to be posted in a conspicuous place outside the administrator's office area the following information:

(A) The names, addresses and telephone numbers of facility staff persons designated to receive complaints for the facility;

(B) Notice that a good faith complaint made against the facility shall not result in reprisal against the person making the complaint; and

(C) Notice that any person with a complaint is encouraged to attempt to resolve the complaint with the facility's designated complaint staff, but that the person may submit a complaint to the Department without prior notice to the facility.

(2) If a resident, resident's representative or facility employee submits to the administrator or designated complaint staff a written complaint concerning resident abuse, neglect or misappropriation of resident's property, the facility shall comply with the Protective Services for Vulnerable Adults Act, Title 43A O.S. Sections 10-101 through 10-110.

(b) **Complaints to the Department.** The following requirements apply to complaints filed with the Department.

(1) The Department shall provide to each facility a notice identifying the telephone number and location of the Department's central call center to which complaints may be submitted. The facility shall post such notice in a conspicuous place outside the administrator's office area.

(2) Any person may submit a complaint to the Department in writing, by phone, or personally. The Department shall reduce to writing a verbal complaint received by phone or in person.

(3) If the complainant is a facility resident, the resident's representative, or a current employee of the facility, the Department shall keep the complainant's identity confidential. For other complainants the Department shall ask the complainant's preference regarding confidentiality.

(4) The Department shall receive and triage complaints at a central call center. The complaints shall be classified and investigated according to the following priorities:

(A) A complaint alleging a situation in which the facility's noncompliance with state or federal requirements relating to nursing facilities has caused or is likely to cause serious injury, harm, impairment or death to a resident shall be classified as immediate jeopardy and shall be investigated by the Department within two (2) working days;

(B) A complaint alleging minimal harm or more than minimal harm to a resident but less than an immediate jeopardy situation shall be classified as actual harm and shall be investigated by the Department within ten (10) working days; and

(C) A complaint alleging other than immediate jeopardy or actual harm shall be scheduled for an onsite survey and investigated during the next onsite survey or sooner if deemed necessary by the Department; and

(D) A complaint alleging a violation that caused no actual harm but the potential for more than minimal harm to a resident, that repeats a violation cited by the Department within the preceding twelve (12) months, and that is alleged to have occurred after the Department determined the facility corrected the previous violation, shall be classified as continuing and investigated the earlier of the next onsite survey or ninety (90) calendar days.

(5) In addition to scheduling investigations as provided in paragraph (4) of this subsection, the Department shall take necessary immediate action to remedy a situation that alleges a violation of the Nursing Home Care Act, any rules promulgated under authority of the Act, or any federal certification laws or rules, if that situation represents a serious threat to the health, safety and welfare of a resident.

(6) In investigating complaints, the Department shall:

(A) Protect the identity of the complainant if a current or past resident or resident's representative or designated guardian or a current or past employee of the facility by conforming to the following:

- (i) The investigator shall select at least three (3) records for review, including the record of the resident identified in the complaint. The three records shall be selected based on residents with similar circumstances as detailed in the complaint if possible. All three (3) records shall be reviewed to determine whether the complaint is substantiated and if the alleged deficient practice exists; and
 - (ii) The investigator shall interview or observe at least three (3) residents during the facility observation or tour, which will include the resident referenced in the complaint if identified. If no resident is identified, then the observations used of the three residents shall be used to assist in either substantiating or refuting the complaint;
 - (B) Review the facility's quality indicator profile using resident assessments filed pursuant to OAC 310:675-9-5.1 to determine whether the facility has been "flagged", if the complaint involves resident abuse, pressure ulcers, weight loss or hydration;
 - (C) Review surveys completed within the last survey cycle to identify tendencies or patterns of non-compliance by the facility;
 - (D) Attempt to contact the State or Local Ombudsman prior to the survey; and
 - (E) Interview the complainant, the resident, if possible, and any potential witness, collateral resource or affected resident.
- (7) The Department shall limit the complaint report to the Health Care Financing Administration Form 2567 if applicable and the formal report of complaint investigation.
- (A) The Form 2567 shall be issued to the facility within ten (10) business days after completion of the investigation.
 - (B) The formal report of complaint investigation shall be issued to the facility and the complainant, if requested, within ten (10) business days after completion of the investigation. The formal report of investigation shall include at least the following:
 - (i) Nature of the allegation(s);
 - (ii) Written findings;
 - (iii) Deficiencies, if any, related to the complaint investigation;
 - (iv) Warning notice, if any;
 - (v) Correction order, if any; and
 - (vi) Other relevant information.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93; Amended at 18 Ok Reg 2533, eff 6-25-01; Amended at 20 Ok Reg 2399, eff 7-11-03; Amended at 34 Ok Reg 1305, eff 10-1-17]

310:675-7-7. Administrative records [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-7.1. Resident's advisory council

- (a) Each facility shall establish a residents advisory council.
- (b) Members of the residents advisory council shall consist of all current nursing facility residents or their designated representative. The administrator shall designate a member of the facility staff to coordinate the council and render assistance to the council, and respond to the requests from the council's meetings.
- (c) No employee or affiliate of the facility shall be a member of the council. The facility shall provide the council with private meeting space.
- (d) Minutes of the residents advisory council meetings shall be prepared by the facility staff and maintained in the facility. A copy of the meeting minutes shall be provided to those residents or representatives requesting them. Information identifying a resident shall not be included in the minutes.
- (e) The residents advisory council shall communicate to the administrator the residents' opinions and concerns known to the council.
- (f) The residents advisory council shall be a forum for:
 - (1) Early identification of problems and recommendations for orderly problem resolution.
 - (2) Soliciting and adopting recommendations for facility programs and improvements.

- (3) Obtaining information from, and disseminating information to, the residents.
- (g) The residents advisory council may present complaints to the Department on behalf of a resident.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-8. Written administrative policies [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-8.1. Administrative records

- (a) The administrator shall be responsible for the preparation, supervision, and filing of records.
- (b) There shall be a separate, organized file in the business office for each resident. The file shall include current information about the resident and the resident's family. The file shall also include a written record of all financial arrangements and transactions involving the individual resident's funds. A written contract between the resident, or his representative, or, if the resident is a minor, his parent, or representative, and the facility or its agent or the waiver of same shall also be in this file.
- (1) If the source of payment for the resident's care is, in full or in part, from public funds, there shall be a contract between the facility and the agency providing the funds. An individual contract between such resident and the nursing facility is not required.
- (2) A resident may sign a waiver if the resident does not wish to have a contract with the facility.
- (c) Each facility shall provide safe storage for administrative records and all current records shall be readily available to the Department upon request.
- (d) Administrative records of the facility shall include the following information:
- (1) A copy of the current statement of ownership.
- (2) The current administrator's name, license number, and date of employment.
- (3) The name of the individual responsible for the facility's operation in the absence of the administrator.
- (4) Copies of credentials of all personnel and consultants working in the facility who are licensed, registered or certified.
- (5) Copies of criminal background checks on all required current employees.
- (6) A copy of all contracts with individuals or firms providing any services to the facility.
- (7) Written admission and discharge policies.
- (8) A description of the services provided by the facility and the rates charged for those services and services for which a resident may be charged separately; limitations of available services; causes for termination of services; and refund policies if services are terminated. Documentation shall show that each resident, and/or representative received this information prior to, or at, the time of admission.
- (9) Copies of affiliation agreements, contracts, or written arrangements for advice, consultation, services, training, or transportation with other organizations or individuals, and public or private agencies.
- (10) Written transfer agreements with other health facilities to make the services of such facilities readily accessible, and to facilitate the transfer of residents and essential resident information with the resident.
- (11) Records of residents advisory council meetings.
- (12) Copies of inspection reports from the local, county, and state agencies during the past three years.
- (13) All adverse actions instituted against the facility during the past three years, including warning letters, administrative penalties, notice of hearing, hearing officer's findings, final orders, and court proceedings.
- (14) Written disaster plan/emergency evacuation plan.
- (15) A record of all nurse aide competency and certification records and contacts to Oklahoma and other state's nurse aide registries.
- (16) Current resident census records.

310:675-7-9. Personnel records [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-9.1. Written administrative policies and procedures

- (a) The facility shall maintain written policies to govern the administration of the facility. These policies shall be reviewed annually and revised as necessary.
- (b) The facility shall not admit any person unless it has the personnel and resources to provide all services and care prescribed for that person.
- (c) All persons seeking admission shall be evaluated as to their medical, nursing and social needs. The scope of care and service to be provided by the facility, or through contract, shall be included in the resident care plan following admission.
- (d) All residents shall have accommodations that are as close to their normal living arrangements as possible. Special care and arrangements shall be provided to ensure, if possible, that the accommodations support the resident's physical, mental and psycho-social needs in terms of sanitary environment, aesthetics and associations.
- (e) Residents shall be accepted and cared for without discrimination on the basis of race, sex, color, religion, ancestry, disability, or national origin.
- (f) Emergency care shall be provided to residents in case of sudden illness or accident, including persons to be contacted in case of an emergency.
- (g) Conflict resolution procedures shall be adopted for processing complaints received from residents and employees.
- (h) Job descriptions shall be developed that detail the functions of each classification of employee.
- (i) Procedures shall be adopted for handling residents' funds and providing access to the written records regarding a resident's funds by the resident or representative.
- (j) The facility has the following responsibilities concerning physicians:
 - (1) The health care services for each resident shall be under a physician's supervision.
 - (2) All physician orders shall be written in ink or indelible pencil and signed by the physician.
 - (3) No medication or treatment shall be administered except on a physician's order.
 - (4) The facility shall have a written policy that provides for physician services to be available twenty-four hours per day.
 - (5) A list of physicians shall be posted at the nursing station for use if the resident's attending physician is not available.
 - (6) The facility shall arrange for one, or more, physicians to be available in an emergency and to advise the facility. The physician called at the time of any emergency shall be noted in the records. If unable to contact a physician, the resident shall be transferred to a hospital emergency room.
- (k) The facility shall adopt a nursing policy and procedure manual, which shall detail all nursing procedures performed within the facility. All procedures shall be in accordance with accepted nursing practice standards, and shall include, but not be limited to, the following:
 - (1) Ambulation, body alignment and positioning, and routine range of motion unless contraindicated by the resident's physician.
 - (2) Elimination, including a bowel and bladder training program, or frequent toileting for incontinent residents, when applicable.
 - (3) Colostomy and ileostomy care.
 - (4) Nutrition and meal service.
 - (5) Oral suctioning and tracheotomy care.
 - (6) Treatments.
 - (7) Nasogastric care.
 - (8) Oral hygiene.
 - (9) Isolation procedures.
 - (10) Universal precautions.
 - (11) Emergency procedures.

(12) Medication Administration.

(13) Pain assessment and treatment.

(l) Each nursing station shall have a copy of the nursing policy and procedure manual, isolation techniques, and emergency procedures for fire and natural disasters.

(m) The facility shall adopt policies and procedures for the administration of social services, activities, dietary, housekeeping, maintenance and personnel.

(n) The facility shall adopt a policy that any person working in the facility who shows signs or symptoms of a communicable disease, shall be excluded from work, and shall be permitted to return to work only after approval of the director of nursing or charge nurse.

(o) The facility shall adopt a procedure for taking inventory of and inconspicuously marking, for identification, the resident's personal effects (clothing and property) which shall be completed on admission of the resident and subsequently when new clothing or property is received by the resident. Identification marking shall be by a method that shall withstand repeated laundering or cleaning without loss of legibility. Jewelry, watches and similar articles of value shall not be subject to the marking requirement.

(p) The facility shall adopt a policy that requires reporting of the loss of personal effects to the administrator, the resident, and the resident's representative. The policy shall require the staff to assist the resident in attempting to locate the lost property and may, at the request of the resident, require the reporting of such losses to law enforcement authorities. The policy shall also indicate that a resident has the right to report losses directly to law enforcement authorities without fear of reprisal from the facility's administration or staff.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93; Amended at 13 Ok Reg 2511, eff 6-27-96; Amended at 16 Ok Reg 2521, eff 6-25-99; Amended at 18 Ok Reg 2533, eff 6-25-01; Amended at 23 Ok Reg 156, eff 10-6-05 (emergency); Amended at 23 Ok Reg 2415, eff 6-25-06]

310:675-7-10. Resident's records [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-10.1. Resident's clinical record

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

(b) The resident clinical record shall be retained for at least five years after the resident's discharge or death. A minor's record shall be retained for at least two years after the minor has reached the age of eighteen but, in no case, less than five years.

(c) All required records, either original or microfilm copies, shall be maintained in such form as to be legible and readily available upon request of the attending physician, the facility, and any person authorized by law to make such a request.

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

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

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

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

(h) If the ownership of the facility changes, the new licensee shall have custody of the residents records and the records shall be available to the former licensee and other authorized persons.

(i) A person employed by the owner shall be in charge of resident records and properly identifiable to others concerned.

(j) The resident clinical record shall include:

- (1) An admission record sheet which shall include:
 - (A) Identification of the resident (name, sex, age, date of birth, marital status).
 - (B) Identification numbers as applicable: i. e., Medicare number, Medicaid number.
 - (C) Date and time of admission.
 - (D) Diagnosis and known allergies.
 - (E) Name, address, and telephone number of responsible party, next of kin, pharmacist, and funeral home.
- (2) Physician's orders for medications, diet, treatment, and therapy.
- (3) Orders dated and signed by the physician giving the order. Verbal or telephone orders shall be signed by the physician within five working days, excluding weekends and holidays.
- (4) Initial orders given by the physician at the time of admission shall be signed by the physician and placed in the clinical record within five working days of admission, excluding weekends and holidays.
- (5) The most recent medical history and physical examination signed and dated by the physician.
- (6) Nurse's notes, dated and signed at the time of entry.
- (7) Temperature, pulse, respirations, blood pressure and weight when indicated by physician's orders or by a change in the resident's condition.
- (8) Progress notes generated by all health care professionals and allied health personnel.
- (9) An assessment and care plan based on the assessment.
- (10) An inventory of personal effects including clothing and property on admission, and as necessary.
- (11) Written acknowledgement by the resident or legal representative of receipt of the resident's rights upon admission and as needed.
- (12) Discharge summary signed by the attending physician that shall include the diagnosis or reason for admission, summary of the course of treatment in the facility, final diagnosis with a follow-up plan, if appropriate, condition on discharge or transfer, or cause of death, date and time of discharge, and diagnosis on discharge.
- (13) A transfer or discharge form when a resident is transferred, or discharged, to the hospital, another facility or released from care. Transfer or discharge forms may be excluded when a resident is discharged to his/her home when the stay in the facility is for respite care only. The transfer form shall include, but not be limited to, the following information:
 - (A) Identification of the resident and his attending physician.
 - (B) Diagnosis, medications and medication administration schedule.
 - (C) Name of transferring facility.
 - (D) Name of receiving facility.
 - (E) Date of transfer.
 - (F) Family or legal representative.
 - (G) Condition on transfer.
 - (H) Reason for transfer.
 - (I) Known allergies.
 - (J) Pertinent medical history.
 - (K) Any advance directive for medical care.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-11. Physician records and reports [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-11.1. Medication records

- (a) The facility shall maintain written policies and procedures for safe and effective acquisition, storage, distribution, control, and use of medications and controlled drugs.
- (b) The facility shall establish a policy for providing information about administering prescribed medications to residents who are on leave from the facility.

- (c) The facility shall maintain records of consultation and services provided by the consultant registered pharmacist at the facility.
- (d) The facility shall maintain a system to account for controlled medications prescribed for each resident, and an individual inventory record on all Schedule II medications.
- (e) The facility shall maintain a medication regimen review record on each resident.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 163, eff 6-1-93]

310:675-7-12. Pharmaceutical records [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-12.1. Internal facility incident reports

- (a) **Incident defined.** An incident is any accident or unusual occurrence where there is apparent injury or where injury may or may not have occurred. The incident report shall cover all unusual occurrences within the facility, or on the premises, affecting residents, and incidents within the facility or on the premises affecting visitors or employees.
- (b) **Incident records.** Each facility shall maintain an incident report record and shall have incident report forms available.
- (c) **Incident report format.** The incident report shall include, at a minimum: the date, location and type of incident; parties notified in response to the incident; description of the incident; the relevant resident history; summary of the investigation; and name of person completing the report.
- (d) **Incident report preparation.** At the time of the incident, the administrator, or the person designated by the facility with authority to exercise normal management responsibilities in the administrator's absence, shall be notified of the incident and prepare the report. The report shall include the names of the persons witnessing the incident and their signatures where applicable.
- (e) **Incident records on file.** A copy of each incident report shall be on file in the facility.
- (f) **Incident in clinical record.** The resident's clinical record shall describe the incident and indicate the findings on evaluation of the resident for injury.
- (g) **Incidents: reviewers.** All incident reports shall be reviewed by the director of nursing and the administrator and shall include corrective action taken where health and safety are affected.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93; Amended at 24 Ok Reg 2030, eff 6-25-07¹; Amended at 25 Ok Reg 2482, eff 7-11-08; Amended at 26 Ok Reg 2059, eff 6-25-09; Amended at 34 Ok Reg 1305, eff 10-1-17]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

310:675-7-13. Incident reports [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-13.1. Consultation reports

The facility shall maintain a report of all services rendered by health professionals and allied health personnel each consultation visit.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-14. In-service training classes [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-14.1. Facility maintenance

- (a) Each facility shall have a maintenance program, which ensures continuing maintenance of the facility and equipment, promotes good housekeeping and sanitary practices throughout the facility.

- (b) The maintenance records shall include:
 - (1) A written orientation program for maintenance personnel.
 - (2) A plan for reporting problems and responding to maintenance, housekeeping, or sanitation needs.
 - (3) Response to major maintenance problems, if any, and plans for addressing any problem that cannot be corrected within three calendar days.
 - (4) A copy of the service record from a sprinkler or fire alarm company that provides service for the automatic sprinkler and fire alarm system.
 - (5) Verification that facility maintenance personnel are certified or licensed as required by state law.
- (c) The facility shall be maintained free of infestations of insects, pests and rodents.
 - (1) The facility shall have a pest control program provided by maintenance personnel, or by contract with a pest control company, using the least toxic, least flammable, and most effective pesticides. If maintenance employees are used, they shall be currently licensed as commercial pesticide applicators.
 - (2) Pesticides shall be stored in locked storage areas and not be stored in resident or food areas,
 - (3) In the absence of other effective controls, screens shall be provided on all building exterior openings except doors.
- (d) All sewage shall be discharged into a public sewer system, or if such is not available, shall be disposed of in a manner approved by state and local health authorities.
 - (1) When a private sewage disposal system is used, maintenance records and system design plans shall be at the facility.
 - (2) No exposed sewer lines shall be located directly above working, storage, or eating surfaces in the kitchens, dining rooms, pantries, or food storage rooms, or where medical or surgical supplies are prepared, processed, or stored.
- (e) All plumbing in the facility shall be installed and maintained in accordance with state and local plumbing codes. All plumbing shall be maintained free of the possibility of back-flow and back siphonage through the use of vacuum breakers and fixed air gaps.
- (f) If an incinerator is used, it shall comply with state and local air pollution regulations, and shall be constructed to prevent insect and rodent breeding and harborage.
- (g) Entrances, exits, steps and outside walkways shall be kept reasonably free from ice, snow, and other hazards.
- (h) Buildings, grounds, and parking areas shall be maintained in a clean, orderly condition, in good repair, and be monitored for possible hazards.
- (i) Storage areas, attics, roofs, and basements shall be kept safe and free from accumulations of extraneous materials such as refuse, discarded furniture, and old newspapers.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-15. Consultation reports [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-15.1. Housekeeping laundry, and general storage

- (a) **Housekeeping.** Each facility shall have housekeeping services that are planned, operated, and maintained to provide a pleasant, safe and sanitary environment.
 - (1) The facility shall employ housekeeping personnel suitable by training, experience, and in sufficient number.
 - (2) Housekeeping personnel, using accepted practices and procedures, shall keep the facility free from offensive odors, accumulations of dirt, rubbish, dust and safety hazards.
 - (3) Deodorizers shall not be used to cover up odors caused by unsanitary conditions or poor housekeeping practices.
 - (4) Suitable equipment and supplies shall be provided for all cleaning activities and shall be maintained in a safe, sanitary condition.

(5) Cleaning shall be performed in a manner that minimizes the spread of pathogenic organisms.

(A) Floors shall be cleaned regularly.

(B) Any polish used on floors shall provide a non-slip finish.

(C) Used mop water shall not be stored in mop buckets and the mop shall be stored properly.

(6) Housekeeping personnel shall receive effective supervision, orientation and training.

Housekeeping personnel shall be skilled in the six basic functions of sweeping, mopping, dusting, cleaning, waxing, and polishing.

(7) Resident rooms, furniture, bedding and equipment shall be thoroughly cleaned and sanitized before use by another resident.

(8) All garbage and rubbish not disposable as sewage shall be collected in impervious containers in such a manner as not to become a nuisance or a health hazard and shall be removed to an approved storage area at least once a day.

(A) The refuse and garbage storage area shall be kept clean and orderly.

(B) There shall be a sufficient number of impervious containers with tight fitting lids that are clean and in good repair.

(9) The containers used to transport refuse within the building shall be constructed of impervious materials, be lid or door enclosed, used solely for refuse, and maintained in a clean manner. All kitchen waste, contaminated refuse, and patient room trash shall be securely bagged before placed in these containers.

(10) Bathtubs, showers or lavatories shall not be used for laundering, cleaning of bedside utensils, mops, nursing utensils or equipment, nor for the dumping of waste water, nor for storage.

(11) Draperies and furniture shall be kept clean and in good repair.

(b) **Laundry.** Each facility shall have laundry services that are planned, operated, and maintained to provide sufficient, safe and sanitary laundering of linen, supplies, and clothing.

(1) If the facility does not provide laundry services it shall contract with a commercial laundry service that provides these standards.

(2) Laundry facilities shall be provided with the necessary washing and drying equipment.

(3) Laundry equipment shall be designed and installed that complies with applicable laws.

(4) Laundry processing and procedures shall render soiled linens and resident clothing clean, dry, soft and free of detergent, lint and soap.

(5) Soiled laundry shall be processed frequently to prevent the accumulations of soiled linens and resident's clothing.

(6) The facility's linen supply shall include at least two complete changes of linen for each resident bed. All linen shall be clean, sorted, and in good repair. When linen is not in use all shall be properly stored.

(7) Soiled linen, including blankets, shall be placed in bags or impervious linen hampers/carts with lids tightly closed and shall be removed to the laundry area from the resident care unit at least every eight hours.

(8) Sorting and pre-rinsing of all clothing shall be done in the soiled utility and laundry areas.

(9) All soiled linen shall be enclosed in bags before placing them in the laundry chute. Laundry chutes shall be cleaned as scheduled in the facility's policy and procedure manual.

(10) Carts and hampers used to transport soiled linen shall be constructed of, or lined with, impervious materials, which can be cleaned and disinfected after each use, and used only for transporting soiled linen. Tight fitting lids or covers shall be used.

(11) Soiled linen and clothing shall be stored in the utility rooms and not in the halls.

(12) All personnel shall wash their hands or use alcohol gel thoroughly after handling soiled linen.

(13) There shall be at least one storage area for clean linen.

(c) **General storage.** The facility shall provide general storage as follows:

(1) Combustibles, such as cleaning rags and compounds, shall be in closed, metal containers.

(2) Cleaning compounds and hazardous substances shall be labeled properly and stored in safe places. Food substances shall not be stored in the same cabinets, shelves, or in close proximity to prevent accidental selection of the hazardous substance in the place of the food substance.

- (3) Residents shall not have access to storage areas for cleaning agents, bleaches, insecticides or any other dangerous, poisonous or flammable substances.
- (4) Paper towels, tissues, and other supplies shall be stored in a manner to prevent their contamination prior to use.
- (5) Closed storage shall be provided for pillows, blankets, sheepskins, draw sheets, weight distribution pads, and pressure padding.
- (6) Equipment shall not be stored in a hallway or corridor.
- (7) No item shall be stored directly on the floor.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-16. Facility maintenance records [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-16.1. Quality assessment and assurance

- (a) The facility shall maintain a quality assessment and assurance committee to address facility and resident's needs.
- (b) The committee shall include the director of nursing, a physician designated by the facility, and at least one other appropriate staff.
- (c) The quality assessment and assurance committee shall meet at least quarterly to identify quality assessment and assurance activities.
- (d) The committee shall develop and implement appropriate plans of action to correct identified quality deficiencies.
- (e) The Department shall not require disclosure of the records of the committee unless such disclosure is related to the committee's compliance with the requirements of this section.
- (f) Good faith attempts by the committee to identify and correct quality deficiencies shall not be used as a basis for sanctions.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93; Amended at 20 Ok Reg 2399, eff 7-11-03]

310:675-7-17. Housekeeping, general sanitation and infection control [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-17.1. Infection Control

- (a) The facility shall have an infection control policy and procedures to provide a safe environment. The policy shall address the prevention and transmission of disease and infection. The facility, and its personnel, shall practice the universal precautions identified by the Centers for Disease Control. All personnel shall demonstrate their knowledge of universal precautions through performance of duties.
- (b) The facility shall maintain a sanitary environment and prevent the development and transmission of infection in the following areas.
 - (1) Food handling practices;
 - (2) Laundry practices including linen handling.
 - (3) Disposal of environmental and resident wastes.
 - (4) Pest control measures.
 - (5) Traffic control for high-risk areas.
 - (6) Visiting rules for high-risk residents.
 - (7) Sources of air-borne infections.
 - (8) Health status of all employees and residents.
 - (9) Isolation area for residents with communicable diseases.
- (c) Infection control policies to prevent the transmission of infection shall include the following:
 - (1) Excluding Personnel and visitors with communicable infections.
 - (2) Limiting traffic in dietary and medication rooms.

- (3) Using aseptic and isolation techniques including hand washing techniques.
 - (4) Bagging each resident's trash and refuse.
 - (5) Issuing daily damp wipe cloths, treated dust cloths and clean wet mops, as needed.
 - (6) Laundering the used wet mops and cleaning cloths every day.
 - (7) Cleaning the equipment for resident use daily, and the proper disposal of infected materials.
 - (8) Providing properly identifiable plastic bags for the proper disposal of infected materials.
 - (9) **Tuberculosis risk assessment.** An annual facility tuberculosis risk assessment is to be performed by a licensed nurse or physician using a Department approved risk assessment tool.
- (d) When scheduled to be cleaned, the toilet areas, utility rooms, and work closets, shall be cleaned with a disinfectant solution and fresh air shall be introduced to deodorize.
- (e) **Test for tuberculosis and tuberculin skin test for residents.** Within thirty (30) days from admission, all residents admitted to the facility after the adoption of this rule shall receive a test for tuberculosis. All tests and examinations shall be in conformance with the "Tuberculosis Screening, Testing, and Treatment of U.S. Health Care Personnel: Recommendations from the National Tuberculosis Controllers Association and CDC, 2019" guidelines for preventing the transmissions of mycobacterium tuberculosis in healthcare settings as published by the Centers for Disease Control and Prevention.
- (1) Tests for tuberculosis shall be administered by a licensed nurse or physician.
 - (2) Where a skin test is contra-indicated, a chest radiograph, interpreted by a medical consultant in collaboration with the city, county or state health department, is acceptable.
 - (3) Residents claiming a prior positive tuberculin skin test shall have documentation in their medical record, obtained from a licensed health care professional, of their test results and interpretation; otherwise, a two-step tuberculin skin test shall be done.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93; Amended at 24 Ok Reg 2030, eff 6-25-07 ¹; Amended at 25 Ok Reg 2482, eff 7-11-08; Amended at 37 Ok Reg 1448, eff 9-11-20]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

310:675-7-18. Animals allowed to visit or reside [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-7-18.1. Personnel records

Each facility shall maintain a personnel record for each current employee containing:

- (1) **Application for employment.** An application for employment which contains employee's full name, social security number, professional license or registration number, if any, employment classification, and information about past employment, including: place of employment, position held, length of employment, and reason for leaving.
- (2) **Employee time records.** Copies of current employee time records, signed by the employee, shall be maintained by the facility for at least thirty-six (36) months.
- (3) **Training, arrest check, and certification.** Documentation of orientation and training (may be kept in separate file), continuing education, a copy of the criminal arrest check, and appropriate certification and licensure.
- (4) **Health examination on hire.** Record of health examination conducted within thirty days of employment which shall include, but not be limited to, a complete medical history, physical examination by body system and, a test for tuberculosis. All tests and examinations shall be in conformance with the "Tuberculosis Screening, Testing, and Treatment of U.S. Health Care Personnel: Recommendations from the National Tuberculosis Controllers Association and CDC, 2019" guidelines for preventing the transmission of mycobacterium tuberculosis in healthcare settings as published by the Centers for Disease Control and Prevention.
 - (A) Tests for tuberculosis shall be administered by a licensed nurse or physician.
 - (B) Where a skin test is contra-indicated, a chest radiograph, interpreted by a medical consultant in collaboration with the city, county or state health department, is acceptable.
 - (C) Employees claiming a prior positive tuberculin skin test shall have documentation in their file, obtained from a licensed health care professional, of their test results and

interpretation, otherwise, a two-step tuberculin skin test shall be done.

(5) **Tests for tuberculosis.** Results of subsequent tests for tuberculosis performed based on facility TB risk classification established in OAC 310:675-7-17(c)(9) (relating to annual facility tuberculosis risk assessment) or results of a physician's examination for signs and symptoms of tuberculosis for those employees who react significantly to a tuberculin skin test.. All tests and examinations shall be in conformance with the "Tuberculosis Screening, Testing, and Treatment of U.S. Health Care Personnel: Recommendations from the National Tuberculosis Controllers Association and CDC, 2019" guidelines for preventing the transmissions of mycobacterium tuberculosis in healthcare settings as published by the Centers for Disease Control and Prevention.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93; Amended at 24 Ok Reg 2030, eff 6-25-07 ¹; Amended at 25 Ok Reg 2482, eff 7-11-08; Amended at 37 Ok Reg 1448, eff 9-11-20]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

310:675-7-19. Residential and visiting pets

(a) Each facility that allows residential or visiting animals shall adopt and comply with policies that meet or exceed 310:675-7-19(a) and 310:675-7-19(b). The facility's policies shall describe the schedule of animal care and zoonotic infection control for the respective facility. The facility shall not allow any animal to reside in the facility until all of the following requirements are met:

(1) The animal is a dog, cat, fish, bird, rabbit, or guinea pig. If a facility desires to include other types of animals in their program, the facility shall submit a supplemental request accompanied by its policies, procedures, and guidelines to the Department and receive written approval from the Department prior to implementation.

(2) For residential pets, excluding fish, the number of animals in a facility shall be limited to no more than one dog per 50 residents; 1 cat, rabbit, or guinea pig per 30 residents; or 1 bird per 20 residents, unless the facility has received the Department's prior approval of a greater number of pets through a supplemental request pursuant to 310:675-7-19(a)(1).

(3) The facility adopts policies ensuring non-disruption of the facility.

(4) All pets are housed and controlled in a manner that ensures that neither the pet nor the residents are in danger. A pet cage or container must not obstruct an exit or encroach on the required corridor width.

(5) The following veterinary medical services are obtained for each pet, when applicable to species, and a record of service is maintained on file at the facility:

(A) A health certificate from a veterinarian licensed to practice in Oklahoma stating the animal is healthy on physical exam and of acceptable temperament to be placed in the facility;

(B) Proof of evaluation by a veterinarian licensed to practice in Oklahoma for presence of internal parasites on a semi-annual basis and for the presence of external parasites as needed;

(C) Proof of current rabies immunization for dogs and cats, and leptospirosis immunization for dogs administered by a licensed veterinarian;

(D) Proof of spaying/neutering for dogs and cats over six months of age; and

(E) Statement from a licensed veterinarian certifying that each bird tested negative for *Chlamydia psittaci* infection (psittacosis) within 30 days prior to placement in the facility. Birds equal in size to or larger than a parakeet shall receive a serologic test. Culture from fresh droppings or cloacal swab will be acceptable test in smaller birds, such as canaries and finches.

(6) The pet's skin appears normal, and its coat or feathers are free of ectoparasites, matted hair, feces, and other debris.

(7) Residential pets shall be the responsibility of the administrator, who shall designate at least one attendant to supervise the care and maintenance of resident animals. The administrator and the designated attendants shall at least annually review the facility's policy on residential and visiting pets, and shall document that they have read and understood the policy.

(8) The facility provides for the cleaning and disinfecting of any areas contaminated by urine or excrement, and for the regular cleaning of aviaries, aquariums, and animal cages. Water in aquariums and fish bowls shall be appropriately maintained to prevent bacterial growth in the water.

(9) Residential dogs and cats shall not be allowed to remain in the resident areas after visiting hours. No animal shall be allowed in an area used for food storage or preparation, dining, medication preparation or administration, or clean or sterile supply storage.

(10) If there is more than one resident per room, permission shall be obtained from each resident in the room before allowing animal visitation.

(b) The facility may allow other animals to visit the facility. Visiting animals shall be under the control of the person bringing the pet into the facility. The attendant of visiting animals shall adhere to the facility's policies and procedures for residential pets. Proof of current rabies immunization must be provided to the administrator before any dog, cat or ferret can be allowed as a visiting pet in the facility.

(c) The Department shall publish and distribute to facilities recommended husbandry and veterinary care guidelines for residential pets. The guidelines shall include but not be limited to recommendations for housing, cleaning needs, exercise, diet, fecal examinations, grooming, attendant training on animal care and nutrition, and preventive health care. The guidelines shall be used for the information and education of facilities.

(d) Section 310:675-7-19 does not supersede any local or state rules that regulate animals.

[Source: Added at 18 Ok Reg 2533, eff 6-25-01]

310:675-7-20. Financial solvency and reports

(a) The facility shall maintain financial solvency sufficient to ensure its operation as evidenced by the timely payment of obligations including but not limited to:

(1) Employee payrolls;

(2) Amounts owed to consultants, medical directors, vendors, suppliers, and utility service providers;

(3) Taxes and provider fees; and

(4) Leases, rents and mortgages.

(b) The owner shall report to the Department the occurrence of financial events as required in 63 O.S. Section 1-1930.1.

(1) The owner shall:

(A) File a written report within 24 hours of the reportable event; or

(B) Make an oral report by telephone within 24 hours of the reportable event, and file written confirmation within five days of the reportable event.

(2) Notice of a judgment against the facility or any of the assets of the facility or the licensee shall be required from the date the judgment becomes final.

(3) The owner shall include information in the written notification to accurately identify the event, including but not limited to:

(A) The date of each action or event;

(B) The name of each person involved in the event, including each legal entity, governmental agency, financial institution or trustee, and each employee whose regular payroll check has not been honored;

(C) The amount of each judgement, lien, payroll, or tax payment related to the event; and

(D) The style of the case and index or docket numbers as applicable.

(E) Bankruptcy or appointment of trustee by the bankruptcy court.

(4) Notification provided by the owner pursuant to 63:1-1930.1 does not relieve the owner of the obligation to provide *ninety (90) days' notice prior to voluntarily closing a facility or closing any part of a facility, or prior to closing any part of a facility if closing such part will require the transfer or discharge of more than ten percent (10%) of the residents* [63:1-1930].

[Source: Added at 20 Ok Reg 2399, eff 7-11-03; Amended at 26 Ok Reg 2059, eff 6-25-09]

310:675-7-21. Sex or violent offender status

(a) **Determination of status.** A facility subject to the provisions of this Chapter shall determine whether the following individuals have registered pursuant to the Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act:

- (1) An applicant for admission or participation,
- (2) A resident, client or participant of a facility subject to the provisions of this Chapter, and
- (3) All employees of facilities subject to the provisions of this Chapter, in addition to the required criminal arrest check in 63 O.S. §1-1950.1 and 63 O.S. §1-1950.8 (relating to criminal arrest checks).

(b) **Procedures for determination of status.** Prior to admission or employment but no later than three (3) business days from acceptance of any resident or participant, the employing or receiving facility subject to the provisions of this Chapter shall determine from local law enforcement, the Department of Corrections, or the Department of Corrections' Sex Offender and Mary Rippy Violent Crime Offender registries, whether the prospective employee or accepted resident or participant is registered or qualifies for registration on either registry.

(c) **Recommended registry search strategy.** A facility subject to the provisions of this Chapter may utilize the first three letters of the last name and an asterisk, and the first letter of the first name and asterisk, any known alias, and appearance criteria as provided for search within the Department of Correction's Internet based sex and violent crime offender registries.

(d) **Change in status after employment or admission.** A facility subject to the provisions of this Chapter shall repeat the screening in OAC 310:675-7-21(b) (regarding procedures for determination of status) subsequent to the receipt of any information that an employee, resident or participant's registration status may have been altered or updated after the initial screening.

(e) **Posting of offender status.** Pursuant to 63 O.S. §1-1909(4), a facility subject to the provisions of this Chapter shall conspicuously post for display in an area of its offices accessible to residents, employees and visitors a copy of any notification from the local law enforcement authority regarding the registration status of any person residing in the facility who is required to register pursuant to the Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act.

(f) **Notice to Department of sex or violent offender's presence.** When a facility subject to the provisions of this Chapter is notified, or has determined, that an individual who is required to register pursuant to the Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act is residing or participating at such facility, *the facility shall immediately, in writing, notify the State Department of Health.*[63 O.S. §1-1946(A)(3)]

(g) **Content of notice of sex or violent offender's presence.** Notice provided to the Department shall include the name, and identifying information used to make the determination in 310:675-7-21(b) (regarding determination of status).

(h) **Notification through other means.** Where a facility subject to the provisions of this Chapter determines through other means, excepting written notification by the Department, of an employee, resident or participant required to register pursuant to the Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act, the facility shall notify the Department and shall be subject to all other requirements within this section.

[Source: Amended at 24 Ok Reg 2030, eff 6-25-07 ¹; Added at 25 Ok Reg 2482, eff 7-11-08]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

SUBCHAPTER 9. RESIDENT CARE SERVICES

310:675-9-1. Activities [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-1.1. Nursing and personal care services

(a) The facility shall ensure that resident rights are respected in the provision of care.

(b) Basic nursing and personal care shall be provided for residents as needed.

(1) Nursing care shall include, but not be limited to:

(A) Encouraging residents to be active and out of bed for reasonable time periods.

(B) Measuring resident temperature, blood pressure, pulse and respirations at least once every thirty days and more frequently if warranted by the resident's condition, with the results recorded in the clinical record.

(i) Measuring resident weight at least once every thirty days and more frequently if warranted by the resident's condition, with the results recorded in the clinical record.

(ii) Measuring resident pain whenever vital signs are taken and more frequently if warranted by the resident's condition, with the results recorded in the clinical record.

(C) Offering fluids, and making fluids available, to maintain proper hydration.

(D) Following proper nutritional practices for diets, enteral and parenteral feedings and assistance in eating.

(E) Providing proper skin care to prevent skin breakdown.

(F) Providing proper body alignment.

(G) Providing supportive devices to promote proper alignment and positioning.

(H) Turning bed residents every two hours or as needed, to prevent pressure areas, contractures, and decubitus.

(I) Performing range of motion exercises in accordance with individual assessment and care plans.

(J) Ensuring that residents positions are changed every two hours or as needed when in a chair and are toileted as needed.

(K) Establishing and implementing bowel and bladder programs to promote independence, or developing toileting schedules to promote continence.

(L) Performing catheter care with proper positioning of bag and tubing at all times.

(M) Recording accurate intake and output records for residents with tube feedings or catheters.

(N) Assessing the general mental and physical condition of the resident on admission.

(O) Updating the assessment and individual care plan when there is a significant change in the resident's physical, mental, or psychosocial functioning.

(P) Recognizing and recording signs and symptoms of illness or injury with action taken to treat the illness or injury, and the response to treatments and medications.

(2) Personal care shall include, but not be limited to:

(A) Keeping residents clean and free of odor.

(B) Keeping bed linens clean and dry.

(C) Keeping resident's personal clothing clean and neat.

(D) Ensuring that residents are dressed appropriately for activities in which they participate; bedfast/chairfast residents shall be appropriately dressed and provided adequate cover for comfort and privacy.

(E) Ensuring that the resident's hair is clean and groomed.

(F) Providing oral hygiene assistance at least twice daily with readily available dental floss, toothbrush and dentifrice. A denture cleaning/soaking device and brush shall be available and maintained for each resident as needed.

(G) Keeping toenails and fingernails clean and trimmed.

(c) The facility shall assist the resident in securing other services recommended by a physician such as, but not limited to, optometry or ophthalmology, audiology or otology, podiatry, laboratory, radiology or hospital services. The administration shall, through social services or other means, assist each resident desiring or needing medical related services.

310:675-9-2. Social services [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-2.1. Dental and oral hygiene services

- (a) A dental history shall be obtained as part of the medical history on admission. The dental history shall include past dental problems, description of any prosthetic appliance used, current assessment and the resident's current dentist.
- (b) The facility shall have all dental prosthetic appliances such as dentures and partial dentures, marked and identified as belonging to that resident at the time of admission. A resident shall be promptly referred to a dentist when prosthetics are lost or damaged.
- (c) The facility shall arrange for one or more dentists to be available in an emergency and to act in an advisory capacity to the facility. The dentist notified for any emergency shall be recorded in the clinical record. If unable to contact the resident's dentist, the emergency physician or dentist shall be notified.
- (d) The facility shall maintain a list of referral dentists.
- (e) The facility shall assist the resident with, or make arrangements for the resident's transportation to and from the dentist's office.
- (f) All residents shall have oral hygiene procedures provided at least daily, and as needed. Oral hygiene procedures shall include, but not be limited to, the resident's teeth being brushed and dentures and partial dentures being cleaned. Any exception shall be ordered by the resident's dentist or physician.
- (g) Oral hygiene supplies and equipment shall be available in sufficient quantities to meet the residents needs including but not limited to, toothbrushes, toothpaste, dental floss, lemon glycerin swabs or equivalent products, denture cleaners, denture adhesives, and containers for dental prosthetic appliances, such as dentures and partial dentures.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-3. Religion [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-3.1. Rehabilitative or restorative nursing services

- (a) Rehabilitative services promote restoration of the resident's maximum potential. Rehabilitative services shall be provided or obtained by the facility or an outside source according to the resident assessment. An evaluation shall address the residents rehabilitative needs, on admission, annually, and as the resident's condition indicates. Rehabilitative services shall be ordered by the physician, and provided under the direction of licensed or qualified staff. These services shall include, but not be limited to, the following:
 - (1) Physical therapy.
 - (2) Speech therapy.
 - (3) Audiology.
 - (4) Occupational therapy.
 - (5) Psychological or psychiatric counseling/therapy.
 - (6) Nutritional counseling.
- (b) Restorative nursing services may be provided by the nursing staff according to the care plan. These services shall include, but not be limited to, the following:
 - (1) Range of motion to prevent contracture.
 - (2) Bowel and bladder training to restore continence.
 - (3) Self-help skill training.
 - (4) Behavioral modification under the direction of a qualified consultant.
 - (5) Ambulation.
 - (6) Remotivation.
 - (7) Reality orientation.
 - (8) Reminiscent therapy.
- (c) There shall be an ongoing in-service education program for all restorative nursing staff.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-4. Recreation areas [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-4.1. Supplies and equipment

- (a) There shall be a sufficient quantity of supplies and, equipment in working condition, to meet the residents' medical, nursing, nutritional, social and activity needs.
- (b) The minimum level of supplies including but not limited to food and other perishables is a three (3) day supply.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93; Amended at 20 Ok Reg 2399, eff 7-11-03]

310:675-9-5. Community involvement [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-5.1. Assessment and care plans

- (a) A resident assessment and an individual care plan shall be completed and implemented for each resident. The care plan shall indicate the resident's current status and accurately identify the resident's needs.
- (b) The written resident assessment and care plan shall be reviewed and updated, at least quarterly, and as needed when the resident's condition indicates.
- (c) Efforts shall be made to include the resident and resident's representative in development and implementation of the care planning process.

(1) Resident assessment.

- (A) The facility shall conduct, initially and periodically, a comprehensive, accurate, standardized, reproducible assessment for each resident's functional capacity.
- (B) Each resident shall have an assessment coordinated or conducted by a registered nurse.
- (C) Each individual completing a portion of the assessment shall sign, date, and certify the accuracy of that portion.
- (D) An assessment shall be completed within fourteen days after admission of the resident.
- (E) The resident assessment shall include a minimum data set (MDS) in the form required under 42 CFR 483.20. Each facility, with the exception of Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID), accurately shall complete the MDS for each resident in the facility, regardless of age, diagnosis, length of stay or payment category.
- (F) The MDS form shall require the following, as applicable:
 - (i) Admission assessment;
 - (ii) Annual assessment;
 - (iii) Significant change in status assessment;
 - (iv) Significant correction of prior full assessment;
 - (v) Significant correction of prior quarterly assessment;
 - (vi) Quarterly review; and
 - (vii) A subset of items upon a resident's transfer, reentry, discharge, and death.

(2) Resident pain assessment.

- (A) Residents shall be screened for the presence of pain at least once every 30 days and whenever vital signs are taken.
 - (i) Licensed nursing staff shall perform the screening at least once every 30 days. Certified nurse aides may perform the screening more frequently as needed.
 - (ii) The screening instrument shall grade the intensity and severity of pain using a resident-specific pain scale;

(B) An individualized pain assessment shall be conducted by a registered nurse for each resident:

(i) In conjunction with the admission, quarterly and annual assessments required at OAC 310:675-9-5.1.(c)(1)(F); and

(ii) With onset of pain not previously addressed in a care plan or physician's orders.

(C) The goal is to alleviate or minimize pain while assisting the resident to maintain as high a level of functioning as possible. The pain assessment shall include, but not be limited to:

(i) A statement of how the resident describes the pain;

(ii) Intensity and severity of pain graded using a resident-specific pain scale;

(iii) Recent changes in pain;

(iv) Location(s);

(v) Onset and duration of pain, such as new pain within the last 3 days, recent pain within the last 3 months, or more distant pain greater than 3 months;

(vi) Type of pain reported or represented by resident, such as constant or intermittent, and duration or frequency of pain;

(vii) Current pain measured at its least and greatest levels;

(viii) Aggravating and relieving factors;

(ix) Treatment including a review of all therapies, including medication, and the regimen used to minimize pain;

(x) Effects of pain and effectiveness of therapy on physical and social functions;

(xi) Resident's treatment preferences and emotional responses to pain, including resident's expectations and how resident coped with pain; and

(xii) If applicable, refer to pain assessment tool for the cognitively impaired.

(D) Results shall be recorded in the resident's clinical record showing changes in pain scale and changes in level of functioning. The physician shall be contacted as necessary.

(E) Pain shall be treated promptly, effectively and for as long as necessary.

(3) Individual care plan.

(A) An individual care plan shall be developed and implemented for each resident to reflect the resident's needs.

(B) The care plan shall be developed by an interdisciplinary team that includes a registered nurse with responsibility for the resident, and other appropriate staff in disciplines determined by the resident's needs.

(C) The care plan shall include measurable objectives and timetables to meet the resident's medical, nursing, mental and psychosocial needs identified in the assessment.

(D) The care plan shall be available to appropriate personnel providing care for the resident.

(E) An initial care plan shall be completed at the time of admission. The individualized care plan shall be completed within twenty-one days after admission.

(F) A care plan shall be completed within seven calendar days after the completion of the assessment.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93; Amended at 16 Ok Reg 3493, eff 7-30-99 (emergency); Amended at 17 Ok Reg 2072, eff 6-12-00; Amended at 20 Ok Reg 2399, eff 7-11-03; Amended at 23 Ok Reg 156, eff 10-6-05 (emergency); Amended at 23 Ok Reg 2415, eff 6-25-06; Amended at 27 Ok Reg 2545, eff 7-25-10; Amended at 36 Ok Reg 1748, eff 9-13-19]

310:675-9-6. Physical plant [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-6.1. Restraints

(a) The resident has the right to be free from any physical or chemical restraints imposed for discipline or convenience. Restraints may be used in emergency situations, or for the purpose of treating a resident's medical condition. All physical restraints shall allow for quick release. Locked restraints shall not be used.

(b) In an emergency situation, physical restraints may be used only to ensure the physical safety of the resident, staff, or other residents. When restraints are used in an emergency, the facility shall comply with the following process:

(1) A licensed nurse may use physical restraints, without a physician's order, if necessary to prevent injury to the resident, or to other residents, when alternative measures are not effective. The licensed nurse shall document in the clinical record the application of the physical restraint and the alternative measures that were not effective. A licensed nurse shall contact the physician for physical restraint orders within six hours after application.

(2) The facility staff shall continually monitor the resident during the restraint period. An interdisciplinary team shall evaluate alternative placement if the resident requires physical restraints for longer than forty-eight consecutive hours.

(3) Circumstances requiring the physical restraints shall be re-evaluated every thirty minutes and documented in the clinical record.

(4) A resident who is physically restrained shall have the restraints released for at least ten minutes every two hours. Such residents shall also be repositioned, exercised and toileted as needed.

(c) In an emergency situation, chemical restraints may be used only to ensure the physical safety of the resident, staff, or other residents. When chemical restraints are used, the facility shall comply with the following process:

(1) The written order for the use of a chemical restraint shall be signed by a physician who specifies the duration and circumstances under which the chemical restraint is to be used.

(2) The physician's orders may be oral when an emergency necessitates parenteral administration of the chemical restraint but is valid only until a written order can be obtained within forty-eight hours.

(3) An emergency order for chemical restraints shall not be in effect for more than twelve hours and may be administered only if the resident is continually monitored for the first thirty minutes after administration and every fifteen minutes until such time as the resident appears stable to ensure that any adverse side effects are noticed and appropriate action taken as soon as possible. The clinical record shall accurately reflect monitoring.

(4) A licensed nurse shall document in the resident's clinical record any alternative measures that were not effective and precipitated the use of the chemical restraint.

(5) An interdisciplinary evaluation shall be made to consider alternative placement if the resident requires chemical restraints for longer than twelve continuous hours.

(d) When restraints are required for the resident's medical symptoms, the nursing staff shall ensure that physical and chemical restraints are administered only in accordance with the resident's care plan and under the following circumstances.

(1) When restraints are used to prevent falling, or for the purpose of positioning the resident, the resident and resident's representative shall be informed of the risk and benefits, and written consent shall be obtained.

(2) Restraints may be applied only on a physician's written order and shall identify the type and reason for the restraint. The physician shall also specify the period of time, and the circumstances under which the restraint may be applied.

(3) Alternative measures to the use of restraints shall be evaluated prior to their use. Circumstances requiring the restraints, and alternative measures, shall be re-evaluated and documented in the clinical record every thirty days.

(4) A restrained resident shall have the restraints released every two hours for at least ten minutes; and the resident shall be repositioned, exercised, or provided range of motion and toileted as necessary.

(e) Antipsychotic drug administration shall be consistent with 63 O.S. 1-881.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93; Amended at 37 Ok Reg 1448, eff 9-11-20]

310:675-9-7. Diets [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-7.1. Physician services

Each resident shall be under the care of a licensed physician, who shall be responsible for the resident's overall medical care. The physician's duties shall include but not be limited to:

- (1) Completing an admission history and physical that includes chief complaints, course of present illness, past medical history, and examination findings by body systems and diagnosis within two weeks of admission unless a physical was conducted within the previous sixty days.
- (2) Prescribing diet, treatments and medications.
- (3) Noting the resident's specific advance directives, if known.
- (4) Continuing supervision, as required by the resident's care including, but not limited to:
 - (A) Writing progress notes at each visit.
 - (B) Visiting as needed.
 - (C) Participating in developing, and reviewing, the resident's care plan.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-8. Food storage and sanitation [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-8.1. Clinical laboratory

- (a) The facility shall provide, or obtain, clinical laboratory services to meet the resident's needs. The facility shall be responsible for the quality and timeliness of the services. If the facility provides clinical laboratory services, the services shall meet the applicable conditions of the services furnished by independent laboratories. If the facility provides blood bank and transfusion services, it shall meet the applicable conditions for independent laboratories and hospitals.
- (b) If the laboratory refers specimens for testing to another laboratory, the receiving laboratory shall meet applicable conditions as an independent laboratory.
- (c) If the facility does not provide laboratory services on site, it shall have an agreement to obtain such services only from a laboratory that meets applicable conditions as an independent laboratory, either as a hospital or an independent laboratory.
- (d) The facility shall:
 - (1) Provide or obtain laboratory services only when ordered by the physician.
 - (2) Promptly notify the physician of the findings.
 - (3) Assist the resident in arranging transportation to and from the source of service, if the resident needs assistance.
 - (4) File signed and dated reports of clinical laboratory services in the resident's clinical record.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-9. Refrigeration [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-9.1. Medication services

(a) Storage.

- (1) Medications shall be stored in a medication room, a locked cabinet, or a locked medication cart, used exclusively for medication storage.
- (2) The medication storage area temperature shall be maintained between 60° F. (15.5° C.) to 80° F. (26.6° C.)
- (3) The medication room, the medication storage cabinet, and medication cart shall be locked when not in use.
- (4) The key to the medication storage areas shall be in the possession of the person responsible for administering medications.
- (5) Scheduled medications shall be in a locked box within the locked medication area or cart.

(6) Medications for external use shall be stored separately from medications for internal use.
(7) Medications requiring refrigeration shall be kept within a temperature range of 36° F. (2.2° C.) to 48° F. (8.8° C.) and separated from food and other items. There shall be a method for locking these medications.

(8) The medication areas shall be well lighted, clean and organized.

(9) Running water shall be in close proximity to the medication area.

(10) Powdered over-the-counter medication for topical use may be kept in the resident's room for administration by a nurse aide if:

(A) The facility develops and implements policies and procedures for safe storage and application of the powder; and

(B) Each aide who applies the over-the-counter topical medication is trained in accordance with the established policies and procedures of the facility.

(b) Emergency medications. Emergency medication, policies and equipment shall include but not be limited to:

(1) An electric suction machine with necessary aseptic aspirator tips.

(2) An emergency tray or cart with the following items labeled and accessible to licensed personnel only: resuscitation bag; tongue depressors; and assorted airways; sterile hypodermic syringes in 2 cc, 5 cc, and 20 cc or larger sizes and appropriate needles. The content shall be limited to emergency medications and contain no scheduled medications. Only two single dose vials of the following medications may be on the tray or cart: 50% Dextrose, respiratory stimulant, a cardiac stimulant, injectable lasix, injectable dilantin and injectable benadryl.

(3) A certified medication aide shall not administer injectable medications from any emergency tray or cart, but shall have access to resuscitation bags, tongue depressors, and assorted sizes of airways.

(c) Medication accountability.

(1) Medications shall be administered only on a physician's order.

(2) The person responsible for administering medications shall personally prepare the dose, observe the swallowing of oral medication, and record the medication. Medications shall be prepared within one hour of administration.

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

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

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

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

(D) Adverse reactions or results.

(E) Injection sites.

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

(G) Medication error incident reports.

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

(d) Medication labels and handling.

(1) All prescribed medications shall be clearly labeled indicating the resident's full name, physician's name, prescription number, name and strength of medication, dosage, directions for use, date of issue and expiration, and name, address and telephone number of pharmacy or physician issuing the medication, and the quantity. If a unit dose system is used, medications shall indicate, at least, the resident's full name, physician's name and strength of medication, and directions for use.

(2) When over-the-counter medications are prescribed and obtained in the original manufacturers container, the package directions shall be considered part of the label. The resident's name shall be on the package.

(3) Each resident's medications shall be kept or stored in the originally received containers. Paper envelopes shall not be considered containers.

(4) Medication containers having soiled, damaged, illegible or makeshift labels shall be relabeled by the issuing pharmacy or physician. Labels on containers shall be clearly legible and firmly

affixed. No label shall be superimposed on another label on a medication container except for over-the-counter medication containers.

(5) No person shall change labels on medication containers. If the attending physician orders a change of directions, there shall be a procedure to mark the container indicating a label change is needed at the next prescription refill.

(6) A pharmacist shall dilute, reconstitute and label medications, whenever possible. If not possible, a registered nurse may reconstitute, dilute and label medications. A distinctive, indelible, supplementary label shall be affixed to the medication container when diluted or reconstituted for other than immediate use. A licensed practical nurse may reconstitute oral medications only. The label shall include the following: resident's name, dosage and strength per unit/volume, nurse's initials, expiration date, and date and time of dilution or reconstitution.

(7) When a resident is discharged, or is on therapeutic leave, the unused medication shall be sent with the resident, or with the resident's representative, unless there is a written physician's order to the contrary, or the medication has been discontinued, or unless the resident or the resident's representative donates unused prescription medications for dispensation to medically indigent persons in accordance with the Utilization of Unused Prescription Medications Act. The clinical record shall document the quantity of medication sent, and returned or donated, and the signature of the person receiving or transferring the medications.

(8) All medication orders shall be automatically stopped after a given time period, unless the order indicates the number of doses to be administered, or the length of time the medication is to be administered. The automatic stop order may vary for different types of medications. The facility shall develop policies and procedures, in consultation with the medical director and pharmacist, to review automatic stop orders on medications. The policy shall be available to personnel administering medications.

(9) No resident shall be allowed to keep any medications unless the attending physician or interdisciplinary team has indicated on the resident's clinical record that the resident is mentally and physically capable of self-administering medications.

(10) A resident who has been determined by the physician or interdisciplinary team as capable of self-administering medication may retain the medications in a safe location in the resident's room. The facility shall develop policies for accountability. Scheduled medications shall not be authorized for self-administration, except when delivered by a patient controlled analgesia pump.

(11) A physician's telephone orders shall be conveyed to, recorded in the clinical record, and initialed by the licensed nurse receiving the orders.

(12) Medications shall be administered only by a physician, registered nurse, a licensed practical nurse, or a certified medication aide. The only injectables which a certified medication aide may administer are insulin and vitamin B-12 and then only when specifically trained to do so.

(13) A pharmacy, operating in connection with a facility, shall comply with the State pharmacy law and the rules of the Oklahoma State Board of Pharmacy.

(14) Powdered over-the-counter medication for topical use may be administered by a trained nurse aide when designated in writing by the attending physician and delegated by a licensed nurse. The licensed nurse shall ensure that the aide demonstrates competency in reporting skin changes, storage, application and documentation policies and procedures. The licensed nurse or the attending physician shall document in the resident's record a skin assessment at least twice each week and more often if required by the facility's approved policy.

(e) Medication destruction.

(1) Non-controlled medications prescribed for residents who have died and non-controlled medications which have been discontinued shall be destroyed by both the director of nursing and a licensed pharmacist or another licensed nurse. Controlled medication shall be destroyed by a licensed pharmacist and the Director of Nursing. The facility may transfer unused prescription drugs to city-county health department pharmacies or county pharmacies in compliance with the Utilization of Unused Prescription Medications Act and all rules promulgated thereunder. Prescription only medications including controlled medications shall not be returned to the family or resident representatives. The destruction and the method used shall be noted on the clinical record.

(2) Medications prescribed for one resident may not be administered to, or allowed in the possession of, another resident.

(3) There shall be policies and procedures for the destruction of discontinued or other unused medications within a reasonable time. The policy shall provide that medications pending destruction shall not be retained with the resident's current medications. The destruction of medication shall be carried out in the facility and a signed record of destruction shall be retained in the facility.

(f) **Medication regimen review.** The facility shall ensure that each resident's medications are reviewed monthly, by a registered nurse or a licensed pharmacist. The reviewer shall notify the physician and director of nursing, in writing, when irregularities are evident.

(g) **Consultant pharmacist.** The facility shall have a consultant licensed pharmacist to assist with the medication regimen review and medication destruction. The consultant pharmacist shall discuss policies and procedures for the administration, storage, and destruction of medications with the administrator, director of nursing and other appropriate staff.

(h) **Emergency pharmacy.** The facility shall have a contract, or letter of agreement, with a licensed pharmacy that agrees to serve as the emergency pharmacy. The emergency pharmacy shall be available twenty-four hours a day.

(i) **Bulk nonprescription drugs.** A facility may maintain nonprescription drugs for dispensing from a common or bulk supply as *ordered or otherwise authorized by a physician currently licensed to practice medicine in this state* [63:1-1950(B)] if all of the following are accomplished.

(1) **Policy of facility.** The facility must have and follow a written policy and procedure to assure safety in dispensing and documentation of medications given to each resident.

(2) **Acquisition.** The facility shall maintain records which document the name of the medication acquired, the acquisition date, the amount and the strength received for all medications maintained in bulk.

(3) **Dispensing.** Only licensed nurses, physicians, pharmacists or certified medication aides (CMA) may dispense these medications.

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

(5) **Records.** The facility shall maintain records of all bulk medications which are dispensed on an individual signed medication administration record (MAR).

(6) **Labeling.** The original labels shall be maintained on the container as it comes from the manufacturer or on the unit-of-use (blister packs) package.

(7) **Package size.** The maximum size of packaging shall be established by the facility in its policy and procedures and shall insure that each resident receives the correct dosage; provided however, that no liquid medications shall be acquired nor maintained in a package size which exceeds 16 fluid ounces.

(8) **Allowed nonprescription drugs.** Facilities may have only oral analgesics, antacids, and laxatives for bulk dispensing and/or drugs listed in a facility formulary developed or approved by the consultant pharmacist, medical director and director of nurses. Non formulary over the counter medications may be prescribed if the resident has therapeutic failure, drug allergy, drug interaction or contraindications to the formulary over the counter medication.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93; Amended at 11 Ok Reg 907, eff 12-17-93 (emergency); Amended at 11 Ok Reg 2645, eff 6-25-94; Amended Ok Reg 2521, eff 6-25-99; Amended at 18 Ok Reg 2533, eff 6-25-01; Amended at 19 Ok Reg 524, eff 1-3-02 (emergency); Amended at 19 Ok Reg 2099, eff 6-27-02; Amended at 28 Ok Reg 1371, eff 6-25-11; Amended at 31 Ok Reg 1622, eff 9-12-14; Amended at 33 Ok Reg 1530, eff 9-11-16]

310:675-9-10. Ice supply [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-10.1. Activity services

(a) **Activities program.** The facility shall provide an ongoing activities service designed to meet the resident's interests and physical, mental, and psycho-social needs based on a comprehensive assessment

and care plan.

(b) **Activities director.** There shall be a designated staff member, qualified by experience or training, responsible for the direction and supervision of the activities service. The activities director shall develop appropriate activities for each resident with identified needs. Activities staff hours shall be sufficient to meet the resident's needs.

(c) **Clinical record.** The activities rendered shall be recorded in the clinical record. Progress notes shall be written at least monthly or when a significant change in the resident's condition occurs.

(d) **Program requirements.**

(1) All activities shall be resident related.

(2) The program shall be designed to encourage rehabilitation and restoration to self care and normal activity.

(3) There shall be at least two organized group activities, daily, Monday through Friday and at least one organized group activity on Saturday and Sunday provided or coordinated by staff.

(4) The activities program shall recognize the resident's right to choose to participate in social, community and religious activities, as long as that choice does not interfere with other facility residents.

(5) Varied and specific programs shall be developed for all residents, including those that are room bound, comatose or who demonstrate symptoms of dementia, mental illness or developmental disabilities.

(6) Socialization and self-help skills shall be addressed in the care plan based on resident's needs.

(7) Provisions shall be made to address each resident's spiritual needs.

(8) The program shall provide remotivation, reality orientation or sensory stimulation programs to orient and stimulate residents.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-11. Milk supply [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-11.1. Social services

(a) **Service.** The facility shall provide medically related social services to identify and meet the resident's social and emotional needs, and assist each resident and family in adjusting to the effects of the illness, treatment, and stay in the facility.

(b) **Director.** There shall be a designated staff member, qualified by training or experience, responsible for directing and supervising the social services. The social services director shall develop appropriate social services for each resident with identified needs.

(c) **Clinical record.** The social services rendered shall be recorded in the resident's record. Progress notes shall be written at least monthly, or when a significant change in a resident's condition occurs.

(d) **Program requirements.**

(1) Assist the resident in identifying issues and conditions related to admission to the facility.

(2) Assist the resident in obtaining needed services within the facility or the community.

(3) Assist the resident in obtaining needed transportation.

(4) Assist the resident in maintaining and developing relationships with family and other significant persons.

(5) Assist the staff in understanding the resident's actions and behavior.

(6) Assist the staff in treating the residents with respect, and promote resident independence.

(7) Counsel with the resident and his family in securing and enhancing participation in the resident's care.

(8) Engage in related activities as determined by the resident's individual needs.

(9) Encourage the resident to express his/her rights as United States citizens.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-12. Food supply [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-12.1. Dietary services

(a) **Services.** The facility shall provide dietary services to meet the resident's nutritional needs. There shall be a designated staff person qualified by experience or training, responsible for directing or supervising the dietary services. The food service supervisor, in conjunction with a qualified nutritionist or registered/licensed dietitian, shall develop a dietary care plan for each resident. There shall be sufficient dietary staff to meet the needs of all residents.

(b) **Clinical record.** The dietary services provided to residents needing dietary intervention shall be recorded in the clinical record. Progress notes for these residents shall be written at least monthly, or when a significant change in the resident's condition occurs.

(c) **Nutritional assessment.** A nutritional assessment shall be completed for each resident that addresses all pertinent dietary problems such as chewing or swallowing, elimination, appetite or eating habits, pertinent lab results, weight and height, diet and medication interactions, food preferences and assistive devices. The dietary staff shall have input into the resident's individual care plan.

(d) **Diet.** The facility shall provide a nourishing, palatable, well-balanced diet that meets the resident's daily nutritional and special dietary needs.

(1) Meals.

(A) The facility shall serve at least three regularly scheduled meals, or their equivalent daily. There shall be at least four hours between each meal.

(B) Diets shall be prescribed by the resident's physician and shall be planned, in writing, reviewed, approved and dated by a qualified nutritionist or registered/licensed dietitian. A therapeutic diet shall be served with skillful attention to the diet control system. Portioning of menu servings shall be accomplished with portioned control serving utensils.

(C) Substitutes of similar nutritive value shall be offered when a resident refuses served menu items.

(D) Residents at nutritional risk shall have timely and appropriate nutrition intervention.

(E) Nourishments shall be available and may be offered at any time in accordance with approved diet orders and resident preference. Bedtime nourishment shall be offered to all residents.

(F) There shall be an identification system established and updated, as needed, to ensure that each resident receives the prescribed diet.

(G) The percentages of consumed meals, supplements and meal replacements ingested shall be observed and recorded in the clinical record at the time of observation.

(2) Menus.

(A) Menus shall be posted, planned, and followed to meet the resident's nutritional needs in accordance with the physician's orders.

(B) The menus shall, to the extent medically possible, be in accordance with the daily recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences.

(C) Menus covering all prescribed diets shall be approved, dated, and periodically reviewed by a qualified nutritionist or registered/licensed dietitian. The facility shall maintain a thirty day record of past menus.

(D) The facility shall maintain a file of tested recipes that includes therapeutic alterations for quantity food preparation for menu items.

(e) **Tube feeding.** Tube feeding orders shall be evaluated for nutritional adequacy. The requirements for caloric intake, protein, fluid and percentage of the daily recommended dietary allowances shall be calculated to determine nutritional adequacy.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-13. Dishwashing [REVOKED]

310:675-9-13.1. Food storage, supply and sanitation

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

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

(c) A whole, intact, fruit or vegetable is an approved food source. The food supply shall be sufficient in quantity and variety to prepare menus for three (3) days. Leftovers that are potentially hazardous foods shall be used, or disposed of, within twenty-four (24) hours. Non-potentially hazardous leftovers that have been heated or cooked may be refrigerated for up to forty-eight (48) hours.

(d) Milk, milk products and eggs.

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

(2) Powdered or evaporated milk products approved under the U.S. Department of Health and Human Services' Grade "A" Pasteurized Milk Ordinance (2003 Revision), may be used only as additives in cooked foods. This does not include the addition of powdered or evaporated milk products to milk or water as a milk for drinking purposes. Powdered or evaporated milk products may be used in instant desserts and whipped products, or for cooking. When foods, in which powdered or evaporated milk has been added, are not cooked, the foods shall be consumed within twenty-four (24) hours.

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

(4) Only clean, whole eggs with shell intact, pasteurized liquid, frozen, dry eggs, egg products and commercially prepared and packaged hard boiled eggs may be used. All eggs shall be thoroughly cooked except pasteurized egg products or pasteurized in-shell eggs may be used in place of pooled eggs or raw or undercooked eggs.

(e) **Applicability.** This section shall only apply to food prepared or served by the facility, within the licensed facility.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93; Amended at 24 Ok Reg 2030, eff 6-25-07¹; Amended at 25 Ok Reg 2482, eff 7-11-08]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

310:675-9-14. Physical responsibilities [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-15. Reports to state agencies [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-16. Specialized services [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-17. Medical findings and physician's orders [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-18. Resident supervision by physician [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-19. Availability of physicians for emergency resident care [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-20. Fulfilling resident's needs [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-21. Dental care [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-22. Medications: storage, preparation and handling [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-23. Nursing service [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-24. Nursing and personal care of residents [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-25. Nursing services: policy and procedure [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-26. Rehabilitative and/or restorative nursing [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-27. Health care plan [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-28. Transfer forms [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-29. Nursing service personnel minimum staffing requirements [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-30. Nursing in-service [REVOKED]

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93]

310:675-9-31. Influenza and pneumococcal vaccinations

(a) Each facility shall document evidence of the offering of annual vaccination against influenza for each resident and for each employee, in accordance with the Recommendations of the Advisory Committee on Immunization Practices for the Centers for Disease Control and Prevention most recent to the time of vaccination.

- (b) Each facility shall document evidence of the offering of vaccination against pneumococcal disease for each resident, in accordance with the Recommendations of the Advisory Committee on Immunization Practices for the Centers for Disease Control and Prevention most recent to the time of vaccination.
- (c) The immunizations provided for in this section may be waived because of medical contraindication or may be refused. Documentation of the vaccination, medical contraindication or refusal shall be recorded in the resident's medical or care record. If the resident is not vaccinated, the documentation in the resident record shall include a statement signed by the resident, the resident's representative, or the resident's physician as appropriate.
- (d) Attending physicians may establish standing orders for the administration of influenza and pneumococcal immunizations in accordance with the Recommendations of the Advisory Committee on Immunization Practices for the Centers for Disease Control and Prevention most recent to the time of vaccination.

[Source: Added at 16 Ok Reg 3493, eff 7-30-99 (emergency); Added at 17 Ok Reg 2072, eff 6-12-00; Amended at 18 Ok Reg 2533, eff 6-25-01]

SUBCHAPTER 11. INTERMEDIATE CARE FACILITIES OF 16 BEDS AND LESS FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES (ICF/IID-16)

310:675-11-1. Scope

This Subchapter is applicable to small facilities serving individuals with intellectual disabilities which provide residential accommodations and transitional living training to aid residents in adapting to live in the general society. Resident accommodations are limited to not more than 16 residents, plus any required "live-in" staff. Facilities qualifying under this subsection shall be exempt from other subsections of this Chapter, except for the definitions provided in 310:675-1-2 and as may be specifically referenced in this subsection. In addition to these requirements, all facilities must meet the provisions of the Nursing Home Care Act.

[Source: Amended at 26 Ok Reg 2059, eff 6-25-09; Amended at 36 Ok Reg 1748, eff 9-13-19]

310:675-11-2. Active Treatment

In institutions for individuals with intellectual disabilities, active treatment requires the following:

- (1) The individual's regular participation, in accordance with an individual plan of care, in professionally developed and supervised activities, experience or therapies.
- (2) An individual written plan of care that sets forth measurable goals or objectives stated in terms of desirable behavior and that prescribes an integrated program of activities, experience or therapies necessary for the individual to reach those goals or objectives. The overall purpose of the plan is to help the individual function at the greatest physical, intellectual, social or vocational level he can presently or potentially achieve.
- (3) An interdisciplinary professional evaluation that consists of complete medical, social and psychological diagnosis and evaluations and an evaluation of the individual's need for institutional care; and is made by a physician, a social worker and other professionals, at least one of whom is a qualified intellectual disability professional.
- (4) Reevaluation medically, socially and psychologically at least annually by the staff involved in carrying out the resident's individual plan of care. This must include review of the individual's progress toward meeting the plan objectives, the appropriateness of the individual plan of care, assessment of the resident's continuing need for institutional care, and consideration of alternate methods of care.
- (5) An individual postinstitutionalization plan, as part of the individual plan of care, developed before discharge by a qualified intellectual disability professional and other appropriate professionals. This must include provision for appropriate services, protective supervision, and other follow-up services in the resident's new environment.
- (6) Individuals assigned for specific purpose of direct personal care to residents, including those conducting a training program to develop the resident's self-help and socialization skills. Does not include professionals performing duties related to their profession.

310:675-11-3. Qualified intellectual disability professional

A person who has specialized training or one (1) year of experience in treating or working with individuals with intellectual disabilities and is one of the following:

- (1) A psychologist.
- (2) A licensed doctor of medicine or osteopathy.
- (3) An educator with a degree in education from an accredited program.
- (4) A social worker with a bachelor's degree in:
 - (A) Social work from an accredited program; or
 - (B) A field other than social work and at least three (3) years of social work experience under the supervision of a qualified social worker.
- (5) A physical or occupational therapist.
- (6) A speech pathologist or audiologist.
- (7) A registered nurse.
- (8) A therapeutic recreation specialist who:
 - (A) Is a graduate of an accredited program; and
 - (B) If the State has a licensing or registration procedure, is licensed or registered in the State.
- (9) A rehabilitation counselor who is certified by the Committee of Rehabilitation Counselor Certification.

[Source: Amended at 36 Ok Reg 1748, eff 9-13-19]

310:675-11-4. Occupancy

Residents selected for ICF/IID-16 occupancy shall receive active treatment, and be capable of direction and emergency evacuation from the facility, as determined by a physician or nurse or qualified intellectual disability professional.

[Source: Amended at 36 Ok Reg 1748, eff 9-13-19; Amended at 39 Ok Reg 1394, eff 9-11-22]

310:675-11-5. Physical plant

- (a) ICF/IID-16 facilities shall be of one hour (minimum) fire resistant construction as approved by the Department and the State Fire Marshal, or shall be fully protected by an automatic sprinkler system approved by the Department and the State Fire Marshal. In addition, ICF/IID-16 facilities shall comply with the requirements of the National Fire Protection Association (NFPA) 101: Life Safety Code, 2012 Edition, adopted in 81 Federal Register 26871 by the Centers for Medicare & Medicaid Services on July 5, 2016 applicable to residential board and care occupancies for small facilities are incorporated by reference. For Medicare or Medicaid certified ICF/IID-16s, the Life Safety Code adopted by the Centers for Medicare & Medicaid Services prevails if there is a conflict between the Life Safety Code and this Chapter.
- (b) Prior to issuance of license, the essential operation functions of the physical plant shall be submitted to licensing agency for review and approval. This submittal shall be in such detail as will depict compliance with applicable codes, including emergency evacuation and day to day living accommodations.
- (c) Each facility must have a license. Any facility licensed under this part shall consist of contiguous construction.

- (1) **Resident rooms.** The following requirements shall be provided:
 - (A) Capacity shall be a maximum of four (4) residents.
 - (B) Minimum area shall be 80 square feet per occupant in multi-bed rooms and 100 square feet in single bed rooms.
 - (C) Each resident shall have a minimum of three square feet of closet or locker space which shall contain at least a clothes rod and one adjustable shelf.
- (2) **Service areas.** The following shall be provided:
 - (A) Toilet and bathing facilities shall be provided in an arrangement similar to general domestic residential facilities, except that bathrooms combining toilet, lavatory, tub and/or

shower shall be no less than 60 square feet in size.

(B) Bathing and toilet facilities shall be provided on a ratio of one facility for each five residents.

(C) Resident staff offices shall be provided at the facility in sufficient size and number to permit the safe storage and handling of prescription medications used by the individual residents, space for private counseling of residents, space for the business affairs of the ICF/IID-16 to be conducted in private, and space for the maintenance of records pertaining to resident care.

(D) Linen and supply areas shall be provided in a manner which permits the separation of the clean and soiled materials. Clean linen and supplies shall be stored separately from the area in which the soiled materials are collected.

(E) Meal service space shall be provided as follows:

(i) Kitchen. Space for conventional food preparation and baking with sufficient storage for maintaining at least a four day supply of all foods required for a general diet, including cold storage.

(ii) Dining. There shall be 15 square feet per person allocated to permit residents and on-duty staff to dine at the same time.

(iii) Warewashing shall be in accordance with the requirements of the care facilities as stated in Chapter 257 (relating to Food Service Establishments) of this Title.

(F) Housekeeping materials and supplies shall be maintained in a designated area which is apart from the food service and sleeping areas.

(3) **Recreation, lounge and public areas.** Each ICF/IID-16 shall provide interior lounge and recreation space at a rate of no less than 20 square feet per bed. If public visitation areas are included, the lounge and recreation space shall be no less than 25 square feet per bed. Outside recreation lounge areas shall be provided. These areas shall have sufficient lighting to permit utilization after sundown.

(4) **Natural lighting and ventilation of rooms.** All habitable and occupiable rooms or spaces shall contain windows, skylights, monitors, glazed doors, transoms, glass block panels or other light transmitting media opening to the sky or on a public street, yard or court. The light transmitting properties and the area of the devices used shall be adequate to meet the minimum day lighting and ventilating requirements specified herein.

(5) **Window size.** Windows and exterior doors may be used as a natural means of light and ventilation, and when so used their aggregate glass area shall amount to not less than eight percent of the floor area served, and with not less than one half of this required area available for unobstructed ventilation.

[Source: Amended at 26 Ok Reg 2059, eff 6-25-09; Amended at 34 Ok Reg 1305, eff 10-1-17; Amended at 36 Ok Reg 1748, eff 9-13-19]

310:675-11-5.1. Plans and specifications requirements applicable to ICF/IID-16

The following sections of this Chapter shall apply to ICF/IID-16 facilities: 310:675-5-22 (relating to exceptions and temporary waivers), 310:675-5-23 (relating to submission of plans and specifications and related requests for services), 310:675-5-24 (relating to preparation of plans and specifications) and 310:675-5-25 (relating to self-certification of plans).

[Source: Added at 34 Ok Reg 1305, eff 10-1-17]

310:675-11-6. Institutional and operational relationships

The ICF/IID-16 may be free standing in a community or may be on campus with a parent institution. The ICF/IID-16 may be an independent ownership and operation or may be part of a larger institutional ownership and operation. In any case, however, the ICF/IID-16 may have an effective, continuous relationship with a full scope ICF/IID which allows all necessary support and professional services as well as the expeditious transfer of residents if and when necessary.

[Source: Amended at 36 Ok Reg 1748, eff 9-13-19]

310:675-11-7. Staffing

- (a) The ICF/IID-16 shall have available enough qualified staff and support personnel to carry out the residential living, professional and special programs and services for residents as required by their individual needs, and of sufficient size that the facility does not depend on residents or volunteers for services.
- (b) Each ICF/IID-16 shall maintain at least the minimum direct-care-staff ratios specified in OAC 310:675-13-12(a).
- (c) In living units for the severely impaired client, the present and on duty direct care staff ratio would be:
- (1) 1 to 4 from 7:00 a.m. to 3:00 p.m.;
 - (2) 1 to 4 from 3:00 p.m. to 11:00 p.m.; and
 - (3) 1 to 8 from 11:00 p.m. to 7:00 a.m.
- (d) There should be sufficient dietary, nursing, housekeeping and administrative staff to serve the needs of the facility.

[Source: Amended at 18 Ok Reg 2533, eff 6-25-01; Amended at 18 Ok Reg 3599, eff 8-22-01 through 7-14-02 (emergency)¹; Amended at 36 Ok Reg 1748, eff 9-13-19]

***EDITOR'S NOTE:** ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency amendatory action, the last effective permanent text is reinstated. Therefore, on 7-15-02 (after the 7-14-02 expiration of the emergency action), the text of 310:675-11-7 reverted back to the permanent text that became effective 6-25-01, as was last published in the 2001 Edition of the OAC and republished in the 2006, 2011 and 2016 Editions of the OAC, and remained as such until amended again by permanent action on 9-13-19.*

310:675-11-8. Administration

All sections of Subchapter 7 of this Chapter shall be applicable to the ICF/IID-16 facilities and operations.

[Source: Amended at 26 Ok Reg 2059, eff 6-25-09; Amended at 36 Ok Reg 1748, eff 9-13-19]

310:675-11-9. Resident care services

In accordance with the needs of the residents, Subchapter 9 of this Chapter shall be applicable to the 16 ICF/IID-16 .

[Source: Amended at 26 Ok Reg 2059, eff 6-25-09; Amended at 36 Ok Reg 1748, eff 9-13-19]

SUBCHAPTER 13. STAFF REQUIREMENTS

310:675-13-1. Required staff

Sufficient, adequately trained staff shall be on duty, twenty-four hours a day, to meet the needs of all residents residing in the facility without regard to the direct staff ratios.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-13-2. Staff orientation

All staff shall complete orientation, and specific training, for their respective responsibilities before working without supervision. Staff shall immediately be oriented to the use and location of fire extinguishers, procedures to be followed in the event of a fire and resident rights.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-13-3. Administrator

- (a) The administrator shall be licensed by the State Board of Examiners for Nursing Home Administrators and has the authority and responsibility for the total operation of the facility, subject only to the policies adopted by the governing authority.
- (b) The facility shall designate a person to act for the administrator during his/her absence. The designated person shall have the authority to exercise normal management responsibilities.

310:675-13-4. Medical director

- (a) The facility shall designate an Oklahoma licensed medical doctor or osteopathic physician to serve as its medical director.
- (b) The medical director shall coordinate the medical services within the facility.

310:675-13-5. Nursing service

- (a) **General.** The nursing facility shall be organized, staffed, and equipped to provide nursing and health related services to all residents on a continuous basis.
- (b) **Licenses.** All licensed nurses shall hold a current license issued by the Oklahoma Board of Nursing.
- (c) **Director of nursing**
 - (1) A registered nurse or licensed practical nurse shall be designated as the director of nursing.
 - (2) The director of nursing shall be on duty on the day shift and be responsible for all resident care including, but not limited to, the physical, mental, and psycho-social needs. The director of nursing or designee shall be available by telephone when needed by facility staff.
 - (3) When necessary, the director of nursing may work other than the day shift but for no more than three shifts a week. This exception shall not exceed three consecutive weeks in a three month period.
- (d) **Licensed nurses**
 - (1) The facility shall employ licensed nurses for a sufficient number of hours to meet the residents' needs.
 - (2) A licensed nurse shall supervise direct care staff and shall direct nursing care for the residents.
 - (3) The facility shall use licensed practical nurses only for the medical procedures for which they are trained.
- (e) **Consultant registered nurse**
 - (1) If the director of nurses is a licensed practical nurse, a registered nurse shall be employed for at least eight hours per week as a consultant.
 - (2) A consultant registered nurse shall evaluate and consult with the director of nursing concerning residents' needs and shall coordinate the assessment and care plan of each resident.
 - (3) A consultant registered nurse's visit shall document the date and the hours spent in consultation. The documentation shall be signed and reviewed by the director of nursing.
- (f) **Certified medication aide**
 - (1) Each medication aide shall be a certified nurse aide who has passed a Department approved medication administration program.
 - (2) A graduate nurse or a graduate practical nurse, who has not yet been licensed, may administer medications if the nurse has passed an approved competency test for medication administration.
 - (3) A certified medication aide may administer physician ordered medications and treatments under the direction of a licensed nurse.
 - (4) The facility shall have a licensed nurse or physician on-call to handle medical emergencies. The charge person shall notify the designated person when a medical emergency arises.
 - (5) A certified medication aide shall complete eight hours of continuing education a year that is approved by the Department.
- (g) **Nurse aide**
 - (1) No facility shall use, on a full-time basis, any person as a nurse aide for more than 120 days unless that person is enrolled in a training program.
 - (2) No facility shall use, on a temporary, per diem, or other basis, any person as a nurse aide unless the individual is listed on the Department's nurse aide registry.
 - (3) The facility shall contact the Department's nurse aide registry prior to employing a nurse aide to determine if the person is listed on the registry, and if there is any record of abuse, neglect, or misappropriation of resident property.

(h) **Nursing students.** Facilities participating in a state approved nursing education program may allow nursing students to administer medications to residents. The facility shall have a written agreement with the nursing education program. The agreement shall specify the scope of activities, education level, and required supervision. The facility shall maintain a current roster of nursing students in the program. Details about the program and its operation within the facility shall be included in the facility's policy and procedure manual.

(i) **Inservice.** The facility shall provide all direct care staff with two hours of inservice training specific to their job assignment per month. This training shall include, at least, the following:

- (1) Fire safety and first aid classes semi-annually.
- (2) Resident rights and resident adjustment to institutional life annually.
- (3) Cardiopulmonary resuscitation and Heimlich maneuver procedures annually.
- (4) All supervisory staff shall receive training in regards to applicable local, state, and federal regulations governing the facility.
- (5) Each staff person shall be provided training in pain recognition at the time of orientation and at least once a year thereafter.
- (6) Each certified nurse aide shall be provided training in pain screening at the time of orientation and at least once every year thereafter.
- (7) Each licensed practical nurse shall be provided training in pain screening and pain management at the time of orientation and at least once every year thereafter.
- (8) Each registered nurse shall be provided training in pain assessment and pain management at the time of orientation and at least once every year thereafter.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93; Amended at 23 Ok Reg 156, eff 10-6-05 (emergency); Amended at 23 Ok Reg 2415, eff 6-25-06; Amended at 27 Ok Reg 2545, eff 7-25-10]

310:675-13-6. Registered/licensed dietician or qualified nutritionist

(a) The facility shall have a registered/licensed dietician or qualified nutritionist to sufficiently meet the needs of all residents. The registered/licensed dietician or qualified nutritionist shall consult with the food service supervisor, director of nursing, administrator and physicians.

(b) The registered/licensed dietician or qualified nutritionist shall supervise and direct the residents' nutritional care, advise and consult with appropriate staff, and provide inservice training for food service personnel and direct care staff.

(c) A qualified nutritionist shall complete eight hours of continuing education a year approved by the Department.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-13-7. Food service staff

(a) **Food service supervisor.**

(1) The food service supervisor shall be responsible for all aspects of food service preparation and delivery. The food service supervisor may serve only one facility. The food service supervisor hours shall be sufficient to meet the residents' needs.

(2) The food service supervisor shall complete certification as a dietary manager within three (3) years of beginning employment.

(3) The food service supervisor shall complete, and maintain continuous, ServeSafe food safety certification, or a Department approved alternative, within ninety (90) days of beginning employment.

(b) **Food service staff.**

(1) The facility shall have food service staff on duty sufficient to meet the residents' needs. There shall be at least one (1) hour of food service staff per three (3) residents, a day based on the daily census.

(2) The food service staff shall complete a basic orientation program before working in the food service area. This orientation shall include, but not be limited to: fire and safety precautions, infection control, and sanitary food handling practices.

(3) Each food service staff member shall successfully complete a food service training program offered or approved by the Department within ninety (90) days of beginning employment. Food service training shall be renewed as required by the authorized training program.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93; Amended at 24 Ok Reg 2030, eff 6-25-07¹; Amended at 25 Ok Reg 2482, eff 7-11-08]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

310:675-13-8. Activities personnel

(a) The facility shall have sufficient, trained activities program staff, on duty, to meet the resident's needs. There shall be at least twenty hours per week of designated activity staff.

(b) The activities director shall be qualified by training, or experience, under one of the following:

(1) An associate degree or a baccalaureate from an accredited university or college in art, music, physical education, recreational therapy, education, or similar program.

(2) A licensed occupational therapist or an occupational therapy assistant.

(3) Successful completion of a Department approved training course.

(4) One year experience in a recreational activity or long term care environment, and is enrolled within 180 days of employment, in a Department approved course for activities directors.

(c) **Department approval of activities director course.** Any person or entity seeking to conduct an approved activities director-qualifying course pursuant to 310:675-13-8(b)(3) (pertaining to successful completion of a department approved course) shall make application to the Department.

(1) **Application Content.** Applications shall include the following information:

(A) Name and address of the individual or entity applying to sponsor the course;

(B) Contact person and his or her address, telephone number and fax number;

(C) Course outlines, which list the summarized topics covered in the course and the time allotted for each topic and, upon request, a copy of any course materials;

(D) Information as to how the proposed course meets the course content standard provided in Section 310:675-13-8(c)(9);

(E) A sample certificate of completion;

(F) Procedures for monitoring attendance; and

(G) Procedures for evaluating successful course completion.

(2) **Application Review.** The Department shall complete review of the application within thirty (30) calendar days. If the Department finds the application has not addressed all requirements in 310:675-13-8(c)(1) (relating to application content) written notice shall be provided detailing the requirements not met and providing opportunity for amendment to the application.

(3) **Program affiliation.** Training shall be provided through a program sponsored or approved by a nationally affiliated association of providers subject to this chapter, regionally accredited institution of higher learning, Oklahoma career technology center, or nationally recognized professional accrediting body for activity professionals.

(4) **Loss of approval.** The Department may, upon notice and right to hearing, withhold or withdraw approval of any course for violation of or non-compliance with any provision of this section.

(5) **Advertisement.** No person or entity sponsoring or conducting a course shall advertise that it is endorsed, recommended, or accredited by the Department. Nor shall any person or entity sponsoring or conducting a course advertise or advise program participants that completion of the program grants a certification. Such person or entity may indicate that the Department has approved the course to qualify for employment as an activities director.

(6) **Failure to prepare.** The Department may, upon notice and right to hearing, decline to renew, or revoke the approval of, any previously approved course upon a showing or demonstration that the course, instructor or entity has substantially failed to adequately prepare its attendees or participants as activity directors.

(7) **Instructor requirements.** Instructors shall have a degree or substantial recent experience in the subject matter being taught, or other educational, teaching, or professional qualifications determined by the course provider.

(8) **Course content.** The course shall address the following content:

- (A) The guidance and regulations for activities as detailed in the Centers for Medicare and Medicaid Services, State Operations Manual, Appendix PP - Guidance to Surveyors for Long Term Care Facilities and the Code of Federal Regulations at CFR § 483.15(f);
 - (B) Oklahoma regulation for activity services as specified at OAC 310:675-9-10.1;
 - (C) Resident rights as detailed in state and federal statute and regulation;
 - (D) State and federal statute and regulation for resident protection from abuse, neglect and misappropriation;
 - (E) Working with volunteers and the community to enhance activity options;
 - (F) Specialized programming for Alzheimer's and related dementias;
 - (G) Role play or actual experience in leading group and one-on-one activities programming;
 - (H) Issues in aging; and,
 - (I) Infection Control.
 - (J) Where course content is delivered through Internet or other self-directed media, course content shall include not less than twelve (12) hours of role play or actual experience in leading group and one-on-one activities programming.
- (9) **Duration.** The approved course will consist of not less than twenty-four (24) hours of instruction. A course taught in combination with social services director training may share eight (8) hours of programming.
- (10) **Certificate.** Participants shall be issued a certificate of attendance indicating the name of the sponsoring entity; participant name; course name; course dates; printed name and signature of official representing the sponsoring entity.
- (11) **Course approval expires.** Course approval shall be for a period of three (3) years from the date of approval issuance. In the interest of updated curriculum, reflecting the latest best practice, a new application, and curriculum review are required triennially. Currently approved training programs shall apply under this section within twelve (12) months of the effective date of this rule.
- (12) **Continuing education.** This section creates no obligation for continuing education beyond requirements specified otherwise in this Chapter. The Department will not approve continuing education or update courses for activity directors.
- (13) **Records retention.** The course sponsor shall maintain course records for at least five (5) years. The Department may order an examination of the records for good cause shown.
- (14) **Fee.** A non-refundable application fee of one hundred dollars (\$100) shall be included with each application for course approval.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93; Amended at 26 Ok Reg 2059, eff 6-25-09]

310:675-13-9. Social services personnel

- (a) The facility shall provide sufficient, trained social services staff to meet the resident's needs. There shall be at least thirty (30) minutes per resident a week of designated social service staff based on the daily census. The facility shall have at least twenty (20) hours per week, of designated social service staff, regardless of the number of residents.
- (b) The social services director shall be qualified by training, or experience, under one of the following:
- (1) A baccalaureate, from an accredited college or university, in social work or in a human services field including, but not limited to, sociology, special education, rehabilitation, counseling or psychology.
 - (2) Successful completion of the Department approved training course.
 - (3) One year experience in social work or long term care environment, and is enrolled within 180 days of employment, in a course approved by the Department.
- (c) **Department approval of social services director course.** Any person or entity seeking to conduct an approved social services director-qualifying course pursuant to 310:675-13-9(b)(2) (pertaining to successful completion of a department approved course) shall make application to the Department.
- (1) **Application Content.** Applications shall include the following information:
 - (A) Name and address of the individual or entity applying to sponsor the course;
 - (B) Contact person and his or her address, telephone number and fax number;

- (C) Course outlines, which list the summarized topics covered in the course and the time allotted for each topic and, upon request, a copy of any course materials;
 - (D) Information as to how the proposed course meets the course content standard provided in Section 310:675-13-(c)(9);
 - (E) A sample certificate of completion;
 - (F) Procedures for monitoring attendance; and
 - (G) Procedures for evaluating successful course completion.
- (2) **Application Review.** The Department shall complete review of the application within thirty (30) calendar days. If the Department finds the application has not addressed all requirements in 310:675-13-9(c)(1) (relating to application content) written notice shall be provided detailing the requirements not met and providing opportunity for amendment to the application.
- (3) **Program affiliation.** Training shall be provided through a program sponsored or approved by a nationally affiliated association of providers subject to this chapter, regionally accredited institution of higher learning, Oklahoma career technology center, or nationally recognized professional accrediting body for activity professionals.
- (4) **Loss of approval.** The Department may, upon notice and right to hearing, withhold or withdraw approval of any course for violation of or non-compliance with any provision of this section.
- (5) **Advertisement.** No person or entity sponsoring or conducting a course shall advertise that it is endorsed, recommended, or accredited by the Department. Nor shall any person or entity sponsoring or conducting a course advertise or advise program participants that completion of the program grants a certification. Such person or entity may indicate that the Department has approved the course to qualify for employment as a social services director.
- (6) **Failure to prepare.** The Department may, upon notice and right to hearing, decline to renew, or revoke the approval of, any previously approved course upon a showing or demonstration that the course, instructor or entity has substantially failed to adequately prepare its attendees or participants as activity directors.
- (7) **Instructor requirements.** Instructors shall have a degree or substantial recent experience in the subject matter being taught, or other educational, teaching, or professional qualifications determined by the course provider.
- (8) **Course content.** The course shall address the following content:
- (A) The guidance and regulations for social services as detailed in the Centers for Medicare and Medicaid Services, State Operations Manual, Appendix PP - Guidance to Surveyors for Long Term Care Facilities and the Code of Federal Regulations at CFR § 483.15(g);
 - (B) Oklahoma regulation for social services as specified at OAC 310:675-9-11.1;
 - (C) Resident rights as detailed in state and federal statute and regulation;
 - (D) State and federal statute and regulation for resident protection from abuse, neglect and misappropriation;
 - (E) Alzheimer's and social services;
 - (F) Issues in Aging; and
 - (E) Ombudsman services.
- (9) **Duration.** The approved course will consist of not less than twenty-four (24) hours of instruction. A course taught in combination with activity director training may share eight (8) hours of programming.
- (10) **Certificate.** Participants shall be issued a certificate of attendance indicating the name of the sponsoring entity; participant name; course name; course dates; printed name and signature of official representing the sponsoring entity.
- (11) **Course approval expires.** Course approval shall be for a period of three (3) years from the date of approval issuance. In the interest of updated curriculum, reflecting the latest best practice, a new application, and curriculum review are required triennially. Currently approved training programs shall apply under this section within twelve (12) months of the effective date of this rule.
- (12) **Continuing education.** This section creates no obligation for continuing education beyond requirements specified otherwise in this Chapter. The Department will not approve continuing education or update courses.

(13) **Records retention.** The course sponsor shall maintain course records for at least five (5) years. The Department may order an examination of the records for good cause shown.

(14) **Fee.** A non-refundable application fee of one hundred dollars (\$100) shall be included with each application for course approval.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93; Amended at 26 Ok Reg 2059, eff 6-25-09]

310:675-13-10. Maintenance personnel

(a) The facility shall employ maintenance staff to maintain the facility and equipment in safe working condition.

(b) Maintenance services may be provided by staff or by a contract. If services are provided by a contract, the facility shall designate an employee to coordinate the maintenance services.

(c) Each person who provides maintenance services shall have a current license from the state or political subdivision if required to provide such service.

(d) The maintenance staff shall complete one hour of inservice each quarter relevant to maintenance services.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-13-11. Housekeeping personnel

(a) The facility shall employ housekeeping staff in sufficient numbers to maintain the facility in a safe and sanitary manner.

(b) Housekeeping personnel shall receive effective supervision, orientation and training.

(c) Housekeeping personnel shall be skilled in the six basic functions of sweeping, mopping, dusting, cleaning, waxing, and polishing.

(d) The housekeeping staff shall complete one hour of inservice per quarter about housekeeping practices.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93]

310:675-13-12. Direct care staffing

(a) Each facility shall maintain at least the minimum direct-care-staff-to-resident ratios specified in the Act at 63:1-1925.2.

(b) A licensed nurse shall be on duty eight hours a day, seven days a week on the day shift.

(c) If the director of nursing is a licensed practical nurse, a registered nurse shall be employed for at least eight hours per week as a consultant.

(d) There shall be a licensed nurse on duty twenty-four hours per day; provided however, that a facility licensed as a specialized facility for individuals with intellectual disabilities shall only be required to provide 24 hour nursing when it has a resident who has a medical care plan. The department may waive this requirement when the facility demonstrates it has been unable, despite diligent effort, to recruit licensed nurses. The Department shall determine that a waiver of this requirement will not endanger the health or safety of the residents.

(e) There shall be at least one certified medication aide on duty when any shift is not covered by a licensed nurse.

(f) At least two direct care staff persons shall be on duty and awake at all times regardless of the number of residents.

(g) Willful violation of the requirements regarding direct-care staff shall be determined based on a review of facility staffing records and interviews with staff, residents, resident family members and/or guardians, and other parties which may have information relevant to the investigation. The determination by the Department of Health will include, but will not be limited to, the following factors:

(1) The nature, circumstances and gravity of the violations;

(2) The repetitive nature of the violations at the facility or others operated by the same or related entities;

(3) The previous degree of difficulty in obtaining compliance with the rules at the facility or others operated by the same or related entities; and

(4) Any substantial showing of good faith in attempting to achieve continuing compliance with the provisions of the Nursing Home Care Act.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93; Amended at 10 Ok Reg 4227, eff 8-1-93 (emergency); Amended at 11 Ok Reg 3851, eff 7-11-94; Amended at 18 Ok Reg 2533, eff 6-25-01; Amended at 18 Ok Reg 3599, eff 8-22-01 through 7-14-02 (emergency)¹; Amended at 20 Ok Reg 2399, eff 7-11-03; Amended at 36 Ok Reg 1748, eff 9-13-19]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency amendatory action, the last effective permanent text is reinstated. Therefore, on 7-15-02 (after the 7-14-02 expiration of the emergency action), the text of 310:675-13-12 reverted back to the permanent text that became effective 6-25-01, as was last published in the 2001 Edition of the OAC, and remained as such until amended by permanent action on 7-11-03.

310:675-13-13. Assignment of deficiency to staff shortages [EXPIRED]

[Source: Added at 18 Ok Reg 3599, eff 8-22-01 through 7-14-02 (emergency)¹]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-02 (after the 7-14-02 expiration of the emergency action), Section 310:675-13-13 was no longer effective. For the official text of the emergency rule that was in effect from 8-22-01 through 7-14-02, see 18 Ok Reg 3599.

310:675-13-14. Twenty-four-hour-based staff-scheduling and eligibility requirements

(a) **Implementing twenty-four-hour-based staff scheduling.** Nursing facilities subject to the Nursing Home Care Act and Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID) with seventeen or more beds may implement twenty-four-hour-based staff scheduling consistent with the requirements established by law at 63 O.S. 1-1925.2(B)(5).

(b) **Loss of twenty-four-hour-based staffing privileges.** The Department shall require a facility to maintain the shift based staff-to-resident ratios provided in 63 O.S. 1-1925(B)(3), if the facility has been determined by the Department to meet the disqualifying criteria in 63 O.S. 1-1925.2(B)(6), relating to staffing levels, fraudulent Quality of Care reports, or findings of substandard quality of care as a result of insufficient staffing. For intermediate care facilities for individuals with intellectual disabilities, loss of eligibility shall include findings of non-compliance with the Condition of Participation at 42 CFR 483.430 (2011), Facility Staffing.

(c) **Eligibility requirements following loss of twenty-four-hour-based staffing.** Prior to a facility resuming eligibility for twenty-four-hour-based staffing privileges, the Department shall require that the facility maintain the shift-based, staff-to-resident ratios in 63 O.S. 1-1925.2(B)(3) for at least three (3) months and has corrected any deficiency described in (b) of this section.

(d) **Right to Appeal.** *Facilities shall have the right to appeal and to the informal dispute resolution process with regard to penalties and sanctions imposed due to staffing noncompliance.* [63:1-1925.2(E)].

(e) **Quality of Care Report Requirement.** Staffing hours reported to the Oklahoma Health Care Authority shall be submitted electronically through OHCA's Quality of Care (QOC) portal.

(f) **Twenty-four-hour-based staffing in intermediate care facilities for individuals with intellectual disabilities (ICFs/IIDs) with sixteen or less beds.** ICFs/IIDs with sixteen or less beds shall be authorized to use the twenty-four-hour-based staffing requirements specified in (c) and (d) of 42 CFR 483.430 (2011).

(g)

Shift-based ratios for noncompliant facilities. This paragraph implements 63:1-1925.2(F)(4).

(1) When the provisions of 63:1-1925.2(F)(1) are in effect, pursuant to 63:1-1925.2(B)(7), the following minimum direct-care-staff-to-resident ratios for non-compliant facilities shall apply in addition to other state and federal requirements related to the staffing of nursing facilities:

- (A) From 7:00 a.m. to 3:00 p.m., one direct-care staff to every five residents,
- (B) From 3:00 p.m. to 11:00 p.m., one direct-care staff to every seven residents, and
- (C) From 11:00 p.m. to 7:00 a.m., one direct-care staff to every thirteen residents.

(2) When the provisions of 63:1-1925.2(F)(2) are in effect, pursuant to 63:1-1925.2(B)(7), the following minimum direct-care-staff-to-resident ratios for non-compliant facilities shall apply in addition to other state and federal requirements related to the staffing of nursing facilities:

- (A) From 7:00 a.m. to 3:00 p.m., one direct-care staff to every five residents,

- (B) From 3:00 p.m. to 11:00 p.m., one direct-care staff to every six residents, and
 - (C) From 11:00 p.m. to 7:00 a.m., one direct-care staff to every eleven residents.
- (3) When the provisions of 63:1-1925.2(F)(3) are in effect, pursuant to 63:1-1925.2(B)(7), the following minimum direct-care-staff-to-resident ratios for non-compliant facilities shall apply in addition to other state and federal requirements related to the staffing of nursing facilities:
- (A) From 7:00 a.m. to 3:00 p.m., one direct-care staff to every four residents,
 - (B) From 3:00 p.m. to 11:00 p.m., one direct-care staff to every six residents, and
 - (C) From 11:00 p.m. to 7:00 a.m., one direct-care staff to every eleven residents.

[Source: Added at 21 Ok Reg 987, eff 3-30-04 (emergency); Added at 21 Ok Reg 1317, eff 5-27-04; Amended at 36 Ok Reg 1748, eff 9-13-19; Amended at 37 Ok Reg 1453, eff 9-11-20]

SUBCHAPTER 15. TEMPORARY MANAGER OR RECEIVER

310:675-15-1. Qualifications

To be qualified as a temporary manager, any individual involved shall:

- (1) be at least twenty-one (21) years of age;
- (2) Meet the requirements for certificate of need as specified in 63 O.S. § 1-853 and in OAC 310:4-1-7.1;
- (3) have never been convicted of a felony that would have a bearing on the operation of a facility or any offense involving dishonesty or any crime as listed in 63 O.S. §1-1950.1;
- (4) have never been disciplined for misconduct by any licensing board or professional society in any state;
- (5) have no financial interest, either direct or through an immediate family member as detailed in OAC 310:675-15-2(a)(6), in the facility proposed to be managed;
- (6) have not served within the past two (2) years as a member of the staff or as an owner of the facility proposed to be managed, or as an employee of the owner of the facility proposed to be managed; and
- (7) be an Oklahoma licensed nursing home administrator or employ an Oklahoma licensed nursing home administrator.

[Source: Added at 13 Ok Reg 2511, eff 6-27-96; Amended at 19 Ok Reg 524, eff 1-3-02 (emergency); Amended at 19 Ok Reg 2099, eff 6-27-02]

310:675-15-2. Temporary manager list

(a) Any person may apply to be a qualified temporary manager by filing a written request with the Department. The request shall be made on a form published by the Department that shall require information sufficient to establish the person's or corporation's qualifications, including:

- (1) age of each person with a controlling interest;
- (2) education of each person with a controlling interest;
- (3) names and locations of facilities with which the person or corporation has been involved, dates of involvement and descriptions of responsibilities and duties and specific deficiencies which required significant corrections in a timely or emergency manner;
- (4) disclosure of any felony conviction of each person to work in the facility or be responsible for resident or facility funds, regardless of whether or not the person believes the conviction bears on the operation of a facility and submission of the results of a check, conducted no more that thirty (30) days prior to application, of criminal arrest records maintained by the Oklahoma State Bureau of Investigation;
- (5) disclosure of any disciplinary action against any person who will provide services to the facility by any licensing board or professional society in any state;
- (6) disclosure of any financial interest in any facility in Oklahoma on the part of the proposed manager or the manager's immediate family, including the manager's husband or wife, child or sibling, stepparent, stepchild, stepbrother or stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent or grandchild or of any other person who will provide services to the facility;

- (7) the Oklahoma nursing home administrator's license number of the manager or the nursing home administrator to be employed;
 - (8) a list of any person who will work at a the facility along with their qualifications and information as listed above;
 - (9) a statement of the expected involvement in the operation of the facility of each principal, including an estimate of the amount of time that will be spent by each principal at the facility and the services to be provided by you or your company as part of the temporary manager fee or as additional costs to the facility;
 - (10) the basis on which the amount of the fee will be calculated;
 - (11) an attestation to the truthfulness of the information submitted; and
 - (12) the address, telephone number, fax number, and email address for contacting the temporary manager at all times.
- (b) Within thirty (30) days after receipt of the complete request, the Commissioner shall approve or deny the person's request to be included on the temporary manager list. The criteria for approval to serve as a temporary manager shall be:
- (1) Evaluation of the information submitted and the requirements of the temporary manager program as specified in OAC 310:675-15-1;
 - (2) If the applicant has operated a facility, the operational history of the applicant;
 - (3) If the applicant has served as a temporary manager anywhere in the United states, the operational history of any managership;
 - (4) The history of the applicant in complying with orders of the Department or Commissioner or those of other states or the federal government or a final order of a court of record.
- (c) The approval or denial of inclusion on the list of temporary managers is a discretionary function and does not create any rights to due process for the applicant.
- (d) The Commissioner shall specify the reasons the applicant is disqualified from managing any facility.
- (e) No former employee of the Department shall be eligible to serve as a temporary manager or be employed by a temporary manager until at least twelve (12) months has passed since the termination of that employment. The circumstances of that termination shall be considered in the review of the application.
- (f) No person who has been convicted of any crime listed in 63 O.S. §1-1950.1 shall be appointed as a temporary manager nor shall any such person be an employee of a temporary manager or work for the temporary manager in the service of the facility.
- (g) Placement of a person or corporation on the temporary manager list does not ensure that that entity will ever be appointed. Placement on the list of temporary managers does not create a right to appointment.

[Source: Added at 13 Ok Reg 2511, eff 6-27-96; Amended at 18 Ok Reg 2533, eff 6-25-01; Amended at 19 Ok Reg 524, eff 1-3-02 (emergency); Amended at 19 Ok Reg 2099, eff 6-27-02]

310:675-15-3. Power and duties of temporary manager

- (a) The temporary manager shall have the power and duty to:
- (1) be oriented to the facility's conditions, including uncorrected deficiencies;
 - (2) hire, terminate, or reassign staff;
 - (3) obligate facility funds;
 - (4) alter facility procedures;
 - (5) manage the facility in order to correct deficiencies in the facility's operation;
 - (6) assure health and safety of the facility's residents while corrections are being made;
 - (7) oversee the facility's orderly closure, if necessary;
 - (8) maintain confidentiality of facility information; and
 - (9) Pay all usual and customary operating expenses incurred during the managership in an orderly business fashion.
- (b) A temporary manager shall not:
- (1) Commingle the funds of one facility with the funds of another;
 - (2) Loan the funds derived from the operation of the facility;

- (3) Contract with any entity in which he has any ownership interest or in which he serves as an officer or director or in which a person related to him by blood or marriage has an ownership interest or in which the family member serves as an officer or director unless the Commissioner reviews and approves the contract as on common terms within the industry; or
 - (4) Use a method of accounting other than the accrual method unless approved in advance in writing by the Commissioner. The temporary manager's use of any other accounting method not approved by the Commissioner is a material breach of the temporary manager's fiduciary duty.
- (c) The temporary manager shall report to the Commissioner on a monthly basis as specified in OAC 310:675-15-12. The report shall include at least the following:
- (1) Resident census and staffing levels at the facility during the last month;
 - (2) A statement of income and expenses during the last month using the accrual method of accounting, unless the Commissioner approves the use of another accounting method;
 - (3) A financial statement of the residents' trust funds;
 - (4) A list of all persons provided to the facility by the temporary manager and, if any were not included in the original application, current information as required in OAC 310:675-15-1;
 - (5) Any changes needed in the approved work plan; and
 - (6) The specific number of hours the temporary manager and each person employed by the temporary manager was in the facility and a list of the services provided to the facility.
- (d) The temporary manager shall provide a preliminary work plan to the Department within 5 business days of assuming control of the facility and a final plan within 14 days. The Department shall review the plan and make any recommended changes at the first status conference.
- (e) The temporary manager shall contract with the owner of the building and the licensee in which the facility is being operated. Those contract(s) shall be presented at the first status conference. The Department shall have the opportunity to evaluate the contract and make suggestions. The Commissioner must approve or reject the contract by the second status conference.
- (f) If immediate jeopardy exists in the facility, the first status conference shall be conducted on or before the fourteenth day of control by the temporary manager.
- (g) In using the accrual method of accounting, the temporary manager shall recognize revenue in the period earned whether actually received or not. Additionally, the temporary manager shall recognize expenses when incurred and matched with the related revenue of the period, whether such expenses are actually paid or not.

[Source: Added at 13 Ok Reg 2511, eff 6-27-96; Amended at 19 Ok Reg 524, eff 1-3-02 (emergency); Amended at 19 Ok Reg 2099, eff 6-27-02; Amended at 20 Ok Reg 2399, eff 7-11-03]

310:675-15-3.1. Advance of funds to temporary manager

- (a) A temporary manager appointed by the Commissioner may request an advance of funds from the Department pursuant to 63 O.S. Supp. 2005 Section 1-1914.2(G) to assist in the continuation of care to facility residents if sufficient funds are not available from other sources. Continuation of care to facility residents may include closure of the facility and transfer of residents to another facility.
- (b) The temporary manager shall submit the request for an advance of funds to the Department on the form described in (c) of this section. The request shall include a demonstration to the Commissioner's satisfaction that funds are needed but not available from sources including but not limited to:
 - (1) The facility's owner;
 - (2) Revenues due from residents and third-party payers, including Medicare and Medicaid revenues; and
 - (3) The facility's operating accounts.
- (c) The application form for request of funds shall require the following:
 - (1) Documentation that the temporary manager has attempted to secure funds from other sources, including documentation showing that the temporary manager has made a funding request to the facility's owner;
 - (2) Projections of the funds needed to support the facility's operations based on information reasonably available to the temporary manager such as the facility's financial records and/or cost reports filed with third-party payers;

(3) An affidavit to be completed by the temporary manager if the owner fails to provide funds to the temporary manager as required by order of the Commissioner; and

(4) A statement to be signed under oath by the temporary manager that the information provided in the application is true and complete.

(d) Upon receipt of a completed application that demonstrates to the Commissioner's satisfaction the unavailability of sufficient funds from other sources, the Commissioner shall issue a written order with the following provisions:

(1) Direction to the facility owner to respond to the Department in writing and to make funds available to the temporary manager within 48 hours of issuance of the order;

(2) Notice to the facility owner that the owner's failure to provide sufficient funds shall result in action against the owner under the Nursing Home Care Act to suspend, revoke, and/or refuse to issue or renew the facility's license, and to impose an administrative penalty;

(3) Notice to the facility owner of the provision in 63 O.S. Supp. Section 1-1914.2(G) that such advances by the Department if not repaid in full shall constitute a lien against any and all assets of the owner; and

(4) Direction to the temporary manager to advise the Department immediately if funds are provided as required by the facility owner, and/or to submit to the Department the completed and sworn form confirming that funds were not provided to the temporary manager as ordered in (f)(1) of this section.

(e) If the Commissioner determines that the Department will advance funds to the temporary manager, the amount of funds advanced by the Department shall not exceed one month of projected operating expenses for the facility.

(f) The temporary manager shall notify the Department within 24 hours after a change in the information presented in the application, including changes in the operating budget or in the availability of funds from other sources.

(g) The advance of funds pursuant to this section is solely at the discretion of the Commissioner. The request may be denied for reasons including but not limited to the Commissioner's assessment that the Department does not have discretionary funds adequate to support the request, that other funding sources are available to the temporary manager, or that the funds are not needed to support operation of the facility. The temporary manager has no right to funds from the Department.

[Source: Added at 23 Ok Reg 2415, eff 6-25-06]

310:675-15-4. Conditions for a temporary manager

(a) The owner of the building and the licensee of a facility which is placed under a temporary manager shall:

(1) relinquish control of the facility and the building, equipment, food and supplies to the temporary manager which makes the temporary manager an agent of the licensee;

(2) not attempt to retain final authority to approve personnel changes or expenditures of facility funds; and

(3) give the temporary manager access to all facility financial accounts, including access to Medicare and Medicaid receipts and resident trust funds.

(b) The owner of the building and the licensee shall contract with the temporary manager subject to the approval of the Department. The contract(s) shall include the method by which the temporary manager shall be paid for particular services, the use of facility funds by the temporary manager for the cost incurred for operation of the facility and payment to the building owner for use of the building as a usual cost of operation of a facility.

(c) Should an existing lease be cancelled by the owner of the building, the owner shall contract with the temporary manager for use of the facility on terms not to exceed the original lease.

(d) Should a licensee be unable to contract with the temporary manager, the owner of the building will be asked to contract with the temporary manager for operations of the facility. The licensee and any individual owners of the licensee remain responsible for any liability incurred in the operation of the facility. If the temporary manager cannot contract with the licensee or owner of the facility, the temporary manager shall move to close the facility following the procedures established otherwise in this Chapter.

310:675-15-5. Notice of placing a temporary manager

(a) Before placing a temporary manager in a facility, the Department shall give the owner of the building and the licensee, if different, advance written notice of intent as follows:

- (1) fifteen (15) days notice if residents have experienced widespread actual harm but are not in immediate jeopardy; or
- (2) two (2) days notice if residents are in immediate jeopardy; or
- (3) two (2) days notice if the facility is operating without a license.

(b) If the Commissioner determines that conditions at a facility represent immediate jeopardy to residents and that the notice required in (a) of this section is likely to result in irreparable harm to residents, the Commissioner shall declare an emergency and appoint a temporary manager without prior notice to the owner of the building or the licensee. Upon appointing a temporary manager without prior notice, the Commissioner shall notify the owner of the building and the licensee of the right to a hearing as provided in 63 O.S. Section 1-1914.2(B) and (C).

(c) Written notice shall also be given to the Oklahoma Health Care Authority.

[Source: Added at 13 Ok Reg 2511, eff 6-27-96; Amended at 18 Ok Reg 2533, eff 6-25-01; Amended at 19 Ok Reg 524, eff 1-3-02 (emergency); Amended at 19 Ok Reg 2099, eff 6-27-02]

310:675-15-6. Procedures for appointing qualified temporary managers

(a) Prior to appointing a temporary manager, the Commissioner shall serve a written notice and request for information to be sent by facsimile or electronic mail to each qualified temporary manager, to include:

- (1) A statement of the size, location and current occupancy of the facility, and a general statement of the anticipated justification for appointing a temporary manager;
- (2) A request for confirmation of the temporary manager's current availability to accept appointment;
- (3) A request for confirmation of the temporary manager's lack of financial interest in the facility, in other facilities operated by the same entity that operated the facility to be managed, or in any entity related to the entity that operated the facility to be managed; and
- (4) A deadline for reply from each potential temporary manager.

(b) The potential temporary manager shall reply by the date and time specified on the notice and shall include all information requested in the notice. The Department may give short notice in the case of an emergency and the temporary manager may be required to take over a facility in less than 24 hours. This information shall be included in the notice of pending appointment.

(c) The decision of the Commissioner and Department to appoint a specific temporary manager is a discretionary decision and does not create any individual rights including the right to an administrative hearing or appeal of that decision.

[Source: Added at 18 Ok Reg 2533, eff 6-25-01; Amended at 19 Ok Reg 524, eff 1-3-02 (emergency); Amended at 19 Ok Reg 2099, eff 6-27-02]

310:675-15-7. Criteria for appointment

The Commissioner shall not appoint a temporary manager to a facility unless the Commissioner determines in writing that:

- (1) The temporary manager has submitted a complete application as required in OAC 310:675-15-2;
- (2) The temporary manager meets all qualifications required in OAC 310:675-15-1;
- (3) The temporary manager has the requisite resources to provide for the continued protection of the health and safety of all residents of the facility;
- (4) The temporary manager has not been given undue preference in the appointment, taking into consideration the length of time since the qualified temporary manager was last appointed relative to the appointments of other temporary managers; and
- (5) If the temporary manager is a corporation it has:

- (A) Disclosed for all the persons with a controlling interest, officers and directors of the corporation in the application along with the information required for each individual in 310:15-1-1;
- (B) Disclosed a list of all persons who will serve in the facility as part of the services provided by or through the temporary manager along with attestation that each person serving in the facility meets the qualification in 310:675-15-1(a)(1), (3), (4), (5) & (7) above; and
- (C) Provided evidence of the experience of the corporation and the team in providing services to a facility in danger of decertification or loss of license.

[Source: Added at 18 Ok Reg 2533, eff 6-25-01; Amended at 19 Ok Reg 524, eff 1-3-02 (emergency); Amended at 19 Ok Reg 2099, eff 6-27-02]

310:675-15-8. Procedures for appointment

- (a) Prior to appointing a temporary manager the Department shall contact the Office of the Long Term Care Ombudsman to advise of the likely appointment, and to request information from that office concerning the temporary manager's record of involvement with the Ombudsman.
- (b) Failure of the Office of the Long Term Care Ombudsman to respond by the deadline shall not prohibit the Commissioner from appointing the temporary manager.
- (c) The Department shall comply with applicable requirements in 42 CFR Sections 488.410, 488.415 and 488.424 when appointing a temporary manager to correct deficiencies or remove an immediate jeopardy to resident health or safety in a facility pursuant to Title XVIII or XIX of the Social Security Act.

[Source: Added at 18 Ok Reg 2533, eff 6-25-01; Amended at 19 Ok Reg 524, eff 1-3-02 (emergency); Amended at 19 Ok Reg 2099, eff 6-27-02; Amended at 20 Ok Reg 2399, eff 7-11-03]

310:675-15-9. Required findings

The Commissioner shall not appoint a temporary manager to a facility unless the Commissioner determines in writing that:

- (1) The temporary manager has submitted a complete application as required in OAC 310:675-15-2;
- (2) The temporary manager meets all qualifications required in OAC 310:675-15-1 and 15-7; and
- (3) The temporary manager has the requisite resources to provide for the continued protection of the health and safety of all residents of the facility.

[Source: Added at 18 Ok Reg 2533, eff 6-25-01; Amended at 19 Ok Reg 524, eff 1-3-02 (emergency); Amended at 19 Ok Reg 2099, eff 6-27-02]

310:675-15-10. Periodic review

A potential temporary manager's qualification shall be effective for one year from the date of approval of the application to be listed as a qualified temporary manager. In order to be renewed for qualification, the potential temporary manager shall submit a new application for review and approval pursuant to OAC 310:675-15-2.

[Source: Added at 18 Ok Reg 2533, eff 6-25-01; Amended at 19 Ok Reg 524, eff 1-3-02 (emergency); Amended at 19 Ok Reg 2099, eff 6-27-02]

310:675-15-11. Bond

- (a) A temporary manager may be required to obtain a bond in the amount of up to \$100,000.00 or 150% of the average revenue of the facility for the last three full months before placement of the temporary manager, whichever is greater, as necessary to ensure that the assets relinquished by the facility to the temporary manager are used for the benefit of residents.
- (b) A bond shall be posted upon appointment and payable to the Department.
- (c) The requirement for the amount of the bond may be established and modified from time to time by the Commissioner based on the amount of revenue and other financial assets relinquished by the facility to the temporary manager.

310:675-15-12. Monthly status conference

- (a) Whenever a temporary manager is appointed, the Commissioner shall establish a schedule for the submission and review of monthly reports. Each monthly report shall be filed in the Department by the temporary manager not later than 25 days following the end of each month. The temporary manager shall send a copy of each report to the licensee and owner of the facility.
- (b) The temporary manager shall provide:
- (1) All information to be submitted as specified in OAC 310:675-15-3.
 - (2) Progress report or amendments to a plan of correction for outstanding deficiencies or violations of the law;
 - (3) Any desired amendments to the management plan and reasons therefore;
- (c) The Department shall present to the Commissioner, the temporary manager, and the licensee and owner:
- (1) An independent report on the status of the facility based on a visit to the facility by a team sufficient to evaluate the current status.
 - (2) Recommendations on any changes to the management plan;
- (d) The Commissioner may schedule hearings for presentations and decisions on differences between the Department and the Temporary Manager.

[Source: Added at 19 Ok Reg 524, eff 1-3-02 (emergency); Added at 19 Ok Reg 2099, eff 6-27-02; Amended at 20 Ok Reg 2399, eff 7-11-03]

310:675-15-13. Removal of the temporary manager

- (a) A temporary manager may be removed at the discretion of the Commissioner.
- (b) A temporary manager shall be removed in the following situations:
- (1) A conflict of interest arises which would have prohibited the initial appointment;
 - (2) Another facility owned or operated by the temporary manager has been given notice of potential termination or other enforcement action taken by the Department;
 - (3) The temporary manager has filed for bankruptcy protection for any business or personal operation during the pendency of the managership;
 - (4) Conviction of a crime as specified in 63 O.S. § 1-1950.1;
 - (5) Failure to comply with requirements of this subchapter; or
 - (6) *The facility is and will continue to be in substantial compliance with the Nursing Home Care Act [63:1-1914.2(L)(1)] and OAC 310:675.*
- (c) A temporary manager shall be removed when the Department approves a new owner or operator.
- (d) The temporary managership continues and the temporary manager remains responsible for facility funds until released by the Department after distribution of all assets held by the temporary manager.

[Source: Added at 19 Ok Reg 524, eff 1-3-02 (emergency); Added at 19 Ok Reg 2099, eff 6-27-02]

310:675-15-14. Administrative penalties

The Department may assess administrative penalties against a temporary manager for failure to follow the Nursing Home Care Act or this Chapter under the procedure used for all licensees unless the responsibility was that of the former operator.

[Source: Added at 19 Ok Reg 524, eff 1-3-02 (emergency); Added at 19 Ok Reg 2099, eff 6-27-02]

310:675-15-15. License

Upon the temporary manager's appointment, compliance with the bonding provisions of section 15-11 above, and submittal of a license application, the Department shall issue a license to the facility identifying the temporary manager. Such license shall not create any property rights with the temporary manager and shall terminate with termination of the managership.

[Source: Added at 19 Ok Reg 524, eff 1-3-02 (emergency); Added at 19 Ok Reg 2099, eff 6-27-02; Amended at 20 Ok Reg 2399, eff 7-11-03]

310:675-15-16. Final accounting

(a) Within 30 days of the end of a temporary managership for any reason, the temporary manager shall file a written final accounting with the Department. The temporary manager shall use the accrual method of accounting, unless the Commissioner finds good cause for the temporary manager to use another method of accounting. The accounting shall include all documents specified in the "Administrative Order Removing the Temporary Manager and Revoking the Conditional License" which is issued by the Commissioner of Health.

(b) No funds shall be paid to the former licensee, the owner of the building or the new licensee without the express consent of the Commissioner. The Commissioner shall issue an order for distribution of any excess operating revenue over expenses at the close of the managership.

(c) The temporary manager shall continue to report to the Department until released by the Commissioner.

[Source: Added at 19 Ok Reg 524, eff 1-3-02 (emergency); Added at 19 Ok Reg 2099, eff 6-27-02; Amended at 20 Ok Reg 2399, eff 7-11-03]

310:675-15-17. Receiver

(a) The Department may petition the court to place a facility under control of a receiver pursuant to 63:1-1930.2, instead of or in addition to appointing a temporary manager.

(b) Any person may submit a written request to the Department to be included as a receiver on the list maintained by the Department pursuant to 63 O.S. Section 1-1930.3. A person's inclusion on the receiver list shall not be represented as an approval or qualification by the Department to operate a facility. The list provided by the Department to the court may include information on the requirements for a facility license.

[Source: Added at 20 Ok Reg 2399, eff 7-11-03]

SUBCHAPTER 17. INSPECTION PROTOCOLS

310:675-17-1. Duties of quality assurance officer

The department shall employ a Quality Assurance Officer to perform the following tasks:

- (1) review statistical reports of survey finding frequency by surveyor and survey team;
- (2) review statistical reports of survey team time spent on survey; and
- (3) review written deficiencies to compare findings by surveyor and survey team.

[Source: Added at 18 Ok Reg 2533, eff 6-25-01]

310:675-17-2. Quality assurance observations and reviews

The Quality Assurance Officer shall observe individual surveyor and survey team performance for adherence to survey protocol no less than once every 6 months. The results of these observations and reviews in conjunction with the Federal Oversight and Support Survey findings will be used by the Quality Assurance Officer to identify and implement necessary training interventions.

[Source: Added at 18 Ok Reg 2533, eff 6-25-01]

310:675-17-3. Acceptable Plan of Correction

(a) All facilities having deficiencies must submit an acceptable plan of correction within *ten (10) working days after receipt of notice of violation* [63:1-1914.A.]. An acceptable plan of correction must:

- (1) Address how corrective action will be accomplished for those residents and/or clients found to have been affected by the deficient practice.
- (2) Address how the facility will identify other residents and/or clients having the potential to be affected by the same deficient practice. Plans of correction specific to residents identified on the deficiency statement are acceptable only where the deficiency is determined to be unique to that resident and not indicative of a possible systemic problem.
- (3) Address what measures will be put into place or systemic changes made to ensure that the deficient practice will not recur.

(4) Indicate how the facility plans to monitor its performance to make sure that solutions are sustained. The facility shall develop a plan for ensuring that correction is achieved and sustained. This plan must be implemented, and the corrective action evaluated for its effectiveness. The plan of correction shall be incorporated into the quality assurance system. At the revisit, the quality assurance plan shall be reviewed to determine the earliest date of compliance. If there is no evidence of quality assurance being implemented, the earliest correction date will be the date of the revisit.

(5) Include dates when corrective action will be completed for each violation. The corrective action completion dates shall not *exceed sixty (60) days* [63:1-1914.A.] from receipt of notice of violation.

(6) Be signed by the administrator.

(b) Upon written request from the facility, the Department may extend the time period within which the violations are to be corrected *where correction involves substantial structural improvement* [63:1-1914.A.].

(c) The department shall provide written notice of the acceptance or rejection of a plan of correction. If the Department finds that the plan of correction does not meet the requirements for an acceptable plan of correction as specified in OAC 310:675-17-3(a) the Department shall provide *notice of the rejection and the reason for the rejection to the facility. The facility shall have ten (10) working days after receipt of the notice of rejection in which to submit a modified plan. If the modified plan is not timely submitted, or if the modified plan is rejected, the Department shall impose a plan of correction, which the facility shall follow* [63:1-1914.A.].

(d) Acceptance of the plan of correction by the Department does not absolve the facility of the responsibility for compliance should the implementation not result in correction and compliance. Acceptance indicates the Department's acknowledgment that the facility indicated a willingness and ability to make corrections adequately and timely.

(e) *If the violation has been corrected prior to submission and approval of a plan of correction, the facility may submit a report of correction in place of a plan of correction* [63:1-1914.B.]. The report of correction shall address those requirements specified in OAC 310:675-17-3(a).

(f) As specified in 63 O.S. § 1-1914.C., facilities may request an extended correction time.

(g) As specified in 63 O.S. § 1-1914.D., facilities may contest any Department action under this section.

[Source: Added at 20 Ok Reg 2399, eff 7-11-03]

SUBCHAPTER 19. FEEDING ASSISTANTS

310:675-19-1. Purpose

This Subchapter establishes standards for training and registration of feeding assistants in Oklahoma in accordance with 42 Code of Federal Regulations Parts 483 and 488. The intent is to give nursing, specialized nursing, and skilled nursing facilities the option to use paid feeding assistants, allowing them to provide more residents with help in eating and drinking and reduce the incidence of unplanned weight loss and dehydration.

[Source: Added at 23 Ok Reg 557, eff 12-22-05 (emergency); Added at 23 Ok Reg 2415, eff 6-25-06]

310:675-19-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Feeding assistant" means an individual who is paid to feed residents by a facility or who is used under an arrangement with another agency or organization and meets the requirements cited in 42 CFR Parts 483 and 488 [63:1-1951(F)(1)].

[Source: Added at 23 Ok Reg 557, eff 12-22-05 (emergency); Added at 23 Ok Reg 2415, eff 6-25-06]

310:675-19-3. Training course

(a) The following training curricula are approved as training courses and meet the requirements specified in 42 CFR 483.160(a):

- (1) Eating Matters: A Training Manual for Feeding Assistants, published by the American Dietetic Association, 2003 edition; and Eating Matters: Feeding Assistants Manual, published by the American Dietetic Association, 2003 edition; or
 - (2) Assisted Dining: The Role and Skills of Feeding Assistants, published by the American Health Care Association, 2003 edition.
- (b) A feeding assistant training course must consist of at least eight (8) hours of training in the required areas of instruction.
- (c) A feeding assistant training course instructor must hold a current valid license as:
- (1) A registered nurse;
 - (2) A licensed practical nurse;
 - (3) A registered dietitian;
 - (4) A speech-language pathologist or speech therapist; or
 - (5) An occupational therapist.
- (d) Successful completion of a training course is based upon the instructor's assessment using a staff competency checklist that conforms to OAC 310:675-19-8.
- (e) The training course must provide a certificate of completion within 30 days of course completion to each individual who successfully completed the course. The certificate shall conform to OAC 310:675-19-8.
- (f) The Department will not restrict an individual from repeating a training course. The training course may establish limits on the number of times an individual may repeat the course after unsuccessful attempts.

[Source: Added at 23 Ok Reg 557, eff 12-22-05 (emergency); Added at 23 Ok Reg 2415, eff 6-25-06]

310:675-19-4. Facility requirements

- (a) The nursing facility, specialized nursing facility, or skilled nursing facility must maintain a record of each individual who has successfully completed the approved training course. For each individual feeding assistant employed by the facility, the facility must maintain:
- (1) A copy of a staff competency checklist completed and signed by the instructor on the form specified in OAC 310:675-19-8;
 - (2) A copy of a certificate of completion signed by the instructor on the form specified in OAC 310:675-19-8;
 - (3) Verification that the facility checked with the Feeding Assistant Registry to ensure the individual is eligible for employment; and
 - (4) Verification of compliance with the Criminal History Background Check in 63 O.S. Supp. 2004, Section 1-1950.1.
- (b) Each feeding assistant must work under the supervision of a registered nurse or licensed practical nurse. In an emergency, the feeding assistant must call a supervisory nurse for help using the resident call system if the nurse is not present during the feeding of a resident.
- (c) The facility must ensure that a feeding assistant only assists residents who have no complicated feeding problems. The facility must base resident selection on the charge nurse's assessment and the resident's latest assessment and plan of care. Complicated feeding problems include but are not limited to:
- (1) Difficulty swallowing;
 - (2) Recurrent lung aspirations; or
 - (3) Tube or parenteral/IV feedings.
- (d) Instructor time shall not count toward minimum staffing requirements.
- (e) The facility shall check the Feeding Assistant Registry before hiring a person to work as a feeding assistant. If the registry indicates that the individual has been found to be personally responsible for abuse, neglect, exploitation, or misappropriation of resident property, that individual shall not be hired by the facility.
- (f) The facility must maintain proof of compliance with this subchapter at all times at the facility site.

[Source: Added at 23 Ok Reg 557, eff 12-22-05 (emergency); Added at 23 Ok Reg 2415, eff 6-25-06]

310:675-19-5. Feeding assistant registry

The Department shall maintain a feeding assistant registry consistent with the registry operation described in OAC 310:677-5-2(c). The registry shall contain information consistent with that described in 63 O.S. Supp. 2004, Section 1-1951(D)(3).

[Source: Added at 23 Ok Reg 557, eff 12-22-05 (emergency); Added at 23 Ok Reg 2415, eff 6-25-06]

310:675-19-6. Feeding assistant registration

(a) An individual may perform the services of a feeding assistant upon successful completion of an approved training course and shall submit a Feeding Assistant Registration Application to the Department on the form specified in 310:675-19-8.

(b) Each registered feeding assistant shall renew individual registration once every twenty-four (24) months. The individual shall submit a Feeding Assistant Renewal Application with proof that within the past twenty-four (24) months they have:

- (1) Worked at least eight (8) hours for compensation as a feeding assistant; or
- (2) Completed another eight (8) hour training course that complies with OAC 310:675-19-3.

(c) A non-refundable application fee of ten dollars (\$10) shall be included with an application for initial or renewal registration.

[Source: Added at 23 Ok Reg 557, eff 12-22-05 (emergency); Added at 23 Ok Reg 2415, eff 6-25-06; Amended at 26 Ok Reg 2059, eff 6-25-09]

310:675-19-7. Revocation, suspension and denial

(a) The State Health Department's procedure afforded a feeding assistant for purposes of investigating, hearing, and making findings on allegations of abuse, neglect, exploitation, or misappropriation of resident property, shall be not less than the process afforded nurse aides pursuant to Title 63 O.S. Supp. 2004 Section 1-1951(D)(4) through (12).

(b) A feeding assistant's registration may be revoked, suspended or denied if the Department determines with clear and convincing evidence that an individual has been responsible for any of the following:

- (1) Abuse;
- (2) Neglect;
- (3) Exploitation; or
- (4) Misappropriation of resident or client property.

[Source: Added at 23 Ok Reg 557, eff 12-22-05 (emergency); Added at 23 Ok Reg 2415, eff 6-25-06]

310:675-19-8. Feeding assistant forms

The forms used for this subchapter are the following.

(1) **Staff competency checklist.** A training course using the curriculum specified in 310:675-19-3(a)(1) may use the checklist provided with that curriculum or the checklist provided by the Department. Other training courses shall use the checklist provided by the Department. The competency checklist provided by the Department requires the following:

- (A) The name of the person being trained;
- (B) Evaluation of skills task performances including:
 - (i) Safety and emergency procedures including the Heimlich maneuver;
 - (ii) Sanitation and washing hands;
 - (iii) Serving a meal tray;
 - (iv) Assistance with resident requiring total feeding;
 - (v) Serving supplemental nourishments; and
 - (vi) Serving fresh drinking water;
- (C) The date of the evaluation; and
- (D) Name and signature of the instructor.

(2) **Certificate of completion.** A training course using the curriculum specified in 310:675-19-3(a)(1) may use the certificate of completion provided with that curriculum or the certificate provided by the Department. Other training courses shall use the certificate provided by the Department. The certificate of completion provided by the Department requires the following:

- (A) Name of the person being trained;
- (B) Name of the curriculum;
- (C) Location where the training occurred;
- (D) Date training was completed;
- (E) A statement that the person successfully completed eight hours of training to become a feeding assistant; and
- (F) Name and signature of the instructor.

(3) **Feeding assistant registration application.** The application form requires the following for each individual:

- (A) Name;
- (B) Date of birth;
- (C) Contact information;
- (D) Information sufficient to identify the individual including social security number;
- (E) A copy of the certificate of completion from a training course that meets the requirements of OAC 310:675-19-3; and
- (F) Applicant's signature affirming the truthfulness and completeness of the application.

(4) **Feeding assistant renewal application.** The application form requires the following for each individual:

- (A) Name;
- (B) Date of birth;
- (C) Contact information;
- (D) Information sufficient to identify the individual including social security number;
- (E) Proof of work experience or retraining as required in OAC 310:675-19-6(c); and
- (F) Applicant's signature affirming the truthfulness and completeness of the application.

[Source: Added at 23 Ok Reg 557, eff 12-22-05 (emergency); Added at 23 Ok Reg 2415, eff 6-25-06]

SUBCHAPTER 21. ENFORCEMENT AND REGISTRY HEARINGS FOR NONTECHNICAL SERVICES WORKERS

310:675-21-1. Purpose

The purpose of this Subchapter is to implement the Nontechnical Services Workers Abuse Registry, 63 O.S. Section 1-1950.6 through 1-1950.9. For the purposes of this subchapter, abuse, verbal abuse, and exploitation, shall have the meaning assigned in Section 10-103 of Title 43A of the Oklahoma Statutes.

[Source: Added at 24 Ok Reg 2030, eff 6-25-07 ¹; Added at 25 Ok Reg 2482, eff 7-11-08]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

310:675-21-2. Complaint investigation

(a) Process. Upon receipt of a complaint against a non-technical service worker alleging abuse, verbal abuse, or exploitation of a resident within a nursing facility, or upon completion of a survey of a nursing facility by the Department with a finding that a non-technical service worker abused, verbally abused, or exploited a resident, the Department shall conduct an investigation. Upon completion of the investigation, a written report will be prepared. If sufficient evidence exists to initiate an individual proceeding, notice of the investigative findings and an opportunity for hearing will be prepared and served upon the nontechnical services worker.

(b) Timeline for reporting. The facility shall report to the Department allegations and incidents of abuse, verbal abuse, or exploitation by a non-technical service worker within twenty-four (24) hours.

(c) Reporting non-technical service workers. The facility shall report to the Department allegations and incidents of abuse, verbal abuse, or exploitation by a non-technical service worker by submitting the following:

- (1) facility name, address, and telephone;
- (2) facility type;

- (3) date;
- (4) reporting party name or administrator name;
- (5) employee name and address;
- (6) employee certification number;
- (7) employee social security number;
- (8) employee telephone number;
- (9) termination action and date, if any;
- (10) other contact person name and address; and
- (11) facts of resident abuse, verbal abuse, or exploitation.

[Source: Added at 24 Ok Reg 2030, eff 6-25-07¹; Added at 25 Ok Reg 2482, eff 7-11-08]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

310:675-21-3. Right to a hearing

Before the registry is notified that a finding of resident abuse, verbal abuse, or exploitation of a resident in a nursing facility has been made against a nontechnical services worker, the Department shall offer the nontechnical services worker an opportunity for a hearing. If the nontechnical services worker 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 resident abuse, verbal abuse, or exploitation of a resident in a nursing facility against the nontechnical services worker.

[Source: Added at 24 Ok Reg 2030, eff 6-25-07¹; Added at 25 Ok Reg 2482, eff 7-11-08]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

310:675-21-4. Petition and hearing

- (a) **Petition.** If the nontechnical services worker requests a hearing, the Department shall commence an individual proceeding by filing a petition against the nontechnical services worker that 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 served upon the non-technical service worker shall include a copy of the petition.
- (c) **Time.** The hearing shall be scheduled at least fifteen (15) working days after the nontechnical services worker has received notice of the hearing.
- (d) The hearing shall be conducted in accord with the Oklahoma Administrative Procedures Act and Chapter 2 of this Title.

[Source: Added at 24 Ok Reg 2030, eff 6-25-07¹; Added at 25 Ok Reg 2482, eff 7-11-08]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

310:675-21-5. 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 75 O.S. Section 311.1 and OAC 310:002.
- (c) **Registry notification.** The decision shall direct the nontechnical services worker registry to include the findings as they relate to the nontechnical services worker. The decision shall direct the nontechnical services worker registry to include a statement by the nontechnical services worker disputing the decision if the nontechnical services worker chooses to submit such statement. If such a statement is submitted the statement of the nontechnical services worker shall be submitted to the nontechnical services worker 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 nontechnical services worker registry when the Order is mailed.

(e) **Appeal.** An appeal of the Final Order shall be perfected pursuant to 75 O.S. Section 318 of the Administrative Procedures Act.

[Source: Added at 24 Ok Reg 2030, eff 6-25-07 ¹; Added at 25 Ok Reg 2482, eff 7-11-08]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

APPENDIX A. Hot Water Use

Figure 1

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

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

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

APPENDIX B. Reference List for Standards of Practice

Figure 1

(Referring to OAC 310:675-1-2. Definitions: Standards of care)

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

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

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

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

Oklahoma Board of Nursing Guidelines and Position Statements:

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

"Abandonment Statement"

"Advanced Practice Nurses with Prescriptive Authority Exclusionary Formulary"

"Delegation of Nursing Functions to Unlicensed Persons"

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

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

"Issuance of Temporary Licenses for RNs and LPNs"

"Licensure Verification and Photocopying of Nursing Licenses"

"Patient Assessment Guidelines"

"Refresher Course Policy"

"Wound Debridement by Licensed Nurses Guideline"

Standards of the American Nurses Association and Specialty Nursing Organizations:

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

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

Figure 2

"Scope and Standards of Diabetes Nursing Practice" (2nd Edition); Pub# DNP23 - 2003

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

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

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

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

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

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

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

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

Editor's Note: ¹See Editor's Note at beginning of this Chapter.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93; Revoked and reenacted at 24 Ok Reg 2030, eff 6-25-07 ¹; Revoked and reenacted at 25 Ok Reg 2482, eff 7-11-08]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

Continuum of Care and Assisted Living Act

63 O.S. § 1-890.1 et seq

Statute was pulled from OSCN on 2-9-24 for this binder. This captures existing statute from one point in time. The Continuum of Care and Assisted Living Act is subject to change when bills become law which amend, repeal, or add new law to the Act.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Continuum of Care and Assisted Living Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-890.1 - Short Title

Cite as: O.S. §, ___

Sections 1 through 7 of this act shall be known and may be cited as the "Continuum of Care and Assisted Living Act".

Historical Data

Laws 1997, HB 1540, c. 223, § 1, emerg. eff. May 20, 1997.

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Continuum of Care and Assisted Living Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-890.2 - Definitions

Cite as: O.S. §, ___ __

1. "Assisted living center" means any home or establishment offering, coordinating or providing services to two or more persons who:
 - a. are domiciled therein,
 - b. are unrelated to the operator,
 - c. by choice or functional impairments, need assistance with personal care or nursing supervision,
 - d. may need intermittent or unscheduled nursing care,
 - e. may need medication assistance, and
 - f. may need assistance with transfer and/or ambulation;
2. "Board" means the State Board of Health;
3. "Commissioner" means the Commissioner of Health;
4. "Continuum of care facility" means a home, establishment or institution providing nursing facility services as defined in Section 1-1902 of this title and one or both of the following:
 - a. assisted living center services as defined in the Continuum of Care and Assisted Living Act, and
 - b. adult day care center services as defined in Section 1-872 of this title; and
5. "Department" means the State Department of Health.

Historical Data

Laws 1997, HB 2252, c. 223, § 2, emerg. eff. May 20, 1997; Amended by Laws 2007, SB 738, c. 347, § 1, eff. November 1, 2007 ([superseded document available](#)); Amended by Laws 2009, HB 1065, c. 53, § 1, eff. November 1, 2009 ([superseded document available](#)).

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Cite	Name
	308
	Level
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Level

63 O.S. 1-890.2,

Definitions

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63 O.S. 1-890.2,

Definitions

Cited



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Continuum of Care and Assisted Living Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-890.3 - Promulgation of Necessary Rules - Nursing Care Component - Adult Day Care Component

Cite as: O.S. §, ___ __

A. The State Board of Health shall promulgate rules necessary to implement the provisions of the Continuum of Care and Assisted Living Act. Such rules shall include, but shall not be limited to:

1. A uniform comprehensive resident screening instrument to measure the needs and capabilities of residents in all settings and to determine appropriate placements of residents;
2. Physical plant requirements meeting construction and life safety codes, with provisions accommodating resident privacy and independence in assisted living centers and in assisted living components of continuum of care facilities based on the variable capabilities of residents;
3. Staffing levels responsive to the variable needs of residents, with provisions for sharing of staff between components in a continuum of care facility;
4. Standards for measuring quality outcomes for residents;
5. Provisions for individualized services chosen by and designed for each resident;
6. Provisions to prohibit facility staff from disclosing a resident's financial information to third parties without written consent of the resident or the designated representative of the resident;
7. Procedures for inspections and investigations of licensed entities to ensure compliance with the Continuum of Care and Assisted Living Act and rules promulgated by the Board;
8. Enumeration of resident rights and responsibilities to be observed by each facility and its staff. Such resident rights shall include the freedom of choice regarding any personal attending physicians and all other providers of medical services and supplies without a financial penalty or fee charged by the assisted living center;
9. Provisions for a surety bond or deposit from each applicant in an amount sufficient to guarantee that obligations to residents will be performed, with provisions for reduction or waiver of the surety bond or deposit when the assets of the applicant or its contracts with other persons are sufficient to reasonably ensure the performance of its obligations;
10. Provisions for the development of a consumer guide or similar resource to be posted on the Internet website of the State Department of Health to assist individuals and families in understanding the services provided by assisted living centers and to compare and select a facility; and
11. Provisions for posting results of routine inspections and any complaint investigations of each assisted living center on the Internet website of the Department. Such information shall be regularly updated to include the facility's plan of correction and to indicate when a violation of a licensing regulation was corrected by the facility.

B. The nursing care service of a continuum of care facility shall be subject to the requirements, procedures and remedies set out in the Nursing Home Care Act, including provisions relating to resident rights.

C. The adult day care component of a continuum of care facility shall be subject to requirements and procedures specified under the Adult Day Care Act.

Historical Data

Laws 1997, HB 1540, c. 223, § 3, emerg. eff. May 20, 1997; Amended by Laws 2009, HB 1065, c. 53, § 2, eff. November 1, 2009 ([superseded document available](#)); Amended by Laws 2012, HB 2566, c. 199, § 1, eff. November 1, 2012 ([superseded document available](#)); Amended by Laws 2015, HB 1266, c. 31, § 1, eff. November 1, 2015 ([superseded document available](#)).

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Continuum of Care and Assisted Living Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-890.4 - Application for Establishment of Continuum of Care Facility or Assisted Living Center - License Fee - Renewal

Cite as: 63 O.S. § 1-890.4 (OSCN 2024), Continuum of Care and Assisted Living Act

A. Each application for establishment of a continuum of care facility or assisted living center shall be accompanied by a nonrefundable application fee. The State Commissioner of Health shall develop a sliding fee scale not to exceed One Thousand Dollars (\$1,000.00) for each application, except that any facility operated by the Oklahoma Department of Veterans Affairs shall be exempt from the fee. The scale shall be based upon the bed capacity of the continuum of care facilities or assisted living centers.

B. Each application for an initial license, or renewal of the license, to operate a continuum of care facility or assisted living center shall be accompanied by a license fee. The initial license fee shall be Ten Dollars (\$10.00) for each bed included in the maximum bed capacity at such facility or center and the renewal license fee shall be Ten Dollars (\$10.00) for each bed included in the maximum bed capacity at such facility or center, per year of licensure, except that any facility operated by the Oklahoma Department of Veterans Affairs shall be exempt from these fees. Each application for an initial or renewal license for a continuum of care facility that includes an adult day care component shall be accompanied by an additional license fee in an amount to be determined by the Commissioner, but not to exceed Seventy-five Dollars (\$75.00) per year of licensure, except that any facility operated by the Oklahoma Department of Veterans Affairs shall be exempt from the fee.

C. Each application to establish or license a continuum of care facility or assisted living center shall be on a form approved by the Commissioner to include, but not be limited to, the following:

1. Disclosure of the applicant's identity and background in the operation of continuum of care and assisted living services; and
2. Evidence of the adequacy of the applicant's financial resources and ability to ensure adequate staffing.

D. The renewal license shall expire three (3) years from the date of issuance. An initial license shall expire one hundred eighty (180) days after the date of issuance. Renewal licenses may be issued for a period of more than twelve (12) months, but not more than thirty-six (36) months, for the license period immediately following November 1, 2021, in order to permit an equitable distribution of license expiration dates.

Historical Data

Laws 1997, HB 1540, c. 223, § 4, emerg. eff. May 20, 1997; Amended by Laws 1998, HB 2937, c. 31, § 1, emerg. eff. July 1, 1998 ([superseded document available](#)); Amended by Laws 2013, SB 237, c. 183, § 2, emerg. eff. April 29, 2013 ([superseded document available](#)); Amended by Laws 2021, SB 654, c. 94, § 4, eff. November 1, 2021 ([superseded document available](#)).

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Continuum of Care and Assisted Living Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-890.5 - Requirements to Operate or Maintain Continuum of Care Facility

Cite as: O.S. §, __ __

No person shall establish, operate or maintain a continuum of care facility or assisted living center, or use in its name, logo, contracts, or literature the phrase "continuum of care facility" or "assisted living", nor imply that it is a continuum of care facility or assisted living center, nor hold itself out to be a continuum of care facility or assisted living center, unless that person first obtains a license as required by the Continuum of Care and Assisted Living Act.

Historical Data

Laws 1997, HB 1540, c. 223, § 5, emerg. eff. May 20, 1997.

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Chapter 1 - Oklahoma Public Health Code

Continuum of Care and Assisted Living Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-890.6 - Application of Act - Effect of Noncompliance - Classification System of Violations - Graduated

Penalties

Cite as: O.S. §, ___ __

A. The Continuum of Care and Assisted Living Act shall not apply to residential care homes, adult companion homes, domiciliary care units operated by the Department of Veterans Affairs, the private residences of persons with developmental disabilities receiving services provided by the Developmental Disabilities Services Division of the Department of Human Services or through the Home- and Community-Based Waiver or the Alternative Disposition Plan Waiver of the Oklahoma Health Care Authority, or to hotels, motels, boardinghouses, rooming houses, a home or facility approved and annually reviewed by the United States Department of Veterans Affairs as a medical foster home in which care is provided exclusively to three or fewer veterans, or other places that furnish board or room to their residents. The Continuum of Care and Assisted Living Act shall not apply to facilities not charging or receiving periodic compensation for services rendered and not receiving any county, state or federal assistance.

B. The State Commissioner of Health may ban admissions to, or deny, suspend, refuse to renew or revoke the license of, any continuum of care facility or assisted living center which fails to comply with the Continuum of Care and Assisted Living Act or rules promulgated by the State Board of Health.

C. Any person who has been determined by the Commissioner to have violated any provision of the Continuum of Care and Assisted Living Act or any rule promulgated hereunder shall be liable for an administrative penalty of not more than Five Hundred Dollars (\$500.00) for each day that the violation occurs.

D. 1. The State Department of Health shall develop a classification system of violations, taking into consideration the recommendations of the Long-Term Care Facility Advisory Board pursuant to Section 1-1923 of this title, which shall gauge the severity of the violation and specify graduated penalties based on:

- a. no actual harm with the potential for minimal harm,
- b. no actual harm with the potential for more than minimal harm,
- c. actual harm that is not immediate jeopardy, and
- d. immediate jeopardy to resident health and safety.

2. Upon discovery of one or more violations, the Department shall provide a statement of deficiencies containing the violations. The continuum of care facility or assisted living center shall be required to correct these violations and submit a plan of correction that details how the facility or center will correct each violation, ensure that the violation will not occur in the future and a period to correct each violation not to exceed sixty (60) days.

3. No fine shall be assessed for any violation that is not classified as actual harm or immediate jeopardy, unless the continuum of care facility or assisted living center fails to correct the violation within the period set forth in the accepted plan of correction. Fines may be assessed at any time for any violations that are classified as actual harm or immediate jeopardy.

4. Any new violation unrelated to the original violation and not classified as actual harm or immediate jeopardy that is discovered upon a revisit of a continuum of care facility or assisted living center shall constitute a new action and shall not be included in the original citation or assessment of fines or penalties; provided, that a preexisting violation not corrected in compliance with the approved plan of correction shall be considered still in effect.

E. If a continuum of care facility's failure to comply with the Continuum of Care and Assisted Living Act or rules involves nursing care services, the Commissioner shall have authority to exercise additional remedies provided under the Nursing Home Care Act. If a continuum of care facility's failure to comply with the Continuum of Care and Assisted Living Act or rules involves adult day care services, then the Commissioner shall have authority to exercise additional remedies provided under the Adult Day Care Act.

F. In taking any action to deny, suspend, deny renewal, or revoke a license, or to impose an administrative fee, the Commissioner shall comply with requirements of the Administrative Procedures Act.

Historical Data

Laws 1997, HB 1540, c. 223, § 6, emerg. eff. July 1, 1998; Amended by Laws 1999, HB 1272, c. 214, § 3, eff. November 1, 1999 ([superseded document available](#)); Amended by Laws 2012, SB 1210, c. 12, § 2, emerg. eff. April 5, 2012 ([superseded document available](#)); Amended by Laws 2016, HB 2280, c. 240, § 1, eff. November 1, 2016 ([superseded document available](#)).

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Continuum of Care and Assisted Living Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-890.8 - Care and Services - Monitor and Assure Delivery of Services - Third-Party Providers - Plan of Accommodation - Pantipsychotic Drug

Cite as: 63 O.S. § 1-890.8 (OSCN 2024), Continuum of Care and Assisted Living Act

- A. Residents of an assisted living center may receive home care services and intermittent, periodic, or recurrent nursing care through a home care agency under the provisions of the Home Care Act.
- B. Residents of an assisted living center may receive hospice home services under the provisions of the Oklahoma Hospice Licensing Act.
- C. Nothing in the foregoing provisions shall be construed to prohibit any resident of an assisted living center from receiving such services from any person who is exempt from the provisions of the Home Care Act.
- D. The assisted living center shall monitor and assure the delivery of those services. All nursing services shall be in accordance with the written orders of the personal or attending physician of the resident.
- E. A resident of an assisted living center or the family or legal representative of the resident shall be required to disclose any third-party provider of medical services or supplies prior to service delivery.
- F. Any third-party provider of medical services or supplies shall comply with the provisions of subsection D of this section.
- G. Notwithstanding the foregoing provisions, a resident of an assisted living center, or the family or legal representative of the resident, may privately contract or arrange for private nursing services under the orders and supervision of the personal or attending physician of the resident, private monitoring, private sitters or companions, personal domestic servants, or personal staff.
- H. If a resident of an assisted living center develops a disability or a condition that is consistent with the facility's discharge criteria:
1. The personal or attending physician of a resident, a representative of the assisted living center, and the resident or the designated representative of the resident shall determine by and through a consensus of the foregoing persons any reasonable and necessary accommodations, in accordance with the current building codes, the rules of the State Fire Marshal, and the requirements of the local fire jurisdiction, and additional services required to permit the resident to remain in place in the assisted living center as the least restrictive environment and with privacy and dignity;
 2. All accommodations or additional services shall be described in a written plan of accommodation, signed by the personal or attending physician of the resident, a representative of the assisted living center and the resident or the designated representative of the resident;
 3. The person or persons responsible for performing, monitoring and assuring compliance with the plan of accommodation shall be expressly specified in the plan of accommodation and shall include the assisted living center and any of the following:
 - a. the personal or attending physician of the resident,
 - b. a home care agency,
 - c. a hospice, or
 - d. other designated persons.

The plan of accommodation shall be reviewed at least quarterly by a licensed health care professional;

4. If the parties identified in paragraph 1 of this subsection fail to reach a consensus on a plan of accommodation, the assisted living center shall give written notice to the resident, the legal representative of the resident or such persons as are designated in the resident's contract with the assisted living center, of the termination of the residency of the resident in the assisted living center in accordance with the provisions of the resident's contract with the assisted living center. Such notice shall not be less than thirty (30) calendar days prior to the date of termination, unless the assisted living center or the personal or attending physician of the resident determines the resident is in imminent peril or the continued residency of the resident places other persons at risk of imminent harm;
5. If any party identified in paragraph 1 of this subsection determines that the plan of accommodation is not being met, such party shall notify the other parties and a meeting shall be held between the parties within ten (10) business days to re-evaluate the plan of accommodation; and
6. Any resident aggrieved by a decision to terminate residency may seek injunctive relief in the district court of the county in which the assisted living center is located. Such action shall be filed no later than ten (10) days after the receipt of the written notice of termination.
 - I. When an antipsychotic drug is prescribed for a resident, the assisted living center shall do all of the following:
 1. Ensure the resident is reassessed by a physician, physician assistant, Advanced Practice Registered Nurse or registered nurse, as needed, but at least quarterly, for the effectiveness and possible side effects of the medication. The results of the assessments shall be documented in the resident's record and provided to the resident or the representative of the resident;
 2. Ensure all resident care staff administering medications understand the potential benefits and side effects of the medications; and
 3. When an antipsychotic drug is prescribed on an as-needed basis (PRN) for a resident, the assisted living center shall:
 - a. document in the resident's record the rationale for use and a detailed description of the condition which indicates the need for administration of a PRN antipsychotic drug,
 - b. monitor the use of PRN antipsychotic drugs for potential harm to the resident, including, but not limited to, the presence of significant adverse side effects, use of the drugs for inappropriate purposes such as discipline or staff convenience, or use contrary to the prescription. The monitoring required by this subparagraph shall be conducted by a licensed health care professional and shall occur at least monthly, and
 - c. document in the resident's record the results of the monitoring required in subparagraph b of this paragraph, including, but not limited to, the effectiveness of the medication, the presence of any side effects, and any inappropriate use for each PRN antipsychotic drug given.
 - J. Nothing in this section shall be construed to abrogate an assisted living center's responsibility to provide care for and oversight of a resident.

Historical Data

Laws 2007, SB 738, c. 347, § 2, eff. November 1, 2007; Amended by Laws 2008, HB 2539, c. 22, § 1, eff. November 1, 2008 ([superseded document available](#)); Amended by Laws 2013, HB 1745, c. 248, § 1, eff. November 1, 2013 ([superseded document available](#)); Amended by Laws 2021, HB 1877, c. 35, § 2, eff. November 1, 2021 ([superseded document available](#)).

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Continuum of Care and Assisted Living Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-891 - Nurse Aides to be Supervised

Cite as: O.S. §, ___ __

Any assisted living facility that employs an individual who is in nurse aide training shall ensure that such individual is supervised by no less than a consulting nurse licensed to practice in this state.

Historical Data

Laws 1999, SB 661, c. 418, § 2, emerg. eff. June 10, 1999.

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Title 63. Public Health and Safety

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Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Continuum of Care and Assisted Living Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-894 - Fee Assessed Upon Nursing Facilities with Medicaid Contract

Cite as: O.S. §, ___ __

Upon repeal of a United States Congress or federal Health Care Financing Administration requirement to assess a quality of care fee, upon all licensed nursing home beds, such fee shall only be assessed upon nursing facilities that have a Medicaid contract with the state.

Historical Data

Laws 2000, HB 2019, c. 340, § 25, emerg. eff. July 1, 2000.

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Continuum of Care and Assisted Living Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-895 - Informal Dispute Resolution Panel - Appointment of Members

Cite as: O.S. §, ___ __

A. Upon written request to the State Department of Health, an assisted living center as defined in the Continuum of Care and Assisted Living Act may choose to participate in an informal dispute resolution panel to be offered by the State Department of Health as an alternative to the informal dispute resolution process outlined in Sections 1-1914.3 through 1-1914.10 and Sections 1-1914.13 through 1-1914.16 of Title 63 of the Oklahoma Statutes.

B. The State Department of Health shall appoint the informal dispute resolution panel, to be comprised of the following impartial members:

1. A licensed administrator currently working in the assisted living industry;
2. A health professional currently working in an assisted living center;
3. Two representatives from the aging and disabled community who do not represent a state agency; and
4. A representative from the State Department of Health with experience in assisted living center surveys.

Historical Data

Laws 2013, SB 592, c. 50, § 1, eff. November 1, 2013.

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OAC 310:663

Continuum of Care and Assisted Living

Rule text was pulled from the official record on the Oklahoma Office of Administrative Rules (OAR) web page on 02-08-24. Rules are subject to change through the rule promulgation process. When rule promulgation results in rule change, updated language is published to the official OAR site a few weeks after the effective date of the rule change. *Emergency rules are not published to the OAR site.

CHAPTER 663. CONTINUUM OF CARE AND ASSISTED LIVING

EDITOR'S NOTE: Numerous rules in this Chapter were added or revised by the Oklahoma State Department of Health in 2007. However, after these rules, as identified below, had been promulgated in the Oklahoma Register and published in the 2007 OAC Supplement, the Department discovered that an earlier draft of the rules, which had NOT been adopted by the State Board of Health, had been inadvertently submitted to the Legislature, Governor, and Secretary of State for review, final adoption, and promulgation [see 24 Ok Reg 2007, effective 6-25-07]:310:663-1-2 and 310:663-1-4310:663-3-5 and 310:663-3-8310:663-7-2310:663-9-6310:663-13-1310:663-15-1 through 310:663-15-3310:663-19-1 through 310:663-19-3310:663-25-3 and 310:663-25-4310:663-29-2Appendix BUpon discovery of this error, the agency initiated another rulemaking action, and the rules were readopted in 2008. After review and final adoption, those rules were promulgated at 25 Ok Reg 2460, effective 7-11-08. [See also Editor's Note published at 25 Ok Reg 2460]

[**Authority:**63 O.S., §§ 1-104, and 1-890.1 et seq.]

[**Source:**Codified 6-25-98]

SUBCHAPTER 1. GENERAL PROVISIONS

310:663-1-1. Purpose

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

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

310:663-1-2. Definitions

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

"Abuse" means the willful infliction of injury, unreasonable confinement, intimidation or punishment, with resulting physical harm, impairment or mental anguish.

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

"Antipsychotic drug" means a drug, sometimes called a major tranquilizer, used to treat symptoms of severe psychiatric disorders, including but not limited to schizophrenia and bipolar disorder.

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

(A) are domiciled therein;

(B) are unrelated to the operator;

(C) by choice or functional impairments, need assistance with personal care or nursing supervision;

(D) may need intermittent or unscheduled nursing care;

(E) may need medication assistance; and

(F) may need assistance with transfer and/or ambulation; [63:1-890.2(1)].

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

"Commissioner" means the Commissioner of Health.

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

(A) assisted living center services as defined in the Continuum of Care and Assisted Living Act; and

(B) adult day care center services as defined in Section 1-872 of Title 63 of the Oklahoma Statutes [63:1-890.2.4].

"Department" means the Oklahoma State Department of Health.

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

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

"Long-term care facility" means:

- (A) a nursing facility as defined by Section 1-1902 of Title 63 of the Oklahoma Statutes;
- (B) a continuum of care facility as defined under the Continuum of Care and Assisted Living Act; or
- (C) the nursing care component of a life care community as defined by the Long-term Care Insurance Act.

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

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

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

"Prescribing clinician" means:

- (A) an allopathic or osteopathic physician licensed by and in good standing with the Oklahoma State Board of Medical Licensure and Supervision or the Oklahoma State Board of Osteopathic Examiners, as appropriate;
- (B) a physician assistant licensed by and in good standing with the Oklahoma State Board of Medical Licensure and Supervision; or
- (C) an Advanced Practice Registered Nurse licensed by and in good standing with the Oklahoma Board of Nursing.

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

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

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

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

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

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 24 Ok Reg 2007, eff 6-25-07¹; Amended at 25 Ok Reg 2460, eff 7-11-08; Amended at 37 Ok Reg 1443, eff 9-11-20]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

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

(a) The purpose of this section is to establish a prevention program for several non-communicable diseases, which will improve the health of Oklahomans by eliminating exposure to secondhand tobacco smoke and its deadly effects. This section abates the public health nuisance of secondhand smoke under the authority of the Commissioner of Health as specified under Section 1-106(b)(1) of Title 63 of the Oklahoma

Statutes. This section also further specifies how compliance with the Smoking in Public Places Act will be accomplished. [63 O.S. §§ 1-1521 *et seq.*]

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

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

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

- (1) It is completely enclosed;
- (2) It is exhausted directly to the outside and maintained under negative pressure sufficient to prevent any tobacco smoke from entering non-smoking areas of the building;
- (3) It allows for visual observation of the residents from outside of the smoking room; and
- (4) The plans are reviewed and approved by the Department.

(e) To enable better observation and supervision of residents who wish to smoke outside, a facility may designate a smoking area outside an entrance other than the main entrance which may be closer than fifteen (15) feet to the entrance providing consideration is given to minimizing the possibility of smoke entering the building.

(f) The walkway to the main entrance shall also be smoke free.

(g) No ashtray shall be located closer than fifteen (15) feet to an entrance, except in an indoor smoking room or a designated outdoor smoking area under paragraph "c" above.

(h) Should construction requirements not be in agreement with this rule, the stricter rule shall apply.

(i) The facility's tobacco use policy shall be clearly posted near the main entrance, and prospective residents or their legal representatives shall be notified of the policy prior to the residents' acceptance for admission.

[Source: Added at 19 Ok Reg 2096, eff 7-1-02]

310:663-1-4. Other provisions applicable to assisted living centers

Assisted living centers subject to the provisions of this chapter shall comply with the following Oklahoma statutes as applicable:

- (1) 63 O.S. Sections 1-879.2a *et seq.*, Alzheimer's Disease Special Care Disclosure Act;
- (2) 59 O.S. Sections 367 *et seq.*, Utilization of Unused Prescription Medications Act;
- (3) 63 O.S. Section 1-1909. (relating to documents and papers required to be displayed);
- (4) 63 O.S. Section 1-1945. (relating to Long Term Care Security Act definitions);
- (5) 63 O.S. Section 1-1946. (relating to registered sex offender or violent crime offender seeking placement in a long-term care facility - notification - facility's duty to determine registration status of applicants for care, residents, and employees);
- (6) 63 O.S. Section 1-1950.1. (relating to definitions - criminal arrest check on certain persons offered employment - exemptions);
- (7) 63 O.S. Section 1-1950.3. (relating to nurses aides - employment of persons not licensed);
- (8) 63 O.S. Section 1-1950.4. (relating to nurse aides - uniform employment application);
- (9) 63 O.S. Section 1-1950.4a. (relating to uniform employment application - penalty for false information);
- (10) 63 O.S. Section 1-1950.5. (relating to caregiver - compensation - definition); and
- (11) 63 O.S. Section 1-1951. (relating to certified nurse aides).

[Source: Added at 24 Ok Reg 2007, eff 6-25-07 ¹; Added at 25 Ok Reg 2460, eff 7-11-08]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

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

- (a) An assisted living center shall not care for any resident needing care in excess of the level that the assisted living center is licensed to provide or capable of providing.
- (b) An assisted living center shall ensure that routines of care provision and service delivery are directed by the resident to the maximum extent possible.

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

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

- (a) The assisted living center shall describe the population admitted or to be admitted based on the services provided to meet the following resident needs:
 - (1) assistance with personal care;
 - (2) nursing supervision;
 - (3) intermittent or unscheduled nursing care;
 - (4) medication administration;
 - (5) assistance with cognitive orientation and care or service for Alzheimer's disease and related dementias; and
 - (6) assistance with transfer or ambulation.
- (b) The assisted living center's admission criteria shall be included in the assisted living center's application for license and the resident service contract.

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

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

- (a) The assisted living center shall describe the service to be provided or arranged in the assisted living center with respect to the following services:
 - (1) assistance with personal care meals, housekeeping and laundry;
 - (2) nursing supervision during nursing intervention;
 - (3) intermittent or unscheduled nursing care as defined in this chapter;
 - (4) medication administration;
 - (5) assistance with cognitive orientation;
 - (6) any specialized service or unit for residents with Alzheimer's disease and related dementias, physical disabilities or other special needs that the facility intends to market;
 - (7) assistance with transfer or ambulation;
 - (8) planned programs for socialization, activities and exercise; and
 - (9) provisions for evacuation of the building structure and staff to meet the evacuation needs of residents.
- (b) The assisted living center's description of its services shall be included in the assisted living center's application for license and the resident service contract.

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

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

- (a) The assisted living center shall use the screening instrument specified in 310:663-5 to determine the appropriateness of the resident's placement in the assisted living center.
- (b) The resident shall not be eligible for placement in the assisted living center under one (1) or more of the following circumstances:
 - (1) The resident needs care or services that exceed the care or services available in the assisted living center;
 - (2) The resident's physician determines that the resident requires physical or chemical restraints in situations other than emergencies;
 - (3) The resident poses a threat to self or others; or
 - (4) The assisted living center is unable to meet the resident's needs for privacy or dignity.

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

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

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

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

The written notice of involuntary termination of residency for reasons of inappropriate placement shall include:

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

(c) **Involuntary termination of residency for reasons other than inappropriate placement.** Procedures for involuntary termination of residency for reasons other than inappropriate placement, by an assisted living center, are as follows:

- (1) Written notice shall be provided to the resident, the resident's representative, the person responsible for payment of charges for the resident's care, if different from any of the foregoing, and the Department, at least thirty (30) days in advance of the termination of residency date.
- (2) The written notice shall include:
 - (A) A full explanation of the reasons for the termination of residency;
 - (B) The date of the notice;
 - (C) The date notice was given to the resident and the resident's representative;
 - (D) The date by which the resident must leave the assisted living center;
 - (E) Notice that the resident, the resident's representative or person responsible for payment of the resident's care may request a hearing with the Department;
 - (F) Notice that the request for hearing with the Department must be filed within ten (10) Department business days of receipt of the facility notice; and
 - (G) Notice that a written or verbal request for a hearing with the Department should be directed to the Hearing Clerk, Oklahoma State Department of Health, 123 Robert S. Kerr Ave., Oklahoma City, OK 73102, telephone (405) 271-1269.
- (3) An assisted living center shall not involuntarily terminate a residency agreement for reasons other than inappropriate placement without following the procedures in this section.
- (4) If a written or verbal request for a hearing is timely filed by an eligible aggrieved party, the Department shall convene a hearing within ten (10) Department business days of receipt of the request. The request may be in the form of a written or verbal request for hearing from the resident or the resident's representative. In the event that the resident is unable to write, a verbal request made to the hearing clerk shall be sufficient. The Department shall reduce the verbal request to writing and send a copy to the resident. The request shall state the reason for the termination of residency and attach a copy of the letter from the assisted living center.
- (5) While waiting for the hearing, the assisted living center shall not terminate the residency agreement unless the termination is an emergency situation. If the resident relocates from the assisted living center but wants to be readmitted, the Department may proceed with the hearing and the assisted living center shall be required to readmit the resident if the discharge is found not to meet the requirements of OAC 310:663.

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

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

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

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

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

(11) The scope of the hearing may include:

(A) Inadequate notice;

(B) Discharge based on reason not stated in the law;

(C) Sufficiency of the evidence to support the termination of residency; or

(D) The finding of emergency.

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

(13) If the Administrative Law Judge sustains the decision of the assisted living center, the assisted living center may proceed with the termination of residency. If the Administrative Law Judge finds in favor of the resident, the assisted living center shall withdraw its notice of intent to terminate the residency agreement. The decision of the Administrative Law Judge shall be final and binding on all parties unless appealed in accordance with the provisions of the Administrative Procedures Act.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 24 Ok Reg 2007, eff 6-25-07¹; Amended at 25 Ok Reg 2460, eff 7-11-08; Amended at 39 Ok Reg 1390, eff 9-11-22]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

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

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

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

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

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

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

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

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

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

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

- (1) service appropriate to an assisted living center operating in full compliance with the Act and OAC 310:663; or
- (2) care appropriate to an adult day care center operating in compliance with the Title 63 O.S. Supp. 1997, Section 1-870 et seq. and OAC 310:605.

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

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

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

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

(c) **Food.** A whole, intact, fruit or vegetable is an approved food source. The food supply shall be sufficient in quantity and variety to prepare menus for three (3) days. Leftovers that are potentially hazardous foods shall be used, or disposed of, within twenty-four (24) hours. Non-potentially hazardous leftovers that have been heated or cooked may be refrigerated for up to forty-eight (48) hours.

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

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

(2) **Powdered or evaporated milk.** Powdered or evaporated milk products approved under the U.S. Department of Health and Human Services' Grade "A" Pasteurized Milk Ordinance (2003 Revision), may be used only as additives in cooked foods. This does not include the addition of powdered or evaporated milk products to milk or water as a milk for drinking purposes. Powdered or evaporated milk products may be used in instant desserts and whipped products or for cooking. When foods, in which powdered or evaporated milk has been added, are not cooked the foods shall be consumed within twenty-four (24) hours.

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

(4) **Eggs.** Only clean, whole eggs with shell intact, pasteurized liquid, frozen, dry eggs, egg products and commercially prepared and packaged hard boiled eggs may be used. All eggs shall be thoroughly cooked except pasteurized egg products or pasteurized in-shell eggs may be used in place of pooled eggs or raw or undercooked eggs.

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

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

[Source: Added at 24 Ok Reg 2007, eff 6-25-07 ¹; Added at 25 Ok Reg 2460, eff 7-11-08]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

SUBCHAPTER 5. RESIDENT ASSESSMENTS

310:663-5-1. Assessments required

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

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

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

- (a) The assisted living center shall complete the admission assessment within thirty (30) days before, or at the time of, admission.
- (b) The assisted living center shall complete the comprehensive assessment in accordance with the following:
 - (1) within fourteen (14) days after admission of the resident;
 - (2) once every twelve (12) months thereafter; and
 - (3) promptly after a significant change in the resident's condition.

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

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

- (a) The admission assessment form shall include but not be limited to the following:
 - (1) resident's identification;
 - (2) disease diagnosis/infections;
 - (3) mental health history, and intellectual disability or developmental disability;
 - (4) physical functioning which includes the numbers of persons needed to assist with activities of daily living;
 - (5) incontinence;
 - (6) medications;
 - (7) special treatment and procedures;
 - (8) cognitive function; and
 - (9) signatures and dates.
- (b) The comprehensive assessment includes the following information:
 - (1) physical functional status;
 - (2) mental functional status;
 - (3) customary routine;
 - (4) disease diagnosis;
 - (5) oral/nutritional status;
 - (6) medications;
 - (7) devices and restraints;
 - (8) special treatments;
 - (9) skin condition;
 - (10) psychosocial status;
 - (11) sensory and physical impairments; and
 - (12) medically defined conditions and prior medical history.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 36 Ok Reg 1729, eff 9-13-19]

310:663-5-4. Conduct of assessment

- (a) The assessments shall be completed by appropriate participation of health professionals trained in the assessment process.
- (b) All assessments must be coordinated and signed by a registered nurse or the resident's personal physician.
- (c) The assisted living center shall ensure that each comprehensive assessment includes a personal interview between the resident and the person completing the form. If the resident is mentally impaired, the assisted living center shall include in the interview at least one (1) of the persons listed in (d) (2) and (d) (3) of this section.
- (d) The assisted living center shall maintain all assessments for five (5) years from the date of each assessment. The completed form shall be available upon request to the following:
 - (1) the resident;
 - (2) the resident's personal physician;
 - (3) the resident's representative; and
 - (4) the Department.

310:663-5-5. Use of assessment

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

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

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

SUBCHAPTER 7. PHYSICAL PLANT DESIGN

310:663-7-1. General requirements

- (a) Each assisted living center shall comply with applicable construction and safety standards pursuant to Title 74 O.S. Sections 317 through 324.21.
- (b) The design of the assisted living center shall be appropriate to the mental or physical disabilities of the residents to be served in the assisted living center.
- (c) The design of the continuum of care facility or assisted living center shall include physical separation of residents receiving assisted living services from those receiving nursing facility services, including separate dining and common areas. The continuum of care facility or assisted living center shall provide separate wings or buildings with separate exterior entrances for residents receiving assisted living services and those receiving nursing facility services.
- (d) Each assisted living center shall comply with the hot water standards set forth in Appendix A.
- (e) On and after the effective date of this subsection, each assisted living center that undergoes design changes or construction and each newly licensed assisted living center shall be designed and constructed in conformity with requirements for accessibility to physically disabled persons as specified in Chapter 11 of the International Building Code, 2003 Edition, published by the International Code Council.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 17 Ok Reg 422, eff 11-1-99 (emergency); Amended at 17 Ok Reg 1605, eff 5-25-00; Amended at 21 Ok Reg 2784, eff 7-12-04]

310:663-7-2. Privacy and independence

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

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

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 17 Ok Reg 422, eff 11-1-99 (emergency); Amended at 17 Ok Reg 1605, eff 5-25-00; Amended at 24 Ok Reg 2007, eff 6-25-07¹; Amended at 25 Ok Reg 2460, eff 7-11-08]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

310:663-7-3. Submission of plans and specifications and related requests for services

(a) **Submission of plans.** Before construction is begun, plans and specifications covering the construction of new buildings or major alterations to existing buildings shall be submitted to the Department for review as provided in OAC 310:663-7-4 or OAC 310:663-7-5.

(1) Plans and specifications are required for the following alterations:

- (A) Changes that affect path of egress;
- (B) Change of use or occupancy;
- (C) Repurposing of spaces;
- (D) Structural modifications;
- (E) Heating, ventilation and air conditioning (HVAC) modifications;
- (F) Electrical modifications that affect the essential electrical system;
- (G) Changes that require modification or relocation of fire alarm initiation or notification devices;
- (H) Changes that require modification or relocation of any portion of the automatic fire sprinkler system;
- (I) Replacement of fixed medical equipment if the alteration requires any work noted in (A) through (H) of this paragraph;
- (J) Replacement of or modifications to any required magnetic or radiation shielding;
- (K) Changes to or addition of any egress control devices or systems.

(2) Plans and specifications are not required for the following alterations:

- (A) Painting, papering tiling, carpeting, cabinets, counter tops and similar finish work provided that the new finishes shall meet the requirements of this Chapter;
- (B) Ordinary repairs and maintenance;
- (C) Modifications to nurse call or other signaling/communication/information technology systems provided the modifications meet the requirements of this Chapter; or
- (D) Replacement of fixed or moveable medical equipment that does not affect electrical, HVAC, or shielding requirements noted above.

(b) **Fees.** Each construction project submission shall be accompanied by the appropriate review fee based on the cost of design and construction of the project. Fees for plan and specification reviews and related Department services are as follows:

- (1) Design and construction plans and specifications fee: two one-hundredths percent (0.02%) of the cost of design and construction of the project, with a minimum fee of Fifty Dollars (\$50.00) and a maximum fee of One Thousand Dollars (\$1,000.00);
- (2) Request for exception or temporary waiver fee: Five Hundred Dollars (\$500.00);
- (3) Application for self-certification fee: Five Hundred Dollars (\$500.00);
- (4) Courtesy construction inspection fee: Five Hundred Dollars (\$500.00);
- (5) Professional consultation or technical assistance fee: Five Hundred Dollars (\$500.00) for each eight hours or major fraction thereof of staff time. For technical assistance requiring travel, the fee may be increased to include the Department's costs for travel.

(c) **Fees when greater than two (2) submittals required.** The fee for review of design and construction plans and specifications shall cover the cost of review for up to two (2) stage one and two (2) stage two submittals and one final inspection. If a stage one or stage two submittal is not approved after two (2) submissions, another review fee shall be required with the third submittal. Fast-track projects shall be allowed two reviews for each package submitted. If a fast-track stage package is not approved after the second submittal, another review fee based on the cost of the project shall be required with the third submittal of the package.

(d) **Review process.** Design and construction plans and specifications shall be reviewed in accordance with the following process.

- (1) Unless otherwise provided in this Subchapter, the Department shall have ten (10) calendar days in which to initially determine if the filed application is administratively complete
 - (A) Upon determining that the application is not administratively complete, the Department shall immediately notify the applicant in writing and shall indicate with reasonable specificity the inadequacies and measures necessary to complete the application. Such notification shall not require nor preclude further review of the application and further

requests for specific information. If the Department fails to notify the applicant as specified in this Paragraph, the period for technical review shall begin at the close of the administrative completeness review period. Upon submission of correction of inadequacies, the Department shall have an additional ten (10) calendar days to review the application for completeness.

(B) Upon determination that the application is administratively complete, the Department shall immediately notify the applicant in writing. The period for technical review begins.

(2) The Department shall have forty-five (45) calendar days from the date a completed application is filed to review each application for technical compliance with the relevant regulations and reach a final determination.

(A) The time period for technical review is tolled (the clock stops) when the Department has asked for supplemental information and advised the applicant that the time period is tolled pending receipt.

(B) To make up for time lost in reviewing inadequate materials, a request for supplemental information may specify that up to 30 additional calendar days may be added to the deadline for technical review, unless the request for supplemental information is a second or later request that identifies new deficiencies not previously identified

(C) An application shall be deemed withdrawn if the applicant fails to supplement an application within 90 calendar after the Department's request, unless the time is extended by agreement for good cause.

(D) Extensions may be made as provided by law.

[Source: Added at 34 Ok Reg 1297, eff 10-1-17]

310:663-7-4. Preparation of plans and specifications

(a) **Stage one.** Preliminary plans and outline specifications shall be submitted and include sufficient information for approval by the Department of the following: scope of project; project location; required fire-safety and exiting criteria; building-construction type, compartmentation showing fire and smoke barriers, bed count and services; the assignment of all spaces, areas, and rooms for each floor level, including the basement. An assisted living center has the option, at its own risk, to bypass the stage one submittal and proceed directly to submittal of stage two documents.

(b) **Stage two.** A proposed construction document shall be submitted that includes final drawings and specifications adequate for approval by the Department. All final plans and specifications shall be appropriately sealed and signed by an architect registered by the State of Oklahoma. All construction modifications of approved documents are subject to review and approval, and shall be submitted timely.

(c) Special submittals.

(1) **Fast-track projects.** The fast track process applies only to stage two submittals. A stage one submittal and functional program must be approved before entering the fast track process.

(A) Equipment and built-in furnishings are to be identified in the stage one submittal.

(B) The assisted living center has the option to submit two packages: civil, landscaping and structural in stage one, and the balance of the components in stage two.

(C) Fast-track projects shall have prior approval and be submitted in no more than four (4) separate packages.

(i) Site work, foundation, structural, underslab mechanical, electrical, plumbing work, and related specifications.

(ii) Complete architectural plans and specifications.

(iii) All mechanical, electrical, and plumbing plans and specifications.

(iv) Equipment and furnishings.

(2) **Radiation protection.** Any project that includes radiology or special imaging equipment used in medical diagnosis, treatment, and therapy of patients, shall include plans, specifications, and shielding criteria, prepared by a qualified medical physicist. These plans shall be submitted and approved by the Department prior to installation of the equipment.

(d) **Floor plan scale.** Floor plans are to be submitted at a scale of one-eighth (1/8) inch equals one (1) foot, with additional clarifying documents as required.

(e) **Application form.** The submittal shall be made using a Department application form which requests information required by this Chapter and specifies the number of copies and format for document submittal.

[Source: Added at 34 Ok Reg 1297, eff 10-1-17]

310:663-7-5. Self-certification of plans

(a) The Department shall make available consultation and technical assistance services covering the requirements of this section to an assisted living center considering self-certification of plans. The consultation and technical assistance is subject to the fees specified in OAC 310:663-7-3. The consultation is optional and not a prerequisite for filing a request through the self-certification review process.

(b) The assisted living center and the project architect or engineer may elect to request approval of design and construction plans through a self-certification review process. The assisted living center and the project architect or engineer submit a self-certification request on a form provided by the Department, along with the review fee specified in OAC 310:663-7-3. The form shall be signed by the assisted living center and the project architect or engineer attesting that the plans and specifications are based upon and comply with the requirements of this Chapter. The form shall require information necessary to demonstrate compliance with OAC 310:665-7-5(c).

(c) To be eligible for self-certification, projects must comply with the following requirements:

- (1) The project involves any portion of the assisted living center where residents are intended to be examined or treated and the total cost of design and construction is two million five hundred thousand dollars (\$2,500,000) or less; or
- (2) The project involves only portions of the assisted living center where residents are not intended to be examined or treated; and
- (3) The project architect or engineer attesting the application has held a license to practice architecture or engineering for at least five (5) years prior to the submittal of the application, is licensed to practice in Oklahoma; and
- (4) The assisted living center owner/operator acknowledges that the Department retains the authority to:
 - (A) Perform audits of the self-certification review program and select projects at random for review;
 - (B) Review final construction documents;
 - (C) Conduct on-site inspections of the project;
 - (D) Withdraw approval based on the failure of the assisted living center or project architect or engineer to comply with the requirements of this Chapter; and
- (5) The assisted living center agrees to make changes required by the Department to bring the construction project into compliance with this Chapter.

(d) Within twenty-one (21) calendar after receipt of a complete application, the Department shall approve or deny the application for self-certification and send notification to the assisted living center. If the application is denied, the assisted living center shall have thirty (30) calendar to submit additional or supplemental information demonstrating that the application complies with the requirements for self-certification of plans and specifications. The Department shall have fourteen (14) calendar after receipt of supplemental information to reconsider the initial denial and issue a final approval or denial of the self-certification request.

(e) After denial of the application for self-certification and prior to the start of construction, the assisted living center shall pay the applicable fee for plan review specified in OAC 310:663-7-3. Upon receipt of the plan review fee, the Department shall review the assisted living center's plans in accordance with the process in OAC 310:663-7-3.

[Source: Added at 34 Ok Reg 1297, eff 10-1-17]

310:663-7-6. Exceptions and temporary waivers

(a) These standards are not intended to restrict innovations and improvements in design or construction techniques. Accordingly, the Department may approve plans and specifications that contain deviations if it

is determined that the respective intent or objective of this Chapter has been met.

(b) An assisted living center may submit a request for exception or temporary waiver if the rules in this Chapter create an unreasonable hardship, or if the design and construction for the assisted living center property offers improved or compensating features with equivalent outcomes to this Chapter.

(c) The Department may permit exceptions and temporary waivers of this Chapter if the Department determines that such exceptions or temporary waivers comply with the requirements of 63 O.S. Section 1-1901 et seq., and the following:

(1) Any assisted living center requesting an exception or temporary waiver shall apply in writing on a form provided by the Department. The form shall include:

(A) The section(s) of this Chapter for which the exception or temporary waiver is requested;

(B) Reason(s) for requesting an exception or temporary waiver;

(C) The specific relief requested; and

(D) Any documentation which supports the application for exception.

(2) In consideration of a request for exception or temporary waiver, the Department shall consider the following:

(A) Compliance with 63 O.S. Section 1-1901 et seq.;

(B) The level of care provided;

(C) The impact of an exception on care provided;

(D) Alternative policies or procedures proposed; and

(E) Compliance history with provisions of this Chapter.

(3) The Department shall permit or disallow the exception or waiver in writing within forty-five (45) calendar days after receipt of the request.

(4) If the Department finds that a request is incomplete, the Department shall advise the assisted living center in writing and offer an opportunity to submit additional or clarifying information. The applicant shall have thirty (30) calendar days after receipt of notification to submit additional or clarifying information in writing to the Department of Health, or the request shall be considered withdrawn.

(5) An assisted living center which disagrees with the Department's decision regarding the exception or temporary waiver may file a written petition requesting relief through an individual proceeding pursuant to OAC 310:2 (relating to Procedures of the State Department of Health).

(6) The Department may revoke an exception or temporary waiver through an administrative proceeding in accordance with OAC 310:2 and the Oklahoma Administrative Procedures Act upon finding the assisted living center is operating in violation of the exception or temporary waiver, or the exception or temporary waiver jeopardizes patient care and safety or constitutes a distinct hazard to life.

(7) The Department shall publish decisions on requests for exceptions and waivers and make them available to facilities and centers and the public.

[Source: Added at 34 Ok Reg 1297, eff 10-1-17]

SUBCHAPTER 9. STAFFING REQUIREMENTS

310:663-9-1. Nurse

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

(1) registered nurse supervision of skilled nursing interventions;

(2) documenting the resident's physician of choice;

(3) documenting the resident's living will or "Do Not Resuscitate Order".

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

310:663-9-2. Medication staffing

- (a) Each assisted living center shall provide or arrange qualified staff to administer medications based on the needs of residents. Medications shall be reviewed monthly by a registered nurse or pharmacist and quarterly by a consultant pharmacist.
- (b) Unlicensed personnel administering medications shall have completed a training program that has been reviewed and approved by the Department.

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

310:663-9-3. Administrator

- Each assisted living center shall designate an administrator responsible for the operation of the assisted living center. The administrator shall hold at least one (1) of the following credentials:
- (1) a license issued by the State Board of Examiners for Nursing Home Administrators; or
 - (2) a residential care home administrator's certificate of training from an institution of higher learning whose program has been reviewed by the Department; or
 - (3) a nationally recognized assisted living certificate of training and competency for assisted living administrators that has been reviewed and approved by the Department.

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

310:663-9-4. Dietary consultant

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

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

310:663-9-5. Staff qualifications

- (a) All of the assisted living center's employees shall be subject to the requirements for criminal arrest checks applicable to nurses aides under 63 O.S. Supp. 1997, Section 1-1950.1.
- (b) Each assisted living center shall ensure that staff members providing socialization, activity, and exercise services are qualified by training.
- (c) Each assisted living center offering specialized units shall ensure that staff members are trained to meet the specialized needs of residents.
- (d) Assisted living center direct care staff shall be trained in first aid and cardiopulmonary resuscitation.

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

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

- (a) **Staffing.** Adequate trained staff shall be on duty, awake, and present at all times, 24 hours a day, 7 days a week, to meet the needs of residents and to carry out all the processes listed in the assisted living center's, written emergency and disaster preparedness plan for fires and other natural disasters.
- (b) **Limitations on one-person staffing.** An assisted living center that has only one direct care staff member on duty shall:
- (1) Disclose the one-person staffing and the plan for dealing with urgent and emergent situations to residents and their representatives before admission or prior to one-person staffing if such staffing was not previously practiced by the assisted living center; and,
 - (2) Have in place a plan, approved by the Department, for dealing with urgent or emergent situations, including resident falls, during periods when the assisted living center has only one direct-care staff member on duty.
- (c) **Units designed to prevent or limit resident access to areas outside the designated unit or program.** An assisted living center shall have a minimum of two (2) staff members on duty and awake on all shifts if an assisted living center has a unit or program designed to prevent or limit resident access to areas outside the designated unit or program. A minimum of one (1) direct care staff is required to be on duty and awake

at all times within the unit or program designed to prevent or limit resident access to areas outside the designated unit or program.

[Source: Added at 18 Ok Reg 2533, eff 6-25-01; Amended at 24 Ok Reg 2007, eff 6-25-07¹; Amended at 25 Ok Reg 2460, eff 7-11-08]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

SUBCHAPTER 11. QUALITY OF CARE

310:663-11-1. Quality assurance committee

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

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

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

310:663-11-2. Quality assurance representatives

The quality assurance committee shall include at least the following:

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

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

SUBCHAPTER 13. RESIDENT CONTRACT

310:663-13-1. Resident service contract

- (a) Each assisted living center shall furnish to each resident a complete and understandable copy of the resident service contract.
- (b) All rights, privileges and assurances guaranteed to residents under these rules or marketing materials are deemed incorporated in any contract between an assisted living center and a resident.
- (c) The assisted living center shall ensure that the resident or the resident's representative, if any, is informed of all provisions of the resident service contract.
- (d) The assisted living center shall provide all services that are specified in the resident's current service contract.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 24 Ok Reg 2007, eff 6-25-07¹; Amended at 25 Ok Reg 2460, eff 7-11-08]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

310:663-13-2. Contents of contract

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

- (1) assisted living center's name and address;
- (2) admission criteria;
- (3) services provided by the assisted living center;
- (4) discharge criteria;
- (5) dispute resolution and grievance procedures;
- (6) charges for services;
- (7) a provision that the written contract constitutes the entire agreement between the resident and the assisted living center not excluding the marketing materials and the requirements of this Chapter;

- (8) term, renewal and cancellation of contract;
- (9) conformity with state law;
- (10) a provision in the event that a resident's condition merits transfer, the transfer shall be initiated within five (5) working days and progress on the transfer shall be noted in the resident's record.

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

SUBCHAPTER 15. RESIDENT RIGHTS AND RESPONSIBILITIES

310:663-15-1. Resident rights

Each assisted living center and its staff shall be familiar with and shall observe all resident rights and responsibilities enumerated under Title 63 O.S. Section 1-1918(B).

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 24 Ok Reg 2007, eff 6-25-07¹; Amended at 25 Ok Reg 2460, eff 7-11-08]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

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

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

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 24 Ok Reg 2007, eff 6-25-07¹; Amended at 25 Ok Reg 2460, eff 7-11-08]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

310:663-15-3. Complaints

(a) **Procedures.** The assisted living center shall make available to each resident or the resident's representative a copy of the assisted living center's complaint procedure. The assisted living center's complaint procedures shall be followed. The assisted living center's complaint procedure shall include at least the following requirements.

(1) The assisted living center shall list in its procedures:

- (A) The names, addresses and telephone numbers of assisted living center staff persons designated to receive complaints for the assisted living center;
- (B) Notice that a good faith complaint made against the assisted living center shall not result in reprisal against the person making the complaint; and
- (C) Notice that any person with a complaint is encouraged to attempt to resolve the complaint with the continuum of care facility's or assisted living center's designated complaint staff, that the person may submit a complaint to the Department or other entities without prior notice to the continuum of care facility or assisted living center.

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

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

[Source: Added at 24 Ok Reg 2007, eff 6-25-07 ¹; Added at 25 Ok Reg 2460, eff 7-11-08]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

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

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

[Source: Added at 34 Ok Reg 1297, eff 10-1-17]

SUBCHAPTER 17. SURETY BONDS OR DEPOSITS

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

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

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

310:663-17-2. Net worth requirement

- (a) The continuum of care facility's or assisted living center's net worth shall be calculated as assets minus liabilities, plus fully subordinated debt.
- (b) The continuum of care facility or assisted living center shall maintain cash or cash equivalents sufficient to meet its obligations as they become due.

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

310:663-17-3. Consideration of arrangements

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

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

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

- (a) Each continuum of care facility or assisted living center shall file evidence of an errors and omissions policy to protect residents financially from the continuum of care facility's or assisted living center's errors.
- (b) The policy shall be no less than five hundred thousand dollars (\$500,000) annual aggregate for all claims made during the policy period.
- (c) The policy shall remain in force for at least one (1) year after licensure ends.
- (d) Such policy shall be issued by an entity licensed or approved by the Oklahoma Insurance Commissioner to issue errors and omissions policies in Oklahoma.
- (e) Such policy shall be continuous in form, or renewed annually. If renewed annually, evidence of renewal shall be provided to the Department each year. The continuum of care facility or assisted living center shall ensure that the Department is notified of:
 - (1) any lapse in coverage; or
 - (2) termination of coverage at least thirty (30) days before termination.

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

310:663-17-5. Fidelity bond

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

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

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

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

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

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

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

(1) any lapse in coverage; or

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

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

310:663-17-6. Preference of claims

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

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

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

310:663-17-7. Liability insurance

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

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

310:663-17-8. Projections

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

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

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

310:663-17-9. Impairment

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

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

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

SUBCHAPTER 19. ADMINISTRATION, RECORDS AND POLICIES

310:663-19-1. Incident reports

(a) **Timeline for reporting.** All reports to the Department shall be made within one (1) Department business day of the reportable incident's discovery. A follow-up report of the incident shall be submitted to the Department within five (5) Department business days after the incident. The final report shall be filed with the Department when the full investigation is complete, not to exceed ten (10) Department business days after the incident. Notifications to the Nurse Aide Registry using the ODH Form 718 must be made within one (1) Department business day of the reportable incident's discovery.

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

- (1) allegations and incidents of resident abuse;
- (2) allegations and incidents of resident neglect;
- (3) allegations and incidents of misappropriation of resident's property;
- (4) accidental fires and fires not planned or supervised by facility staff, occurring on the licensed real estate;
- (5) storm damage resulting in relocation of a resident from a currently assigned room;
- (6) deaths by unusual occurrence, including accidental deaths or deaths other than by natural causes;
- (7) residents missing from the assisted living center upon determination by the assisted living center;
- (8) utility failure for more than eight (8) hours;
- (9) incidents occurring at the assisted living center, on the assisted living center grounds or during assisted living center sponsored events, that result in fractures, injury requiring treatment at a hospital, a physician's diagnosis of closed head injury or concussion, or head injuries that require more than first aid;
- (10) reportable diseases and injuries as specified by the Department in OAC 310:515 (relating to communicable disease and injury reporting); and,
- (11) situations arising where a criminal act is suspected. Such situations shall also be reported to local law enforcement.

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

(d) **Reports to the Department.** Each assisted living center shall report to the Department those incidents specified in 310:663-19-1(b). An assisted living center may use the Department's Long Term Care Incident Report Form.

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

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

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

(g) Content of incident report.

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

(h) Emergency Response. In lieu of making incident reports during an emergency response to a natural or man-made disaster, the facility may coordinate its communications, status reports and assistance requests through the local emergency response coordinator, and file a final report with the Department within ten (10) days after conclusion of the emergency response.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 24 Ok Reg 2007, eff 6-25-07¹; Amended at 25 Ok Reg 2460, eff 7-11-08; Amended at 34 Ok Reg 1297, eff 10-1-17]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

310:663-19-2. Medication administration

- (a) Each assisted living center shall adopt written procedures to ensure safe administration of medications.
 - (1) Medications shall be administered only on a physician's order.
 - (2) The person responsible for administering medications shall personally prepare the dose, observe the swallowing of oral medication, and record the medication. Medications shall be prepared within one hour prior to administration.
 - (3) An accurate written record of medications administered shall be maintained. The medication record shall include:
 - (A) The identity and signature of the person administering the medication.
 - (B) The medication administered within one hour of the scheduled time.
 - (C) Medications administered as the resident's condition may require (p.r.n.) are recorded immediately, including the date, time, dose, medication, and administration method.
 - (D) Adverse reactions or results.
 - (E) Injection sites.
 - (F) An individual inventory record shall be maintained for each Schedule II medication prescribed for a resident.
 - (G) Medication error incident reports.
 - (4) A resident's adverse reactions shall be reported at once to the attending physician.
- (b) An assisted living center may maintain nonprescription drugs for dispensing from a common or bulk supply if all of the following are accomplished.

- (1) The assisted living center shall have and follow a written policy and procedure to assure safety in dispensing and documenting medications given to each resident.
 - (2) The assisted living center shall maintain records which document the name of the medication acquired, the acquisition date, the amount and the strength received for each medication maintained in bulk.
 - (3) Only a licensed nurse, physician, pharmacist, certified medication aide or medication aide technician may dispense for administration these medications and only upon a physician's written order for as needed or nonscheduled dosage regimens. The physician's written order shall be maintained in the resident's clinical record.
 - (4) Bulk medications shall be stored in the medication area and not in resident rooms.
 - (5) The assisted living center shall maintain records of all bulk medications that are dispensed on an individual signed medication administration record.
 - (6) The assisted living center shall maintain the original label on the container as it comes from the manufacturer or on the unit-of-use or blister package.
 - (7) The assisted living center shall establish in its policy and procedure the maximum size of packaging and shall ensure that each resident receives the correct dosage. The assisted living center shall not acquire nor maintain a liquid medication in a package size that exceeds 16 fluid ounces.
 - (8) An assisted living center shall have only oral analgesics, antacids, and laxatives for bulk dispensing. No other category of medication shall be maintained as bulk medication.
- (c) Antipsychotic drug administration shall be consistent with 63 O.S. § 1-881.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 17 Ok Reg 2069, eff 6-12-00; Amended at 24 Ok Reg 2007, eff 6-25-07¹; Amended at 25 Ok Reg 2460, eff 7-11-08; Amended at 37 Ok Reg 1443, eff 9-11-20]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

310:663-19-3. Maintenance of records

- (a) There shall be an organized, accurate, clinical record, typewritten, electronic, or legibly written with pen and ink, for each resident admitted. The resident's record shall document all services provided under the direction of a licensed health care professional consistent with professional standards of practice.
- (b) Each resident's records shall be retained for at least five (5) years after the resident's transfer, discharge or death. Destruction of records shall be done in a manner to preserve resident confidentiality.
- (c) Records for the previous twelve (12) months of operation, whether original, electronic, or microfilm copies, shall be maintained in such form as to be legible and readily available upon request of the attending physician, the assisted living center and any person authorized by law to make such a request. Records more than twelve (12) months old, whether original, electronic, or microfilm copies, shall be maintained in such form as to be legible and available within seventy-two (72) hours upon request of the attending physician, the continuum of care facility or assisted living center, and any person authorized by law to make such a request.
- (d) Information contained in each resident's record shall be confidential and disclosed only to the resident, persons authorized by the resident, and persons authorized by law or rule.
- (e) Resident records shall be filed and stored to protect against loss, destruction, or unauthorized use.
- (f) The Department shall be informed in writing within five (5) business days of discovery whenever any resident's records are defaced, or destroyed, before the end of the required retention period.
- (g) If an assisted living center ceases operation, the Department shall be notified within five (5) business days of the arrangements for preserving the resident's record. The record shall be preserved for the required time and the information in the records shall be available to the health professionals or facilities assuming care of the resident so that continuity of care is available.
- (h) If the ownership of the assisted living center changes, the new licensee shall have custody of original or true and correct copies of all records required by this section for all current residents and the records shall be available to the former licensee and other authorized persons.
- (i) Incident reports required in 310:663-19-1. shall be retained, filed and stored to protect against loss, destruction, or unauthorized use for a period of two (2) years. Destruction of incident reports shall be done in a manner to preserve resident confidentiality.

[Source: Added at 24 Ok Reg 2007, eff 6-25-07¹; Amended at 25 Ok Reg 2460, eff 7-11-08]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

310:663-19-4. Policies

(a) Each assisted living center shall have a written policy statement that expressly prohibits the abuse or neglect of residents or misappropriation of resident property it serves. The policy shall include the facility's investigative procedures and actions to be taken when incidents of abuse or neglect of residents or misappropriation of resident's property occur.

(b) The administrator of the assisted living center who becomes aware of abuse or neglect of a resident or misappropriation of a resident's property shall immediately act to rectify the problem and shall make a report of the incident and its correction to the Department.

(c) The assisted living center shall provide staff, within ninety (90) days of employment, training in the identification of abuse and neglect of residents and misappropriation of resident property and the facility's policies and procedures concerning the same. Verification of the provision of training shall be written, signed by staff attending and retained in the personnel files.

[Source: Added at 27 Ok Reg 2541, eff 7-25-10]

SUBCHAPTER 21. APPLYING FOR A LICENSE

310:663-21-1. Application required

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

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

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

310:663-21-2. Deadlines for filing and period of license validity

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

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

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

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

(3) The application for renewal of the license of an existing continuum of care facility or assisted living center, with no transfer of ownership or operation, shall be filed by the renewal date specified on the existing license.

(c) *The renewal license shall expire three (3) years from the date of issuance. An initial license shall expire one hundred eighty (180) days after the date of issuance. Renewal licenses may be issued for a period of more than twelve (12) months, but not more than thirty-six (36) months, for the license period immediately following November 1, 2021, in order to permit an equitable distribution of license expiration dates.* [63 O.S. § 1-890.4 (D)].

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 17 Ok Reg 422, eff 11-1-99 (emergency); Amended at 17 Ok Reg 1605, eff 5-25-00; Amended at 21 Ok Reg 2436, eff 7-11-05; Amended at 39 Ok Reg 1390, eff 9-11-22]

310:663-21-3. Where to file

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

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

310:663-21-4. Filing fees

(a) Each application to establish a continuum of care facility or assisted living center shall be accompanied by a non-refundable application fee of Ten Dollars (\$10.00) for each bed included in the maximum bed capacity at such facility or center. The maximum application fee for each facility or center shall be One Thousand Dollars (\$1000.00).

(b) *Each application for an initial license, or renewal of the license, to operate a continuum of care facility or assisted living center shall be accompanied by a license fee. The initial license fee shall be Ten Dollars (\$10.00) for each bed included in the maximum bed capacity at such facility or center and the renewal license fee shall be Ten Dollars (\$10.00) for each bed included in the maximum bed capacity at such facility or center, per year of licensure, except that any facility operated by the Oklahoma Department of Veterans Affairs shall be exempt from these fees.* [63 O.S. § 1-890.4 (B)].

(c) If an application for an initial or renewal license includes an adult day care component, then an application for an adult day care license (OAC 310:605), must also be filed.

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

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 16 Ok Reg 137, eff 10-14-98 (emergency); Amended at 16 Ok Reg 2519, eff 6-25-99; Amended at 21 Ok Reg 2436, eff 7-11-05; Amended at 39 Ok Reg 1390, eff 9-11-22]

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

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

- (1) a description of the assisted living center or continuum of care facility and its operations, including the types and hours of staff, and maximum occupancy;
- (2) a description of the types of residents to be served;
- (3) a description of service to be offered, including any specialized services or units;
- (4) scaled and dimensioned architectural floor plans, life safety plans, and building code analysis, for an existing structure;
- (5) scaled and dimensioned architectural floor plans and specifications for new construction; and
- (6) contact person's name, address and telephone number.

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

- (1) a description of the assisted living center or continuum of care facility and its operations, including the types and hours of staff, and maximum occupancy;
- (2) a description of the types of residents to be served;
- (3) a description of service to be offered, including any specialized services or units;
- (4) forms of all resident service contracts;
- (5) contact person's name, address and telephone number;
- (6) evidence of the applicant's financial resources;
- (7) evidence that the State Fire Marshal or authorized representative has inspected and approved the assisted living center or continuum of care facility;
- (8) a description of the procedure for receiving and resolving resident grievances and disputes; and
- (9) financial projections if the applicant is subject to the requirements of 310:663-17.

(c) The application to renew a license requests:

- (1) any changes in the information provided in OAC 310:663-21-5(b).

(2) a summary of the resident grievance and dispute resolution activities for the preceding twelve (12) months.

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

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

310:663-23-1. Timeframes for review

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

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

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

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

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

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

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

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

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

SUBCHAPTER 25. INSPECTIONS AND INVESTIGATIONS

310:663-25-1. Periodic inspections

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

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

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

310:663-25-2. Investigations

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

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

310:663-25-3. Outcome standards

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

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 24 Ok Reg 2007, eff 6-25-07¹; Amended at 25 Ok Reg 2460, eff 7-11-08]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

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

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

(b) **Plan of Correction.**

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

(2) An acceptable plan of correction shall:

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

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

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

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

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

(F) Be signed by the administrator.

(3) Upon written request from the continuum of care facility or assisted living center, the Department may extend the time period within which the violations are to be corrected where correction involves substantial structural improvement. Such request shall be provided to the Department within the timeline specified at 310:663-25-4(b)(1) (relating to submission within ten (10) Department business days) or prior to expiration of the correction time originally approved. The burden of proof shall be on the licensee to show good cause for not being able to comply with the timeline in 310:663-25-4(b)(2)(E) (relating to correction within sixty (60) days).

(4) The Department shall provide written notice of the acceptance or rejection of a plan of correction within ten (10) Department business days. If the Department fails to provide notice of acceptance or rejection within the required time frame, notice will be provided as soon as time permits and any delay on the Department's part will result in a day for day off-set in any per diem penalty. If the Department finds that the plan of correction does not meet the requirements for an acceptable plan of correction as specified in this section the Department shall provide notice of the rejection and the reason for the rejection to the continuum of care facility or assisted living center. The continuum of care facility or assisted living center shall have ten (10) Department business

days after receipt of the notice of rejection in which to submit an amended plan. If the amended plan is not timely submitted, or if the amended plan is rejected, the Department shall give notice of intent to pursue penalties, as provided in Title 63 O.S. Section 1-890.6., or notice of intent to conduct a revisit to determine if violations continue.

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

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

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

(c) **Right to Hearing.** The Department shall notify the assisted living center in writing of the Department's intent to take remedial action, to impose an administrative penalty, or to take action against the license issued under the act, and of the rights of the assisted living center under this section, including without limitation the right to a hearing.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 24 Ok Reg 2007, eff 6-25-07¹; Amended at 25 Ok Reg 2460, eff 7-11-08]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

SUBCHAPTER 27. REPORTS AND FILINGS

310:663-27-1. Application form changes

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

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

310:663-27-2. Department review

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

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

SUBCHAPTER 29. TERMINATING AND CONTINUING SERVICES

310:663-29-1. Terminating contracts

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

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

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

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

following:

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

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

- (1) the proposed date of closing;
- (2) the reason for closing;
- (3) an offer to assist the resident in securing an alternative placement;
- (4) advise the resident or resident's representative on available housing alternatives and that where the resident is unable to choose an alternative placement and is not under guardianship, the Department shall be notified of the need for relocation assistance;
- (5) the facility shall comply with all applicable laws and regulations until the date of closing, including those related to transfer or discharge of residents.

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

- (1) the effective date of closure based on the discharge date of the last resident;
- (2) a list of residents transferred or discharged and the location to where they relocated, whether another continuum of care facility or assisted living center or alternative placement; and
- (3) the plan for storage of resident records pursuant to 310:663-19-3(g)(relating to preservation of resident records) and the name, address and phone number of the person responsible for the records.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98; Amended at 24 Ok Reg 2007, eff 6-25-07¹; Amended at 25 Ok Reg 2460, eff 7-11-08]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

SUBCHAPTER 31. SUSPENDING OR WITHDRAWING A LICENSE

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

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

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

310:663-31-2. Suspended license

- (a) While a continuum of care facility's or assisted living center's license is suspended, the continuum of care facility or assisted living center shall not enroll, advertise or solicit additional business.
- (b) The order suspending the license shall specify the period of suspension and conditions to be met for reinstatement.
- (c) A continuum of care facility or assisted living center's license shall not be suspended without cause. Within ten (10) days of suspension, the Department shall send written notice to the applicant. The notice of suspension shall include a statement of the deficiencies on which the suspension was based and notice of the opportunity for hearing.

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

310:663-31-3. Revoked license

- (a) The continuum of care facility or assisted living center shall conduct no business except as may be essential to the orderly conclusion of its affairs when a continuum of care facility's or assisted living center's license is revoked. The Department may order such operations as needed to afford residents a practical opportunity for care and services.
- (b) To reinstate a license after revocation, the continuum of care facility or assisted living center shall follow the procedures for an initial application specified at OAC 310:663-21.

APPENDIX A. Hot Water Use

Figure 1

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

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

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

APPENDIX B. Reference List for Standards of Practice

Figure 1

(Referring to OAC 310:663-25-3. Outcome Standards)

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

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

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

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

Oklahoma Board of Nursing Guidelines and Position Statements:

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

"Abandonment Statement"

"Advanced Practice Nurses with Prescriptive Authority Exclusionary Formulary"

"Delegation of Nursing Functions to Unlicensed Persons"

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

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

"Issuance of Temporary Licenses for RNs and LPNs"

"Licensure Verification and Photocopying of Nursing Licenses"

"Patient Assessment Guidelines"

"Refresher Course Policy"

"Wound Debridement by Licensed Nurses Guideline"

Standards of the American Nurses Association and Specialty Nursing Organizations:

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

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

Figure 2

"Scope and Standards of Diabetes Nursing Practice" (2nd Edition); Pub# DNP23 - 2003

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

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

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

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

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

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

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

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

Editor's Note: ¹See Editor's Note at beginning of this Chapter.

[Source: Added at 24 Ok Reg 2007, eff 6-25-07 ¹; Added at 25 Ok Reg 2460, eff 7-11-08]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

Residential Care Act

63 O.S. § 1-819 et seq

Statute was pulled from OSCN on 2-9-24 for this binder. This captures existing statute from one point in time. The Residential Care Act is subject to change when bills become law which amend, repeal, or add new law to the Act.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Residential Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-819 - Short Title

Cite as: O.S. §, ___ __

Sections 1-820 through 1-840 of this act shall be known and may be cited as the "Residential Care Act".

Historical Data

Laws 1984, HB 1898, c. 128, § 1, eff. November 1, 1984; Amended by Laws 1987, HB 1092, c. 98, § 1, emerg. eff. May 20, 1987.

Citationizer[®] Summary of Documents Citing This Document

<i>Cite Name</i>	<i>Level</i>
Oklahoma Court of Civil Appeals Cases	
<i>Cite</i>	<i>Name</i>
<u>2000 OK CIV APP 80, 8 P.3d 940, 71 OBJ</u>	<u>MATTER OF THE GUARDIANSHIP OF LOHSE</u>
<u>1826,</u>	<i>Cited</i>
Oklahoma Supreme Court Cases	
<i>Cite</i>	<i>Name</i>
<u>2016 OK 28, 376 P.3d 894,</u>	<u>MOORE v. WARR ACRES NURSING CENTER, LLC.</u>
<u>2021 OK 68, 507 P.3d 673,</u>	<u>HO v. TULSA SPINE & SPECIALTY HOSPITAL</u>
<u>2022 OK 73, 520 P.3d 370,</u>	<u>RITTER v. STATE</u>
<u>1985 OK 103, 714 P.2d 1017, 56 OBJ</u>	<u>Jackson v. Williams</u>
<u>2889,</u>	<i>Cited</i>

Citationizer: Table of Authority

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None Found.



Title 63. Public Health and Safety

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Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Residential Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-820 - Definitions

Cite as: O.S. §, ___ __

As used in the Residential Care Act:

1. "Abuse" means the willful infliction of injury, unreasonable confinement, intimidation or punishment, with resulting physical harm, impairment or mental anguish;
2. "Access" means the right of a person to enter a home to communicate privately and without unreasonable restriction;
3. "Administrator" means the person who is in charge of a home and who devotes at least one-third (1/3) of his or her full working time to on-the-job supervision of the home;
4. "Adult companion home" means any home or establishment, funded and certified by the Department of Human Services, which provides homelike residential accommodations and supportive assistance to three or fewer developmentally disabled adults;
5. "Advisory Board" means the Long-Term Care Facility Advisory Board;
6. "Ambulatory" means any resident who is capable of self-movement, including in and out of wheelchairs, to all areas of the home;
7. "Board" means the State Board of Health;
8. "Commissioner" means the State Commissioner of Health;
9. "Department" means the State Department of Health;
10. "Habilitation" means procedures and interventions designed to assist a mentally ill, drug-dependent or alcohol-dependent person eighteen (18) years of age or older to achieve greater physical, mental and social development by enhancing the well-being of the person and teaching skills which increase the possibility that the resident will make progressively independent and responsible decisions about social behavior, quality of life, job satisfaction and personal relationships;
11. "Home" means a residential care home;
12. "Residential care home":
 - a. means any establishment or institution which offers, provides or supports residential accommodations, food service, and supportive assistance to any of its residents or houses any residents requiring supportive assistance who are not related to the owner or administrator of the home by blood or marriage. A residential care home shall not include:
 - (1) an adult companion home,
 - (2) a group home,
 - (3) a hotel,
 - (4) a motel,
 - (5) a residential mental health facility operated by the Department of Mental Health and Substance Abuse Services,
 - (6) a fraternity or a sorority house,

(7) college or university dormitory, or

(8) a home or facility approved and annually reviewed by the United States Department of Veterans Affairs as a medical foster home in which care is provided exclusively to three or fewer veterans.

The residents of a residential care home shall be ambulatory and essentially capable of participating in their own activities of daily living, but shall not routinely require nursing services, and

b. may consist of a series of units or buildings which are not connected or part of the same structure if:

(1) such buildings or units are owned by the same owner or operator,

(2) all residents of the units or buildings are fully capable of ambulation to and from the buildings or units,

(3) the location and construction of the buildings or units ensure the health, safety, and protection from fire hazards and other hazards and provide for the convenience and accessibility of the residents to each residential building or unit,

(4) any out-of-doors premise or thoroughfare is adequately maintained to ensure the health and safety of the residents, and

(5) the buildings or units are within one hundred seventy-five (175) feet of the building housing the main kitchen and dining room. The units or buildings must be located in the most convenient and accessible location for residents;

provided, however, the leasing of rooms directly or indirectly to residents of a home shall not void the application of the provisions of the Residential Care Act or rules promulgated pursuant thereto.

The State Board of Health shall promulgate rules for such residential homes pursuant to the provisions of Section 1-836 of this title;

13. "Licensee" means a person, corporation, partnership, or association who is the owner of a home which is licensed pursuant to the provisions of the Residential Care Act;

14. "Maintenance" means meals, shelter, and laundry services;

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

16. "Operator" means the person who is not the administrator but who manages the home;

17. "Owner" means a person, corporation, partnership, association, or other entity which owns or leases a home or part of a home, directly or indirectly, to residents. The person or entity that stands to profit or lose as a result of the financial success or failure of the operation shall be presumed to be the owner of the home;

18. "Personal care" means assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision of the physical and mental well-being of a person, who is incapable of maintaining a private, independent residence, or who is unable to manage all activities of daily living without assistance, whether or not a guardian has been appointed for the person;

19. "Resident" means a person of legal age, residing in a home due to illness, physical or mental infirmity, or advanced age;

20. "Representative of a resident" means a court-appointed guardian, or if there is no court-appointed guardian, a relative or other person designated in writing by the resident. No owner, agent, employee, or person with a pecuniary interest in the residential facility or relative thereof shall be a representative of a resident unless the person is appointed by the court;

21. "Supportive assistance" means the service rendered to any person which is sufficient to enable the person to meet an adequate level of daily living. Supportive assistance includes, but is not limited to, housekeeping, assistance in the preparation of meals, assistance in the safe storage, distribution and administration of medications, and assistance in personal care as necessary for the health and comfort of the person. The term "supportive assistance" shall not be interpreted or applied so as to prohibit the participation of residents in housekeeping or meal preparation tasks as a part of the written treatment plan for the training, habilitation or rehabilitation of the resident, prepared with the participation of the resident, the mental health or drug or alcohol services case manager assigned to the resident, and the administrator of the facility or a designee; and

22. "Transfer" means a change in location of living arrangements of a resident from one home to another home.

Laws 1984, HB 1898, c. 128, § 8, eff. November 1, 1984; Amended by Laws 1985, HB 1426, c. 135, § 1, emerg. eff. June 7, 1985; Amended by Laws 1987, HB 1160, c. 98, § 2, emerg. eff. May 20, 1987; Amended by Laws 1987, HB 1460, c. 225, § 45, eff. November 1, 1987; Amended by Laws 1988, HB 2001, c. 260, § 1, eff. November 1, 1988; Amended by Laws 1989, HB 1153, c. 330, § 5, eff. November 1, 1989; Amended by Laws 1990, HB 2012, c. 295, § 2, emerg. eff. July 1, 1990; Amended by Laws 1993, SB 108, c. 159, § 15, emerg. eff. July 1, 1993; Amended by Laws 1995, HB 1293, c. 230, § 4, emerg. eff. July 1, 1995; Amended by Laws 2001, SB 738, c. 410, § 1, eff. November 1, 2001 (superseded document available); Amended by Laws 2003, SB 602, c. 220, § 1, eff. November 1, 2003 (superseded document available); Amended by Laws 2012, SB 1210, c. 12, § 1, emerg. eff. April 5, 2012 (superseded document available).

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<i>Cite Name</i>	<i>Level</i>	
Oklahoma Court of Civil Appeals Cases		
<i>Cite</i>	<i>Name</i>	<i>Level</i>
<u>2009 OK CIV APP 75, 225 P.3d 17,</u>	<u>WILLIAMS v. NEW BEGINNINGS RESIDENTIAL CARE HOME</u>	Cited
<u>2010 OK CIV APP 115, 241 P.3d 674,</u>	<u>OSBORN v. BROOKDALE SENIOR LIVING, INC.</u>	Discussed at Length

Citationizer: Table of Authority

<i>Cite Name</i>	<i>Level</i>	
Title 63. Public Health and Safety		
<i>Cite</i>	<i>Name</i>	<i>Level</i>
<u>63 O.S. 1-820,</u>	<u>Terms Defined</u>	Cited
<u>63 O.S. 1-820,</u>	<u>Terms Defined</u>	Cited



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Residential Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-821 - Department Powers and Duties

Cite as: O.S. §, ___ __

A. The State Board of Health shall promulgate rules to enforce the provisions of the Residential Care Act which shall include, but not be limited to, provisions for temperature settings, lighting, ventilation, and other physical conditions that affect the health, safety and welfare of the residents in a home. Residential care homes that provide care for three or fewer residents shall be subject to the provisions of the Residential Care Act; provided, however, if such rules unduly restrict operation of the home, the Board shall be authorized and shall promulgate additional rules for residential care homes based upon the number of residents in a home.

B. The State Department of Health shall have the power and duty to:

1. Issue, renew, deny, modify, suspend, and revoke licenses for homes pursuant to the provisions of the Residential Care Act;
2. Enforce the provisions of the Residential Care Act and any rules promulgated pursuant thereto by the Board, and require the submission and review of reports from any person establishing or operating a home;
3. Enter upon any public or private property for the purpose of:
 - a. inspecting and investigating conditions of the residents in the home,
 - b. inspecting and investigating the home for compliance with the provisions of the Residential Care Act or rules promulgated pursuant thereto, or
 - c. determining if services are being provided without a license;
4. Employ or designate personnel to conduct investigations and inspections, to make reports of the condition of homes and the residents of such homes, and to take necessary action pursuant to the provisions of the Residential Care Act to protect and safeguard the health, safety, and welfare of residents of homes;
5. Establish a procedure for receipt and investigation of complaints regarding a home or concerning the condition, care, and treatment of a resident of a home;
6. Report to the district attorney having jurisdiction or the Attorney General any act committed by an owner, administrator, operator, or employee of a home which may constitute a misdemeanor pursuant to the provisions of the Residential Care Act;
7. Advise, consult, and cooperate with other agencies of this state, the federal government, other states and interstate agencies, and with affected groups and political subdivisions to further the purposes of the provisions of the Residential Care Act;
8. Investigate, request or otherwise obtain the information necessary to determine the qualifications and background of an applicant for licensure;
9. Establish civil penalties for violations of the provisions of the Residential Care Act as authorized by the Board pursuant to the provisions of the Residential Care Act;
10. Institute and maintain or intervene in any action or proceeding where deemed necessary by the Department to protect the health, safety, and welfare of any resident of a home;

11. Assure the accountability for reimbursed care provided in certified homes participating in a federal or state health program as provided by or through the Department of Human Services;
12. Advise, consult, cooperate and assist with technology center schools or institutions of higher education in this state in providing the training of persons to distribute and administer medication to a resident of a home;
13. Transfer or discharge a resident or otherwise protect the health, safety, and welfare of any resident of a home; and
14. Exercise all incidental powers as necessary and proper for the administration of the Residential Care Act.

C. To improve patient care, the Department shall hold a public meeting at least once every four (4) years in each of the licensed homes to advise and to facilitate communication and cooperation between personnel of the home and the residents. Administrators, employees of the home, residents, friends and relatives of the residents, representatives of the residents, and employees from appropriate state and federal agencies shall be invited and encouraged to attend such meetings.

Historical Data

Laws 1984, HB 1898, c. 128, § 9, eff. November 1, 1984; Amended by Laws 1985, HB 1426, c. 135, § 2, emerg. eff. June 7, 1985; Amended by Laws 1987, HB 1092, c. 98, § 3, emerg. eff. May 20, 1987; Amended by Laws 2001, HB 1214, c. 33, § 59, emerg. eff. July 1, 2001 (repealed by Laws 2002, HB 2924, c. 22, § 34, emerg. eff. March 8, 2002); Amended by Laws 2001, SB 738, c. 410, § 2, eff. November 1, 2001 ([superseded document available](#)); Amended by Laws 2002, HB 2924, c. 22, § 21, emerg. eff. March 8, 2002 ([superseded document available](#)).

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Cite Name	Level
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2016 OK 28, 376 P.3d 894,	MOORE v. WARR ACRES NURSING CENTER, LLC. Discussed
Oklahoma Session Laws - 2001	
<i>Cite</i>	<i>Name</i> <i>Level</i>
2001 O.S.L. 33, 2001 O.S.L. 33,	Vocational technical education; changing the name of area vocational technical school districts to technology center school districts; changing statutory cites. Effective date. Emergency. Discussed
Oklahoma Session Laws - 2002	
<i>Cite</i>	<i>Name</i> <i>Level</i>
2002 O.S.L. 22, 2002 O.S.L. 22,	Duplicate sections; amending, merging, consolidating, and repealing duplicate sections. Emergency. Discussed at Length

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Title 63. Public Health and Safety	
<i>Cite</i>	<i>Name</i> <i>Level</i>
63 O.S. 1-821,	Department Powers and Duties Cited
63 O.S. 1-821,	Department Powers and Duties Cited



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Residential Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-822 - License - Application - Nature - Oath - Zoning Statement - Qualifications - Statement of Ownership -

Fees

Cite as: 63 O.S. § 1-822 (OSCN 2024), Residential Care Act

A. An application for a license, or renewal thereof, to establish or operate a residential care home shall be accompanied by a fee of Fifty Dollars (\$50.00) for the probationary license and Twenty-five Dollars (\$25.00) per year for the renewal license. The fee shall not be refunded. Except as provided for in Section 1-824 of this title, a license shall expire thirty-six (36) months from the date of issuance, unless sooner revoked, and may be renewed by the State Department of Health pursuant to the provisions of the Residential Care Act. Renewal licenses may be issued for a period of more than twenty-four (24) months, but not more than thirty-six (36) months, for the license period immediately following November 1, 2021, in order to permit an equitable distribution of license expiration dates. All licenses shall be on a form prescribed by the State Commissioner of Health, and shall include, but not be limited to, the maximum bed capacity for which the license is granted, the date the license was issued, and the expiration date of the license. The provisions of the license shall require that the license shall:

1. Not be transferable or assignable except as authorized by the provisions of the Residential Care Act;
2. Be posted in a conspicuous place on the licensed premises; and
3. Be issued only for the premises named in the application and may be renewed upon application, inspection and payment of the license fee, as required by the provisions of the Residential Care Act.

B. An application shall contain the following information:

1. The name and address of the owner of the home. If the owner is a firm or partnership, the name and address of each member thereof shall be included in the application. If the owner is a corporation, the name and address of the corporation and the name and address of each officer and registered agent of the corporation shall be included in the application;
2. The name and address of the applicant if the applicant is not the owner and is acting as agent for the owner;
3. The name and location of the home for which a license is sought;
4. The name of the administrator of the home;
5. The number and type of residents for whom services are to be provided; and
6. The staffing pattern for providing resident care. In the case of an application for an initial license, the staffing pattern shown may be the projected staffing pattern.

C. Each initial application shall be accompanied by a statement from the unit of local government having zoning jurisdiction over the location of the home stating that the location is not in violation of a zoning ordinance.

D. 1. An applicant shall be twenty-one (21) years of age or older and meet the specific requirements for licensure as specified in rules promulgated by the State Commissioner of Health pursuant to the provisions of the Residential Care Act.

2. No person who has been convicted of a felony in connection with the management or operation of a home, or facility as defined in Section 1-1902 of this title or in the care and treatment of the residents of a home, or facility as defined in Section 1-1902 or 1-1950.1 of this title shall be eligible to be licensed or to participate in the management or operation of a home.

3. If the applicant is a firm, partnership, or corporation, the applicant shall not be eligible to be licensed if any member of the firm or partnership or any officer or major stockholder of the corporation has been convicted of a felony in connection with the operation or management of a home or facility or the care and treatment of the residents of a home or facility as defined in [Section 1-1902](#) of this title.

E. 1. The application for a license or renewal of a license shall be accompanied by a statement of ownership which shall include the following:

- a. the name, address, telephone number, occupation or business activity, business address, and business telephone number of the owner of the home and of every person who owns the building in which the home is located. If the owner is a partnership or corporation, the name and address of each partner and stockholder with an ownership interest of five percent (5%) or more shall be included in the statement, and
- b. the name and address of any other home in which the owner has a full or partial financial interest or, if the owner is a partnership or corporation, any other home in which the partnership or corporation has a full or partial financial interest. The statement shall indicate whether or not any other home wherein a full or partial financial interest is held would, if located in this state, be required to be licensed.

2. The applicant shall agree in writing, prior to the issuance of a license, to notify the Department if there is any change in the information required to be included in the statement of ownership thirty (30) days in advance of such change. The information contained in the statement of ownership shall be public information and shall be available upon request from the Department.

F. Upon application of a licensee, a license may be modified in accordance with the provisions of the Residential Care Act. Such application for modification of a license shall be accompanied by a fee of Twenty Dollars (\$20.00) and shall be submitted in such form and manner as required by the Department.

G. Upon payment of the required application fees, the Commissioner may issue and renew licenses which substantially comply with the provisions of the Residential Care Act and rules promulgated pursuant thereto; provided, however, a plan of correction shall be submitted and accepted by both parties prior to licensure.

H. All residential care homes shall be required to have or employ a licensed administrator for the home.

Historical Data

Laws 1984, HB 1898, c. 128, § 10, eff. November 1, 1984; Amended by Laws 1985, HB 1426, c. 135, § 3, emerg. eff. June 7, 1985; Amended by Laws 1987, HB 1092, c. 98, § 4, emerg. eff. May 20, 1987; Amended by Laws 2001, SB 738, c. 410, § 3, eff. November 1, 2001 ([superseded document available](#)); Amended by Laws 2017, SB 774, c. 367, § 1, eff. November 1, 2017 ([superseded document available](#)); Amended by Laws 2021, SB 654, c. 94, § 1, eff. November 1, 2021 ([superseded document available](#)).

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Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Residential Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-823 - Transfer of Ownership of Residential Care Home - Requirements

Cite as: O.S. §, ___ __

Whenever ownership of a residential care home is transferred from the person named in the application to another person who does not have a current license for the home, the transferee must obtain a probationary license as provided in Section 1-824 of this title.

1. The transferee shall notify the State Department of Health of the transfer and apply for a license no less than thirty (30) days prior to final transfer.

2. The transferor shall notify the Department of the transfer no less than thirty (30) days prior to final transfer and shall remain responsible for the operation of the home until such time as a probationary license is issued to the transferee. The transferor shall remain liable for all penalties assessed which are imposed for violations occurring prior to transfer of ownership.

Historical Data

Laws 1984, HB 1898, c. 128, § 11, eff. November 1, 1984; Amended by Laws 1987, HB 1092, c. 98, § 5, emerg. eff. May 20, 1987; Amended by Laws 2001, SB 738, c. 410, § 4, eff. November 1, 2001 ([superseded document available](#)).

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Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Residential Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-824 - Issuance of Probationary License

Cite as: O.S. §, ___ __

If an applicant for licensure under the Residential Care Act has not been previously licensed, or if a home is not in operation at the time application is made, the State Department of Health shall issue a probationary license. A probationary license shall be valid for one hundred twenty (120) days unless sooner suspended or revoked pursuant to the provisions of the Residential Care Act.

1. Prior to the issuance of a probationary license, the Department shall:

a. ascertain whether the applicant is qualified to be licensed pursuant to the provisions of Section 1-822 of this title, and

b. inspect the home and inform the applicant of any conditions which require correction prior to the issuance of a license. If the home is a new home, the Department shall also inform the applicant of any condition which requires correction prior to the acceptance of residents into the home. If the home is an existing home whose ownership is being transferred, the probationary license issued to the transferee, in addition to any corrections required as a result of the inspection, shall be subject to any plan of correction submitted by the previous owner and approved by the Department.

2. Within thirty (30) days prior to the termination of a probationary license, the Department shall completely inspect the home and, if the home meets the applicable rules for licensure, shall issue a license pursuant to the provisions of the Residential Care Act and rules promulgated pursuant thereto. If at the end of an extension of the probationary license, the home is not in substantial compliance with the provisions of the Residential Care Act and the rules promulgated pursuant thereto, the license shall be denied and the Department shall take such action as necessary and as authorized pursuant to the provisions of the Residential Care Act for the protection of the health, safety, and welfare of the residents of the home.

Historical Data

Laws 1984, HB 1898, c. 128, § 12, eff. November 1, 1984; Amended by Laws 1987, HB 1092, c. 98, § 6, emerg. eff. May 20, 1987; Amended by Laws 2001, SB 738, c. 410, § 5, eff. November 1, 2001 ([superseded document available](#)).

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Chapter 1 - Oklahoma Public Health Code

Residential Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-825 - Penalties for Violations

Cite as: O.S. §, ___ __

Any person who violates any of the provisions of the Residential Care Act, the rules promulgated pursuant thereto by the State Board of Health, or any order or determination of the State Department of Health pursuant to the provisions of the Residential Care Act, or who fails to perform any duty imposed upon such person by the provisions of the Residential Care Act, shall be subject to any of the following penalties and liabilities as authorized by the provisions of the Residential Care Act:

1. License revocation, suspension, or nonrenewal;
2. Transfer of residents;
3. Temporary manager;
4. Injunctive proceedings;
5. Civil fines; and
6. Criminal penalties as provided in Section 1-832 of this title.

Historical Data

Laws 1984, HB 1898, c. 128, § 13, eff. November 1, 1984; Amended by Laws 1987, HB 1092, c. 98, § 7, emerg. eff. May 20, 1987; Amended by Laws 2001, SB 738, c. 410, § 6, eff. November 1, 2001 ([superseded document available](#)).

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Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Residential Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-826 - Actions Department May Take - Notice and Hearing

Cite as: O.S. §, ___ __

After notice and opportunity for hearing pursuant to the provisions of Section 1-830 of this title, the State Department of Health may:

1. Deny a license to an applicant who does not meet the requirements for licensure pursuant to the provisions of the Residential Care Act or rules promulgated pursuant thereto;
2. Refuse to renew, suspend, or revoke a license to a licensee or home which is not in compliance with the provisions of the Residential Care Act or the rules of the State Board of Health promulgated pursuant thereto;
3. Deny, refuse to renew, suspend, or revoke a license to an applicant, licensee, or home which has a history of noncompliance or incomplete or partial compliance with the provisions of the Residential Care Act or the rules promulgated pursuant thereto or for which there is other satisfactory evidence which demonstrates that the applicant or licensee is unlikely to manage or operate a home or to provide care or treatment to the residents of a home in a manner which warrants public trust;
4. Deny, refuse to renew, suspend, or revoke a license to an applicant or licensee who has insufficient financial or other resources to the extent that the applicant or licensee is incapable of assuring or providing adequate care or treatment to the residents of the home;
5. Deny, refuse to renew, suspend, or revoke a license to an applicant or licensee who has been convicted of a felony in connection with the management or operation of a home, or facility as defined in Section 1-1902 of this title, or the care or treatment of a resident of the home, or facility as defined in Section 1-1902 of this title;
6. Deny, refuse to renew, suspend, or revoke a license if an administrator or operator of a home has been convicted of a felony in connection with the management or operation of a home, or facility as defined in Section 1-1902 or 1-1950.1 of this title, or care or treatment of a resident of the home, or facility as defined in Section 1-1902 of this title;
7. Deny, refuse to renew, suspend, or revoke a license to an applicant or licensee who has permitted, aided, or abetted the commission of any illegal act in connection with the management or operation of a home or the care or treatment of a resident of a home;
8. Refuse to renew a license if, at the time application is made for the renewal of the license, the licensee or home is subject to a plan of correction. The license may be renewed at such time as the required corrections are completed in the manner and time specified in the plan of correction. If a license is issued or renewed with a plan of correction, such license may be suspended if the required corrections are not completed in the manner and time specified in the plan of correction; or
9. Suspend or revoke a license if the licensee has failed to submit a plan of correction or to correct conditions as required in a plan of correction pursuant to the provisions of Section 1-831 of this title.

Historical Data

Laws 1984, HB 1898, c. 128, § 14, eff. November 1, 1984; Amended by Laws 1987, HB 1092, c. 98, § 8, emerg. eff. May 20, 1987; Amended by Laws 2001, SB 738, c. 410, § 7, eff. November 1, 2001 ([superseded document available](#)).

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Residential Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-827 - Effective Date of Nonrenewal, Suspension, or Revocation - New License

Cite as: O.S. §, ___ __

A. If a hearing is not requested, the effective date of the nonrenewal, suspension, or revocation shall be as follows:

1. In cases of nonrenewal of a license the effective date shall be the expiration date of the license. The date may be extended no longer than necessary to permit the orderly removal of the residents; or

2. In cases of revocation or suspension of the license the effective date shall be the date set by the State Department of Health in the notice of revocation. The date shall be no later than necessary to permit the orderly removal of the residents.

B. If a hearing is requested, unless otherwise ordered by a district court, the effective date of the nonrenewal, suspension, or revocation of a license shall be set upon final action after the hearing and shall be no later than necessary to permit the orderly removal of the residents.

C. A new application of the applicant or licensee whose license was not renewed, suspended, or revoked may be considered after ninety (90) days upon receipt of satisfactory evidence that the conditions upon which such nonrenewal, suspension, or revocation was based have been corrected. A new license may be granted after a full and complete inspection or investigation and the applicant or licensee and the home are in substantial compliance with the provisions of the Residential Care Act and the rules promulgated thereto by the State Board of Health.

Historical Data

Laws 1984, HB 1898, c. 128, § 15, eff. November 1, 1984; Amended by Laws 1987, HB 1092, c. 98, § 9, emerg. eff. May 20, 1987; Amended by Laws 2001, SB 738, c. 410, § 8, eff. November 1, 2001 ([superseded document available](#)).

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Chapter 1 - Oklahoma Public Health Code

Residential Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-828 - Fire Safety Inspections - Rule-Making Power

Cite as: O.S. §, ___ __

The State Fire Marshal or a designee shall conduct fire safety inspections on a regular basis at residential care homes and report any findings from the inspections to the State Department of Health. In addition, the State Fire Marshal shall develop, adopt, and promulgate rules, or specifications consistent with nationally recognized standards or practices necessary for the safeguarding of life and property of residents of residential care homes from the hazards of fire and smoke.

Historical Data

Laws 1984, HB 1898, c. 128, § 16, eff. November 1, 1984; Amended by Laws 1987, HB 1092, c. 98, § 10, emerg. eff. May 20, 1987; Amended by Laws 2001, SB 738, c. 410, § 9, eff. November 1, 2001 ([superseded document available](#)).

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Chapter 1 - Oklahoma Public Health Code

Residential Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-828.1 - No Placement, Referral, or Recommendation of Placement in Unlicensed Residential Care Home

Cite as: O.S. §, ___ __

No state agency shall knowingly place, refer, or recommend placement of a person in need of care in an unlicensed residential care home.

Historical Data

Laws 1987, HB 1092, c. 98, § 20, emerg. eff. May 20, 1987.

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Chapter 1 - Oklahoma Public Health Code

Residential Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-829 - Inspection of Licensed Homes - Reports - Maintenance of Log

Cite as: O.S. §, ___ __

A. Every home for which a license has been issued shall be inspected by a duly appointed representative of the State Department of Health pursuant to rules promulgated by the State Board of Health with the advice and counsel of the Long-Term Care Facility Advisory Board. Inspection reports shall be prepared on forms prescribed by the Department with the advice and counsel of the Advisory Board.

B. 1. The Department shall at least one time a year and whenever it deems necessary inspect, survey, and evaluate each home to determine compliance with applicable licensure rules.

2. An inspection, investigation, survey, or evaluation shall be either announced or unannounced. The State Board of Health shall promulgate rules determining the criteria when an inspection, investigation, survey or evaluation shall be unannounced or may be announced by the Department. Any licensee, applicant for a license or operator of any unlicensed facility shall be deemed to have given consent to any duly authorized employee, agent of the Department to enter and inspect the home in accordance with the provisions of the Residential Care Act. Refusal to permit such entry or inspection shall constitute grounds for the denial, nonrenewal, suspension, or revocation of a license as well as emergency transfer of all residents.

3. Any employee of the Department who discloses to any unauthorized person, prior to an inspection, information regarding an unannounced residential care home inspection that is required pursuant to the provisions of the Residential Care Act shall, upon conviction thereof, be guilty of a misdemeanor. In addition, such action shall be construed to be a misuse of office and punishable as a violation of rules promulgated by the Ethics Commission.

One person may be invited from a statewide organization of older adults or persons with disabilities by the Department to act as a citizen observer in any inspection.

C. The Department shall maintain a log, updated at least monthly and available for public inspection, which shall at a minimum detail:

1. The name of the home and date of inspection, investigation, survey, or evaluation;

2. Any deficiencies, lack of compliance, or violation noted at the inspection, investigation, survey, or evaluation;

3. The date a notice of violation, license denial, nonrenewal, suspension, or revocation was issued or other enforcement action occurred;

4. The date a plan of correction was submitted and the date the plan was approved;

5. The date corrections were completed, as verified by an inspection; and

6. If the inspection or investigation was made pursuant to the receipt of a complaint, the date such complaint was received and the date the complainant was notified of the results of the inspection or investigation.

D. The Department may require the residential care home to submit periodic reports. The Department shall have access to books, records and other documents maintained by the home to the extent necessary to implement the provisions of the Residential Care Act and the rules promulgated by the Board pursuant thereto.

E. The Department shall make at least one annual report on each home in the state. The report shall include all conditions and practices not in compliance with the provisions of the Residential Care Act or rules promulgated pursuant thereto within the last year and, if a violation is corrected, or is subject to an approved plan of correction. The Department shall send a copy of the report to any person upon receiving a written request. The Department may charge a reasonable fee to cover the cost of copying and mailing the report.

F. A state or local ombudsman as that term is defined by the Special Unit on Aging within the Department of Human Services pursuant to the Older Americans' Act, 42 U.S.C.A., Section 3001 et seq., as amended, or case manager employed by the Department of Mental Health and Substance Abuse Services or one of its contract agencies is authorized to accompany and shall be notified by the Department of any inspection conducted of any home licensed pursuant to the provisions of the Residential Care Act. Any state or local ombudsman is authorized to enter any home licensed pursuant to the provisions of the Residential Care Act, communicate privately and without unreasonable restriction with any resident of a home who consents to such communication, to seek consent to communicate privately and without restriction with any resident of a home, and to observe all areas of a home that directly pertain to the care of a resident of a home.

G. Following any inspection by the Department, pursuant to the provisions of this section, all reports relating to the inspection shall be filed in the county office of the Department of Human Services in which the home is located and with the Department of Mental Health and Substance Abuse Services.

Historical Data

Laws 1984, HB 1898, c. 128, § 17, eff. November 1, 1984; Amended by Laws 1987, HB 1092, c. 98, § 11, emerg. eff. May 20, 1987; Amended by Laws 1990, SB 866, c. 51, § 132, emerg. eff. April 9, 1990; Amended by Laws 2001, SB 738, c. 410, § 10, eff. November 1, 2001 ([superseded document available](#)); Amended by Laws 2017, SB 774, c. 367, § 2, eff. November 1, 2017 ([superseded document available](#)).

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Residential Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-830 - Notice to Correct and Answer Complaint - Fair Hearing - Orders - Hearing Officers

Cite as: O.S. §, ___ __

A. Whenever the State Department of Health determines that a home is in violation of the provisions of the Residential Care Act or any rule promulgated pursuant thereto, the Department shall give written notice to the home of the violation.

B. The Department shall give the notice specified by the provisions of subsection A of this section within ten (10) business days of an inspection or investigation of the home.

C. The home may request a hearing within ten (10) business days of receipt of the notice. On the basis of the evidence produced at the hearing, the Department shall make findings of fact and conclusions of law and enter an order thereon. The Department shall give written notice of such order to the alleged violator and to such other persons as shall have appeared at the hearing and made written request for notice of the order. The Department may enter its order on the basis of such record or, before issuing its order, require additional hearings or further evidence to be presented. The order of the Department shall become final and binding on all parties unless appealed to the district court as provided in Sections 317 through 325 of Title 75 of the Oklahoma Statutes within thirty (30) days after notice has been sent to the parties.

D. Whenever the Department finds that an emergency exists requiring immediate action to protect the public health or welfare of any resident of a home licensed pursuant to the provisions of the Residential Care Act, the Department may without notice or hearing issue an order stating the existence of such an emergency and requiring that such action be taken as it deems necessary to meet the emergency. Such order shall be effective immediately. The State Board of Health shall adopt rules that establish criteria for the emergency transfer of residents initiated by the State Department of Health, including notice and hearings, if the resident is aggrieved by the decision. Any person to whom such an order is directed shall comply with the order immediately but on application to the Department shall be afforded a hearing within ten (10) business days of receipt of the notice. On the basis of such hearing, the Department shall continue such order in effect, revoke it, or modify it. Any person aggrieved by such order continued after the hearing provided for in this subsection may appeal to the district court of the area affected within thirty (30) days. Such appeal when docketed shall have priority over all cases pending on the docket, except criminal cases.

E. The hearings authorized by this section may be conducted by the Department. The Department may designate hearing officers who shall have the power and authority to conduct such hearings in the name of the Department at any time and place. Such hearings shall be conducted in conformity with and records made thereof as provided by the provisions of Sections 309 through 326 of Title 75 of the Oklahoma Statutes.

Historical Data

Laws 1984, HB 1898, c. 128, § 18, eff. November 1, 1984; Amended by Laws 1987, HB 1092, c. 98, § 12, emerg. eff. May 20, 1987; Amended by Laws 2001, SB 738, c. 410, § 11, eff. November 1, 2001 ([superseded document available](#)).

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Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Residential Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-830.1 - Residential Care Homes - Informal Dispute Resolution

Cite as: O.S. §, ___ __

This Section Was Added by Two Different Enactments During the 2016 Legislative Session

Version 1(as added by Laws 2016, SB 1506, c. 104, § 1, eff. November 1, 2016)

A. Upon written request to the State Department of Health, a residential care home as defined by the Residential Care Act may choose to participate in an informal dispute resolution panel or an alternate dispute resolution panel. Such request shall be made within thirty (30) days of the receipt of a Statement of Deficiencies from the Department.

B. The informal dispute resolution process provided by subsection A of this section shall be the same as that provided by Sections 1-1914.3 through 1-1914.10 of Title 63 of the Oklahoma Statutes.

C. The alternate informal dispute resolution process provided by subsection A of this section shall be the same provided by Sections 1-1914.13 through 1-1914.16 of Title 63 of the Oklahoma Statutes.

D. The State Department of Health shall appoint the informal dispute resolution panel, to be comprised of the following impartial members:

1. Two members who are representative volunteers with experience in the operation of a residential care home;
2. One member that is an employee of the Department with experience in residential care home surveys;
3. One representative from the aging and disabled community but not representing a state agency; and
4. One member who is a lay member and is not employed by the Department.

E. The State Board of Health shall promulgate rules to implement the provisions of this act.

Version 2 (as added by Laws 2016, HB 2667, c. 198, § 1, eff. November 1, 2016)

A. Any residential care home, as defined in paragraph 12 of Section 1-820 of Title 63 of the Oklahoma Statutes, that wishes to challenge a statement of deficiency through either an informal dispute resolution process or an alternative informal dispute resolution process may make a written request to the State Department of Health within thirty (30) calendar days after the receipt of a statement of deficiencies from the Department.

B. The informal dispute resolution process for violations of the Residential Care Act or any rule promulgated pursuant thereto shall follow the process contained in Sections 1-1914.3, 1-1914.4, subsections B and C of 1-1914.5 and 1-1914.6 through 1914.10 of Title 63 of the Oklahoma Statutes.

C. The alternative informal dispute resolution process for violations of the Residential Care Act or any rule promulgated pursuant thereto shall follow the process contained in Sections 1-1914.11 through 1-1914.16 of Title 63 of the Oklahoma Statutes.

D. An impartial decision-making panel for the alternative informal dispute resolution set forth in subsection C of this section shall be comprised of the following members:

1. Two members who are representative volunteers who have experience in the operation of a residential care home;

2. One member who is an employee of the Department and has experience in the survey process from residential care homes;
3. One member who is a representative from the aging and disabled community and who does not represent a state agency; and
4. One member who is a lay member and who is not employed by the Department.

Historical Data

Added by Laws 2016, SB 1506, c. 104, § 1, eff. November 1, 2016, and by Laws 2016, HB 2667, c. 198, § 1, eff. November 1, 2016.

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Title 63. Public Health and Safety

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Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Residential Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-831 - Plan of Correction - Request for Extended Correction Time - Contest

Cite as: O.S. §, ___ __

A. If the violations specified in the notice required by Section 1-830 of this title have been corrected prior to the date of filing of a plan of correction, the home may submit a report of correction in place of a plan of correction as specified in subsection B of this section. Such report shall be signed by the administrator or operator.

B. A home shall have ten (10) business days after receipt of notice of violation in which to prepare and submit a plan of correction. The plan shall include a fixed time period within which violations are to be corrected. The Department may grant an extended period where correction involves substantial capital improvement. If the Department rejects a plan of correction, it shall send notice of the rejection and the reason for the rejection within ten (10) business days of receipt of the plan of correction to the home. The home shall have ten (10) business days after receipt of the notice of rejection in which to submit a modified plan. If the modified plan is not timely submitted, or if the modified plan is rejected, the home shall follow a directed plan of correction imposed by the Department which shall be submitted to the home within thirty (30) days.

Historical Data

Laws 1984, HB 1898, c. 128, § 19, eff. November 1, 1984; Amended by Laws 1987, HB 1092, c. 98, § 13, emerg. eff. May 20, 1987; Amended by Laws 2001, SB 738, c. 410, § 12, eff. November 1, 2001 ([superseded document available](#)).

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Title 63. Public Health and Safety

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Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Residential Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-832 - Prohibited Acts - Penalties for Violations

Cite as: O.S. §, __ __

A. No person shall willfully:

1. Fail to correct or interfere with the correction of a violation within the time specified on the notice or approved plan of correction pursuant to the provisions of the Residential Care Act as the maximum period given for correction, unless an extension is granted and the corrections are made before expiration of extension;
2. Prevent, interfere with, or attempt to impede in any way the work of any duly authorized representative of the State Department of Health in the investigation and enforcement of the Residential Care Act;
3. Prevent or attempt to prevent any such representative from examining any relevant books or records in the conduct of official duties pursuant to the provisions of the Residential Care Act;
4. Prevent or interfere with any such representative in the preserving of evidence of any violation of the Residential Care Act or the rules promulgated pursuant thereto;
5. Retaliate or discriminate against any resident or employee for contacting or providing information to any state official, or for initiating, participating in, or testifying in an action for any remedy authorized pursuant to the provisions of the Residential Care Act;
6. File any false, incomplete, or intentionally misleading information required to be filed pursuant to the provisions of the Residential Care Act, or willfully fail or refuse to file any information required by the Department pursuant to the provisions of the Residential Care Act; or
7. Open or operate a home without a license. Operation of a residential care home without a license is a public health emergency warranting action pursuant to the provisions of Section 1-830 of this title.

B. No employee of a state or unit of a local governmental agency shall aid, abet, assist, conceal or conspire with an administrator, operator or other employee of a home in a violation of any provision of the Residential Care Act or any rule promulgated by the State Board of Health pursuant thereto.

C. Any person who violates any of the provisions of the Residential Care Act, upon conviction, shall be guilty of a misdemeanor. Each day upon which such violation occurs shall constitute a separate violation.

Historical Data

Laws 1984, HB 1898, c. 128, § 20, eff. November 1, 1984; Amended by Laws 1985, HB 1426, c. 135, § 4, emerg. eff. June 7, 1985; Amended by Laws 1987, HB 1092, c. 98, § 14, emerg. eff. May 20, 1987; Amended by Laws 2001, SB 738, c. 410, § 13, eff. November 1, 2001 ([superseded document available](#)),

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<u>63 O.S. 1-832,</u>	<u>Prohibited Acts - Penalties for Violations</u>	<i>Cited</i>



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Residential Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-833 - Penalties for Violations

Cite as: O.S. §, ___ __

A. Any person who has been determined by the State Department of Health to have violated any provision of the Residential Care Act or any rule promulgated pursuant thereto may be liable for a civil penalty of not more than One Hundred Dollars (\$100.00) for each day that the violation continues. The maximum civil penalty shall not exceed Ten Thousand Dollars (\$10,000.00) for any related series of violations.

B. The amount of the penalty shall be assessed by the Department pursuant to the provisions of subsection A of this section, after notice and hearing. In determining the amount of the penalty, the Department shall include, but not be limited to, consideration of the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, the effect on ability of the person to continue to do business, and any show of good faith in attempting to achieve compliance with the provisions of the Residential Care Act.

C. Any license holder may elect to surrender his or her license in lieu of the fine but shall be forever barred from obtaining a reissuance of the license.

Historical Data

Laws 1984, HB 1898, c. 128, § 21, eff. November 1, 1984; Amended by Laws 1987, HB 1092, c. 98, § 15, emerg. eff. May 20, 1987; Amended by Laws 2001, SB 738, c. 410, § 14, eff. November 1, 2001 ([superseded document available](#)).

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Title 63. Public Health and Safety

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Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Residential Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-834 - Action for Prosecution of Violations or Other Relief

Cite as: O.S. §, ___ __

A. The Attorney General, the State Department of Health or the district attorney of the appropriate district court of Oklahoma may bring an action in a court of competent jurisdiction for the prosecution of a violation by any person of a provision of the Residential Care Act or any rule promulgated pursuant thereto.

B. 1. Enforcement of any action for equitable relief to redress or restrain a violation by any person of a provision of the Residential Care Act or for an injunction or recovery of any administrative or civil penalty assessed pursuant to the Residential Care Act may be brought by:

- a. the district attorney of the appropriate district court of the State of Oklahoma,
- b. the Attorney General on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma, or
- c. the Department on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma, or as otherwise authorized by law.

2. The court has jurisdiction to determine the action, and to grant the necessary or appropriate relief including, but not limited to, mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

Historical Data

Laws 1984, HB 1898, c. 128, § 22, eff. November 1, 1984; Amended by Laws 1987, HB 1092, c. 98, § 16, emerg. eff. May 20, 1987; Amended by Laws 1988, HB 1880, c. 233, § 3, emerg. eff. July 1, 1988; Amended by Laws 2001, SB 738, c. 410, § 15, eff. November 1, 2001 ([superseded document available](#)).

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<u>63 O.S. 1-834,</u>	<u>Action for Prosecution of Violations</u>	<i>Cited</i>



Title 63. Public Health and Safety

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Chapter 1 - Oklahoma Public Health Code

Residential Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-835 - Administration of Medication to Resident of Home

Cite as: O.S. §, ___ __

Administration of medication to a resident of a home shall be administered by a person who has obtained appropriate training from a technology center school or institution of higher education.

Historical Data

Laws 1984, HB 1898, c. 128, § 23, eff. November 1, 1984; Amended by Laws 1985, HB 1426, c. 135, § 5, emerg. eff. June 7, 1985; Amended by Laws 2001, HB 1214 c. 33 § 60, emerg. eff. July 1, 2001 ([superseded document available](#)).

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<i>Cite</i>	<i>Name</i> <i>Level</i>
2001 O.S.L. 33 , 2001 O.S.L. 33 ,	Vocational technical education; changing the name of area vocational technical school districts to technology center school districts; changing statutory cites. Effective date. Cited
	Emergency.

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63 O.S. 1-835 ,	Administration of Medication to Resident of Home Cited



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Residential Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-836 - Development of Minimum Standards for Homes - Certificate of Training

Cite as: O.S. §, ___

A. The State Board of Health shall promulgate rules to enforce the provisions of the Residential Care Act. Such rules shall regulate:

1. Location and construction of the home, including plumbing, heating, lighting, ventilation, and other physical conditions which shall ensure the health, safety, and comfort of residents and protection from fire hazards;
2. Number of all personnel, including management and supervisory personnel, having responsibility for any part of the care given to residents. The Department shall establish staffing ratios for homes which shall specify the number of staff hours of care per resident that are needed for care for various types of homes or areas within homes. Minimum personnel ratio requirements for all homes shall be based only on average daily census;
3. All sanitary conditions within the home and its surroundings, including water supply, sewage disposal, food handling, and general hygiene, which shall ensure the health and comfort of residents;
4. Diet-related needs of each resident based on sound nutritional practice and on recommendations which may be made by the physicians attending the resident;
5. Equipment essential to the health and welfare of the residents; and
6. Rehabilitation programs for those residents who would benefit from such programs.

B. 1. In order to further ensure minimum standards for homes, a certificate of training as specified shall be required of all:

- a. administrators, who shall obtain a residential care administrator certificate of training, and
- b. direct care staff responsible for administration of medication to residents, who shall obtain a residential care certificate of training.

2. The certificate will be developed and administered by an institution of higher learning with the advice of the State Commissioner of Health and of the Long-Term Care Facility Advisory Board.

a. (1) For residential care home administrators the training shall consist of a minimum of fifty (50) hours which shall include at least fifteen (15) hours of training in the administration of medication and shall also include, but not be limited to, training in:

- (a) administration,
- (b) supervision,
- (c) reporting,
- (d) record keeping,
- (e) independent or daily living skills,
- (f) leisure skills and recreation, and
- (g) public relations concerning the issues associated with the operation of residential care homes and programs.

- (2) An individual applying for certification as an administrator may at any time present the institution of higher education with documentation of prior education and work experience for consideration for possible credit toward certification.
- (3) Any person employed as an administrator after July 1, 1988, shall have completed the training specified by this division.
- (4) Thereafter, annually, at least sixteen (16) hours of training in the subjects specified by this division shall be required for such administrator.
- (5) A certified administrator may make a written request to the Commissioner to be placed in an inactive status for up to five (5) subsequent calendar years. Such inactive status shall allow the administrator to waive the educational requirements for the period of the request. Such certified administrator shall not work in a residential care administrator capacity in Oklahoma until such time as the certificate is reactivated. The request to reactivate the certificate shall be made in writing to the Commissioner. Such administrator shall then be required to complete sixteen (16) hours of training in the subjects specified in this division.
- b. All direct care staff who are responsible for administration of medication to residents shall be required to begin training in the administration of medication within ninety (90) days of employment with the home and to satisfactorily complete at least fifteen (15) hours of training in the administration of medication, within the first year of employment with the home.
3. All other direct care staff who are employed by a residential care home, within ninety (90) days of employment with the home, shall be required to begin eight (8) hours of in-service training, to be administered by the administrator of the home or other person designated by the administrator of the home and completed within twelve (12) months from such person's date of employment, and annually thereafter. Thereafter such direct care staff and the direct care staff responsible for administering medication to residents shall, annually, be required to receive at least eight (8) hours of training by the administrator of the home in:
- patient reporting and observation,
 - record keeping,
 - independent or daily living skills,
 - leisure skills and recreation,
 - human relations, and
 - such other training relevant to residential care programs and operations.
4. The requirement of certification and the training specified pursuant to the provisions of this subsection shall be included in the rules promulgated by the Board.
5. Failure of the owner or administrator to ensure the training required pursuant to this subsection is received shall constitute a violation of the Residential Care Act and shall be grounds for revocation of licensure. Proof of successful completion of such training for the residential care home administrator and direct care staff shall be required prior to issuance or renewal of a license issued pursuant to the provisions of the Residential Care Act. The Department shall not renew any license for any residential care home if the training required by this subsection has not been completed.

Historical Data

Laws 1984, HB 1898, c. 128, § 24, eff. November 1, 1984; Amended by Laws 1985, HB 1426, c. 135, § 6, emerg. eff. June 7, 1985; Amended by Laws 1987, HB 1092, c. 98, § 17, emerg. eff. May 20, 1987; Amended by Laws 1988, HB 1880, c. 233, § 2, emerg. eff. July 1, 1988; Amended by Laws 1998, SB 1013, c. 110, § 1, eff. November 1, 1998 ([superseded document available](#)); Amended by Laws 2001, SB 738, c. 410, § 16, eff. November 1, 2001 ([superseded document available](#)).

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2016 OK 28, 376 P.3d 894.	MOORE v. WARR ACRES NURSING CENTER, LLC.
	Discussed

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<u>63 O.S. 1-836.</u>	<u>Development of Minimum Standards for Homes - Certificate of Training</u>	<i>Cited</i>



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Residential Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-839 - Deposit of Monies Received by Department

Cite as: O.S. §, ___ __

All monies received by the State Department of Health, from any monies received as a result of an assessment of a civil penalty pursuant to the provisions of the Residential Care Act shall be deposited in the Public Health Special Fund created in Section 1-107 of this title.

Historical Data

Laws 1984, HB 1898, c. 128, § 27, eff. November 1, 1984; Amended by Laws 1986, SB 413, c. 312, § 15, emerg. eff. July 1, 1986; Amended by Laws 1987, HB 1092, c. 98, § 19, emerg. eff. May 20, 1987; Amended by Laws 2001, SB 738, c. 410, § 18, eff. November 1, 2001 ([superseded document available](#)).

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

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Chapter 1 - Oklahoma Public Health Code

Residential Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-840 - Provisions Subject to Residential Care Act

Cite as: O.S. §, ___ __

Residential care homes subject to the provisions of the Residential Care Act shall comply with the provisions of Sections 1-1909, 1-1910, 1-1914.1, 1914.2, 1-1915, 1-1917, 1-1918, 1-1919, 1-1920, 1-1921, 1-1922, 1-1924, 1-1926, 1-1927, 1-1930, 1-1939, 1-1940 and 1-1941 of this title.

Historical Data

Laws 1984, HB 1898, c. 128, § 28, eff. November 1, 1984; Amended by Laws 1985, HB 1426, c. 135, § 7, emerg. eff. June 7, 1985; Amended by Laws 1986, HB 1727, c. 10, § 1, emerg. eff. March 17, 1986; Amended by Laws 1987, HB 1092, c. 98, § 21, emerg. eff. May 20, 1987; Amended by Laws 1995, HB 1293, c. 230, § 6, emerg. eff. July 1, 1995.

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<i>2010 OK CIV APP 115, 241 P.3d 674.</i>	<i>OSBORN v. BROOKDALE SENIOR LIVING, INC.</i>
	<i>Discussed at Length</i>

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None Found.



Title 63. Public Health and Safety

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Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Residential Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-841 - Financial Records Accounting

Cite as: O.S. §, ___ __

The State Department of Health shall require as a condition of licensure for residential care facilities that an accounting be made of financial records of each client for which the facility is the payee in each such residential facility. Such accounting shall be recorded and given to the resident and/or the resident's representative upon request. The records may be inspected by any employee of the Department during any regular inspection or at any time a complaint is received by the Department regarding a client's finances.

Historical Data

Laws 1995, HB 1293, c. 230, § 3, emerg. eff. July 1, 1995; Amended by Laws 2001, SB 738, c. 410, § 19, eff. November 1, 2001 ([superseded document available](#)).

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<u>63 O.S. 1-841,</u>	<u>Financial Records Accounting</u>
	<i>Level</i>
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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Residential Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-842 - Representative of a Resident

Cite as: O.S. §, ___ __

A. Any contract or application for admission to a residential care facility shall include provisions for the applicant to designate an individual to be the "representative of a resident". The individual so designated shall have a fiduciary duty to the resident to act at all times in the best interests of the resident. Any resident of a residential care facility may change the designation of a representative at any time and for any reason. No representative shall be required to serve in such capacity if the person objects to serving, and may resign as representative upon written notice to the resident and the facility.

B. Upon admission or the signing of a contract for admission to a residential care facility or any modifications to the contract for admission, the representative of the resident shall be notified of the admission, the contract or any modifications to the contract.

C. If a resident is subject to a special, limited or full guardianship, pursuant to the provisions of the Oklahoma Guardianship and Conservatorship Act or the Protective Services for the Elderly and for Incapacitated Adults Act, the representative of the resident shall be the court-appointed guardian.

Historical Data

Laws 1995, HB 1293, c. 230, § 5, emerg. eff. July 1, 1995.

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OAC 310:680

Residential Care Homes

Rule text was pulled from the official record on the Oklahoma Office of Administrative Rules (OAR) web page on 02-08-24. Rules are subject to change through the rule promulgation process. When rule promulgation results in rule change, updated language is published to the official OAR site a few weeks after the effective date of the rule change. *Emergency rules are not published to the OAR site.

CHAPTER 680. RESIDENTIAL CARE HOMES

[Authority:63 O.S., §§ 1-104 and 1-819 et seq.]

[Source:Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS

310:680-1-1. Purpose

These Standards and Regulations are promulgated as provided for by the Residential Care Act, 63 O.S. Section 1-820 through 1-840 to establish the minimum criteria for the issuance or renewal of a residential care home license. In addition, these standards and regulations provide the criteria which will be used in enforcing the provision of the Act as necessary to protect the health, safety and welfare of the residents and to assure respect for their rights, dignity and comfort.

310:680-1-2. Definitions

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

"Abuse" means any intentional or negligent act or omission, directly and proximately resulting in physical or mental injury to a resident of a facility.

"Access" means the right of a person to enter a home to communicate privately and without unreasonable restriction.

"Administration" means the removing of a single dose of medication from a labeled container and preparing that dose for distribution.

"Administrator" means the person who is in charge of a home and denotes one-third (1/3) of his/her full working time to on-the-job supervision of such home.

"Ambulatory" means any resident who is capable of self-movement, including in and out of wheelchairs, to all areas of the home.

"Department" means the State Department of Health.

"Dispensing" means transferring one or more doses of medication from one labeled container to another labeled container.

"Habilitation" means procedures and interventions designed to assist a mentally ill, drug dependent or alcohol-dependent person eighteen (18) years of age or older to achieve greater physical, mental and social development by enhancing the well-being of the person and teaching skills which increase the possibility that the resident will make progressively independent and responsible decisions about social behavior, quality of life, job satisfaction and personal relationships.

"Home" means residential care home.

"Institution of higher learning" means an institution which provides post-secondary school programs.

"Licensee" means a person, corporation, partnership, or association who is the owner of a home which is licensed pursuant to the provisions of the Residential Care Act.

"Maintenance" means meals, shelter, and laundry services.

"Medication" means a prescription drug or an over-the-counter drug prescribed by a person licensed to prescribe.

"Monitor" means watch, observe, check and keep track of for a special purpose.

"Neglect" means any act of omission or commission by any owner, operator, administrator, licensee or any agent, servant, employee or other person under the employment, supervision or control of any one or more of the owners, operators or administrators, and which act is a direct and proximate cause of any physical or mental injury to a resident.

"Owner" means a person, corporation, partnership, association or other entity which owns a home or leases a home. The person or entity who stands to profit or lose as a result of the financial success or failure of the operation shall be presumed to be the owner of the homes.

"Personal care" means assistance with meals, dressing, movement, bathing, or other personal needs or maintenance or general supervision of the physical and mental well-being of a person who is

capable of maintaining a private, independent residence, or who is incapable of managing his person whether or not a guardian has been appointed for such person.

"Representative of a resident" means a court-appointed guardian, or if there is no court-appointed guardian, the parent of a minor, a relative or other person designated in writing by the resident. An owner, agent, or employee of a home shall not be a representative of a resident unless such person is appointed by the court.

"Residential Care Home" means

(A) Any establishment or institution other than a hotel motel, fraternity or sorority house, or college or university dormitory which offers or provides residential accommodations, food service and supportive assistance to any of its residents or houses any resident requiring supportive assistance who are not related to the owner or administrator of the home by blood or marriage. Said residents shall be ambulatory and essentially capable of managing their own affairs, but do not routinely require skilled nursing care or intermediate care.

(B) Transitional Living facility and halfway houses are defined in section 3-403 of Title 43A of Oklahoma Statutes.

(C) A residential care home may consist of a series of units or buildings which are not connected or part of the same structure if:

(i) Such buildings or units are owned by the same owner or operator.

(ii) All residents of the units or buildings are fully capable of ambulation to and from buildings or units.

(iii) The location and construction of the building or units ensure the health, safety and protection from fire hazards and other hazards and provide for the convenience and accessibility of the residents to each residential building or unit.

(iv) Any out-of-doors premise or thoroughfare is adequately maintained to ensure the health and safety of the residents.

(v) The building or units are within one hundred seventy-five (175) feet of the building housing the main kitchen and dining room.

(vi) The units or buildings must be located in the most convenient and accessible location for residents.

"Residential Care Certification" means a program in a residential care home certified by and contracted with the Department of Mental Health to provide specialized services to residents who are mentally ill.

"Self-administration" means the administration of resident's medication by the resident with periodic staff review.

"Supportive assistance" means the service rendered to any person which is sufficient to enable the person to meet an adequate level of daily living. Supportive assistance includes but is not limited to housekeeping, assistance in the preparation of meals, assistance in the safe storage, distribution and administration of medications, and assistance in personal care as is necessary for the health and comfort of such person. The term "supportive assistance" shall not be interpreted or applied so as to prohibit the participation of residents in housekeeping or meal preparation tasks as a part of the written treatment plan for the training, habilitation or rehabilitation of the resident prepared with the participation of the resident, the mental health or drug or alcohol services case manager assigned to the resident and the administrator of the facility, or his designee. Supportive assistance shall not include medical service.

"Transfer" means a change in location of living arrangements of a resident from one home to another home.

[Source: Amended at 18 Ok Reg 2550, eff 6-25-01]

310:680-1-3. Purpose, authority and indoor tobacco smoke

(a) The purpose of this section is to establish a prevention program for several non-communicable diseases, which will improve the health of Oklahomans by eliminating exposure to secondhand tobacco smoke and its deadly effects. This section abates the public health nuisance of secondhand smoke under the authority of the Commissioner of Health as specified under Section 1-106(b)(1) of Title 63 of the Oklahoma

Statutes. This section also further specifies how compliance with the Smoking in Public Places Act will be accomplished. [63 O.S. §§ 1-1521 *et seq.*]

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

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

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

- (1) It is completely enclosed;
- (2) It is exhausted directly to the outside and maintained under negative pressure sufficient to prevent any tobacco smoke from entering non-smoking areas of the building;
- (3) It allows for visual observation of the residents from outside of the smoking room; and
- (4) The plans are reviewed and approved by the Department.

(e) To enable better observation and supervision of residents who wish to smoke outside, a facility may designate a smoking area outside an entrance other than the main entrance which may be closer than fifteen (15) feet to the entrance providing consideration is given to minimizing the possibility of smoke entering the building.

(f) The walkway to the main entrance shall also be smoke free.

(g) No ashtray shall be located closer than fifteen (15) feet to an entrance, except in an indoor smoking room or a designated outdoor smoking area under paragraph "c" above.

(h) Should construction requirements not be in agreement with this rule, the stricter rule shall apply.

(i) The facility's tobacco use policy shall be clearly posted near the main entrance, and prospective residents or their legal representatives shall be notified of the policy prior to the residents' acceptance for admission.

[Source: Added at 19 Ok Reg 2119, eff 7-1-02]

SUBCHAPTER 3. LICENSURE REQUIREMENTS

310:680-3-1. License required

(a) It shall be unlawful for any person or organization to operate a residential care home without first obtaining a license from the Oklahoma State Department of Health.

(b) All licenses shall be on a form prescribed by the Commissioner of Health. The license may be issued only for the premises named in the license application and shall not be transferable or assignable.

310:680-3-2. Licenses

(a) **Regular license.** A regular license is valid for 36 months from date of issue. A license may be issued upon receipt of completed application, payment of license fee, and verification by the Department that the home is in compliance with this Chapter and the Act. A nonrefundable \$75 fee must be included with a regular license application. [63 O.S. § 1-822(A)]

(b) **Renewal license.** *Renewal licenses may be issued for a period of more than twenty-four (24) months, but not more than thirty-six (36) months, for the license period immediately following November 1, 2021, in order to permit an equitable distribution of license expiration dates.* [63 O.S. § 1-822(A)] Thereafter, all renewal licenses will be for 36 months. A nonrefundable fee of \$25 per year for the renewal license must be included with the renewal application. [63 O.S. § 1-822(A)].

(c) **Probationary license.** Before an applicant is eligible to apply for a regular license, it must first apply and receive a probationary license. A probationary license shall be valid for one hundred twenty (120) days unless sooner suspended or revoked by the Department. A nonrefundable \$50 fee must be included with a probationary license application. [63 O.S. § 1-822(A)]. Prior to issuance of a probationary license, the Department shall:

- (1) Ascertain whether or not the applicant is qualified to be licensed.
- (2) Inspect the home and inform the applicant of any condition which requires correction prior to issuance of a license. If the home is a new home, the Department shall also inform the applicant of any conditions which require correction prior to acceptance of residents into the home.
- (3) If the home is an existing home whose ownership is being transferred, the probationary license issued to the transferee, in addition to any corrections required as a result of the inspection, shall be subject to any plan of correction submitted by the previous owner and approved by the Department.

(d) Conditional license.

- (1) If the Department finds that a residential care home is in violation of the Residential Care Act or this Chapter, then it may revoke the residential care home's regular license and issue it a conditional license. There is no fee associated with this change in license status.
- (2) Prior to the issuance of a conditional license, the Department shall review and approve a written plan of correction. The Department shall specify the violations which prevent full licensure and shall establish a time schedule for correction of the violation. Written notice of the decision to issue a conditional license shall be sent to the residential care home, together with the proposed plan of correction. The notice shall inform the home of the right to an informal conference prior to issuance of the conditional license, and its right to a full hearing.
- (3) A conditional license shall be issued for a period specified by the Department, but in no event for more than one (1) year.
- (4) The Department shall periodically, but not less than semiannually, inspect any home operating under a conditional license. If the Department finds substantial failure by the residential care home to follow the plan of correction, the conditional license may be revoked.
- (5) If the Department determines that a conditional license shall expire without renewal or replacement of the conditional license by a regular license, the Department shall notify the licensee at least thirty (30) days prior to expiration of the license. The licensee is entitled to a hearing if requested prior to expiration of the conditional license.

[Source: Amended at 39 Ok Reg 1394, eff 9-11-22]

310:680-3-3. Applications

- (a) An applicant for probationary license, regular license or renewal thereof to operate a residential care home shall submit to the Department a completed application along with the appropriate fee, and documents required by the Commissioner to determine that the applicant is of reputable and responsible character and otherwise demonstrates the skill and fitness to provide the necessary services. In addition, the applicant shall have appropriate business or professional experience in dealing with the type of residents in the home.
- (b) A license fee of twenty dollars (\$20.00) shall accompany any application for modification of a license.
- (c) An application for license, or renewal, shall include a copy of all agreements with the professional consultants utilized by the home.
- (d) An application for an initial license to operate a residential care home shall include documentation that the State Fire Marshal or the State Fire Marshal's representative has inspected and approved the home. Each application for renewal of a license for a residential care home with more than six beds shall include documentation of annual inspection and approval by the State Fire Marshal or the State Fire Marshal's representative.
- (e) The following items must be renewed annually:
 - (1) An agreement with a physician, physician assistant or advanced practice registered nurse to provide clinical consultation.
 - (2) Agreements with registered nurse, registered dietitian, and registered pharmacist, as required based on the needs of the residents.
 - (3) Licensed plumber or building inspector's report.
 - (4) Licensed electrician or municipal inspector's report.
- (f) *Each initial application shall be accompanied by a statement from the unit of local government having zoning jurisdiction over the location of the home stating that the location is not in violation of a zoning ordinance.* [63:1-822(C)]

(g) Each application shall be accompanied by an attested statement from the applicant assuring that the applicant complies with 63 O.S. Section 1-822(D). If the applicant is a firm, partnership or corporation, the application shall include an attested statement from each member of the firm or partnership and from each officer and major stockholder of the corporation.

[Source: Amended at 17 Ok Reg 2074, eff 6-12-00; Amended at 18 Ok Reg 2550, eff 6-25-01; Amended at 34 Ok Reg 1314, eff 10-1-17; Amended at 39 Ok Reg 1394, eff 9-11-22]

310:680-3-4. Inspections

- (a) Each residential care home shall be periodically inspected by a duly appointed representative of the Department.
- (b) The Department shall at least three times a year and whenever it deems necessary inspect, survey, and evaluate each home to determine compliance with applicable licensure and certification requirements and standards. The annual inspection shall occur within one hundred twenty (120) days prior to license renewal.
- (c) Any inspection, investigation, survey or evaluation may be conducted without prior notice to the home. At least one inspection per home shall be unannounced. Any licensee or applicant for a license shall be deemed to have given consent to any duly authorized employe or agent of the Department to enter and inspect the home in accordance with the provisions of the Residential Care Act. Refusal to permit such entry or inspection may constitute grounds for the denial, nonrenewal, suspension, or revocation of a license.
- (d) A notice of violation shall be sent to any residential care home when violations are cited as a result of an inspection. The home has ten (10) days after receipt of the notice of violation in which to prepare and submit a plan of correction. The plan of correction shall include a fixed time period not in excess of thirty (30) calendar days, within which the violations are to be corrected. An additional thirty days may be requested and approved by the Department.

310:680-3-5. Sanctions

- (a) The Department may deny, refuse, suspend, or refuse to renew a license to a residential care home on the following grounds:
 - (1) Failure to meet the provisions of the standards, rules, or regulations for licensure or the provisions of the Residential Care Act.
 - (2) The residential care home has a history of noncompliance or incomplete or partial compliance with the provisions of the Residential Care Act, or the standards, rules, or regulations, or other evidence which demonstrates that the applicant or licensee is unlikely to manage or operate a home or to provide appropriate services to the residents of the home.
 - (3) The applicant has insufficient financial or other resources to the extent that the applicant or licensee is incapable of assuring or providing adequate services to the residents of the home.
 - (4) An applicant, licensee administrator or operator has been convicted of a misdemeanor or felony in connection with the management or operation of a home or facility, or the care and treatment of a resident of a residential care home or other long term care facility.
 - (5) The applicant or licensee has permitted, aided, or abetted the commission of an illegal act in connection with the management or operation of a home or the care of treatment of a resident of a home.
 - (6) Failure to make corrections of violations as required in a plan of correction submitted by the home.
- (b) The Department may issue a conditional license to any residential care home that violations exist. The issuance of a conditional license shall revoke any license held by the home.
- (c) The Department may initiate an emergency transfer of residents in any home where an immediate health or safety hazard exists.
- (d) The Department may petition the court to place the home under the control of a receiver to ensure that the residents receive adequate care if the Commissioner determines that proper cause exists. Whatever steps necessary shall be taken to protect the health, welfare, and safety of the residents.

- (e) Any person who has been determined by the Department to have violated any provisions of the Residential Care Act or any rule, regulation, or order issued pursuant to the provisions of the Residential Care Act may be liable for a civil penalty of not more than one hundred dollars (\$100.00) for each day that the violation continues. The maximum civil penalty shall be ten thousand dollars (\$10,000.00) for any related series of violations.
- (f) The Attorney General or the district attorney of the appropriate district court of Oklahoma may bring an action in a court of competent jurisdiction for the prosecution of a violation by any person of a provision of the Residential Care Act or any rule, regulation, or order issued pursuant to the Residential Care Act.
- (g) Enforcement of any action for equitable relief to redress or restrain a violation by any person of a provision of the Residential Care Act or for an injunction or recovery of any administrative or civil penalty assessed pursuant to the Residential Care Act may be brought by:
- (1) the district attorney of the appropriate court of the State of Oklahoma.
 - (2) the Attorney General on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma; or
 - (3) the Department on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma, or as otherwise authorized by law.
- (h) The court has jurisdiction to determine said action, and to grant the necessary or appropriate relief, including but not limited to mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

[Source: Amended at 17 Ok Reg 2074, eff 6-12-00]

310:680-3-6. Records and reports

- (a) Every residential care home shall conspicuously post in an area of its offices accessible to residents, employees, and visitors, the following:
- (1) Its current license.
 - (2) The name of the current administrator and their license posted.
 - (3) A copy of Residents' Rights.
 - (4) Complaint procedure, established by the Nursing Home Care Act and provided by the Department which includes name, address, and telephone number of a person within the Department who is authorized to receive complaints.
 - (5) A copy of any order pertaining to the home issued by the Department or a court, which is currently in effect.
- (b) Every residential care home shall retain the following for public inspection:
- (1) A complete copy of every inspection report of the residential care home received from the Department during the past three (3) years.
 - (2) A copy of every order pertaining to the residential care home issued by the Department or a court during the past three (3) years.
 - (3) A description of the services provided by the residential care home, the rates charged for those services, and items for which a resident may be separately charged.
 - (4) A copy of the statement of ownership.
 - (5) A list of personnel who are licensed, certified, or registered and employed or retained by the residential care home, including area in which individual is credentialed.
- (c) Reports of communicable disease shall be made in accordance with 63 O.S. Section 1-501, et seq.
- (d) The Department shall be notified of all incidents pertaining to fire, storm damage, death other than natural, residents missing, or utility failure for more than eight (8) hours. The home shall report to the Department incidents that result in: fractures, injury requiring treatment at a hospital, a physician's diagnosis of closed head injury or concussion, or head injuries that require more than first aid. Notice shall be made no later than the next working day. In lieu of making incident reports during an emergency response to a natural or man-made disaster, the home may coordinate its communications, status reports and assistance requests through the home's local emergency response coordinator, and file a final report with the Department within ten (10) days after conclusion of the emergency response.
- (e) An evacuation plan shall be developed and permanently displayed in the hallways and sitting room. Fire drills shall be conducted at least quarterly.

(f) The home shall have a written plan for temporary living arrangements in case of fire, climatic conditions that warrant evacuation and/or other natural disasters that may render the home unsuitable.

[Source: Amended at 27 Ok Reg 2548, eff 7-25-10; Amended at 34 Ok Reg 1314, eff 10-1-17]

310:680-3-7. Resident records

- (a) All current documents which relate to the residents must be kept in the residential care home. Other records may be kept in the central business office or other location, but must be made available upon request by the Department.
- (b) Every resident record shall be written in ink and include as a minimum, the following information:
- (1) Resident's name.
 - (2) Date of Birth.
 - (3) Person to contact in case of emergency.
 - (4) Written authorization for emergency medical/dental services signed by the resident or responsible party.
 - (5) Medical summary to include quarterly weight of resident, medications, and dosages.
 - (6) The name, address, and telephone numbers of resident's physician and dentist.
 - (7) A record of the resident's illnesses, accidents, and unusual occurrence while a resident of the home.
 - (8) The legal status of the resident.
 - (9) An accounting of the resident's funds received and/or distributed by the residential care home.
- (c) All persons having access to the records shall strictly adhere to confidentiality of records.
- (d) Resident records shall be maintained in a lockable container or a specific lockable area.
- (e) Only individuals authorized by the residential care home shall have access to resident records.

310:680-3-8. Residents' council

- (a) Each residential care home shall establish a residents' advisory council, The administrator shall designate a member of the residential care home staff to coordinate the establishment of and render assistance to the council. No employee or affiliate of the home shall be a member of the council.
- (b) The council shall consist of not less than 10 people or 50% of the residents or residents' family.
- (c) The council shall meet at least monthly.
- (d) A staff member shall assist in preparing a report of each meeting and make a copy available to the residents, the administrator, and staff.
- (e) Reports of the council meetings shall be maintained in the home.
- (f) Names of all residents attending the meeting shall be recorded in the reports.
- (g) The residents' advisory council shall be a forum for:
- (1) Obtaining and disseminating information.
 - (2) Soliciting and adopting recommendations for residential care home programming and improvements and to strengthen the home's policies and procedures as they affect residents' rights and home responsibilities.
 - (3) The residents' advisory council may present complaints on behalf of a resident to the Department.

310:680-3-9. Complaints

(a) **Complaints to the residential care home.** The home shall make available to each resident or the resident's representative a copy of the home's complaint procedure. The home shall ensure that all employees comply with the home's complaint procedure. The home's complaint procedure shall include at least the following requirements.

- (1) The home shall list in its procedures and shall require to be posted in a conspicuous place outside the administrator's office area the following information:
 - (A) The names, addresses and telephone numbers of staff persons designated to receive complaints for the home;
 - (B) Notice that a good faith complaint made against the home shall not result in reprisal against the person making the complaint; and

(C) Notice that any person with a complaint is encouraged to attempt to resolve the complaint with the home's designated complaint staff, but that the person may submit a complaint to the Department without prior notice to the home.

(2) If a resident, resident's representative or home employee submits to the administrator or designated complaint staff a written complaint concerning resident abuse, neglect or misappropriation of resident's property, the home shall comply with the Protective Services for Vulnerable Adults Act, Title 43A O.S. Sections 10-101 through 10-110.

(b) Complaints to the Department. The following requirements apply to complaints filed with the Department.

(1) The Department shall provide to each home a notice identifying the telephone number and location of the Department's central call center to which complaints may be submitted. The home shall post such notice in a conspicuous place outside the administrator's office area.

(2) Any person may submit a complaint to the Department in writing, by phone, or personally. The Department shall reduce to writing a verbal complaint received by phone or in person.

(3) If the complainant is a resident, the resident's representative, or a current employee of the home, the Department shall keep the complainant's identity confidential. For other complaints, the Department shall ask the complainants preference regarding confidentiality.

(4) The Department shall receive and triage complaints at a central call center. The complaints shall be classified and investigated according to the following priorities:

(A) A complaint alleging a situation in which the home's noncompliance with state requirements relating to residential care homes has caused or is likely to cause serious injury, harm, impairment or death to a resident shall be classified as immediate jeopardy and shall be investigated by the Department within two (2) working days;

(B) A complaint alleging minimal harm or more than minimal harm to a resident but less than an immediate jeopardy situation shall be classified as actual harm and shall be investigated by the Department within ten (10) working days; and

(C) A complaint alleging other than immediate jeopardy or actual harm shall be scheduled for an onsite survey and investigated during the next onsite survey or sooner if deemed necessary by the Department; and

(D) A complaint alleging a violation that caused no actual harm but the potential for more than minimal harm to a resident, that repeats a violation cited by the Department within the preceding twelve (12) months, and that is alleged to have occurred after the Department determined the facility corrected the previous violation, shall be classified as continuing and investigated the earlier of the next onsite survey or ninety (90) calendar days.

(5) In addition to scheduling investigations as provided in paragraph (4) of this subsection, the Department shall take necessary immediate action to remedy a situation that alleges a violation of the Residential Care Act or any rules promulgated under authority of the Act if that situation represents a serious threat to the health, safety and welfare of a resident.

(6) In investigating complaints, the Department shall:

(A) Protect the identity of the complainant if a current or past resident or resident's representative or designated guardian or a current or past employee of the home by conforming to the following:

(i) The investigator shall select at least three (3) records for review, including the record of the resident identified in the complaint. The three records shall be selected based on residents with similar circumstances as detailed in the complaint if possible. All three (3) records shall be reviewed to determine whether the complaint is substantiated and if the alleged deficient practice exists; and

(ii) The investigator shall interview or observe at least three (3) residents during the home observation or tour, which will include the resident referenced in the complaint if identified and available in the home. If no resident is identified, then the observations used of the three residents shall be used to assist in either substantiating or refuting the complaint;

(B) Review surveys completed within the last survey cycle to identify tendencies or patterns of non-compliance by the home;

- (C) Attempt to contact the State or Local Ombudsman and the complainant, if identified, prior to the survey; and
 - (D) Interview the complainant, the resident, if possible, and any potential witness, collateral resource or affected resident.
- (7) The Department shall limit the complaint report to the formal report of complaint investigation. The formal report of complaint investigation shall be issued to the home and the complainant, if requested, within ten (10) business days after completion of the investigation. The formal report of investigation shall include at least the following:
- (A) Nature of the allegation(s);
 - (B) Written findings;
 - (C) Deficiencies, if any, related to the complaint investigation;
 - (D) Warning notice, if any;
 - (E) Correction order, if any; and
 - (F) Other relevant information.

[Source: Amended at 18 Ok Reg 2550, eff 6-25-01; Amended at 34 Ok Reg 1314, eff 10-1-17]

310:680-3-10. Abuse or neglect

- (a) The residential care home shall have a written policy statement that expressly prohibits the abuse or neglect of the individuals it serves. The policy shall include the home's investigative procedures and actions to be taken when incidents of abuse or neglect occur.
- (b) Any individual who becomes aware of abuse or neglect of a resident shall report the matter immediately to the Department and comply with other reporting requirements provided in O.S. Title 43A section 10-104.
- (c) The administrator of the residential care home who becomes aware of abuse or neglect of a resident shall immediately act to rectify the problem and shall make a report of the incident and its correction to the Department.
- (d) The residential care home shall provide staff training in the identification of abuse and neglect, and the home's policies and procedures concerning the same. Verification of the provision of the training shall be written, signed by staff attending, and retained in the personnel files.

310:680-3-11. Transfer of ownership

- (a) Whenever ownership of a residential care home is transferred from the person named in the application to another person or entity, who does not have a current license for the home, the transferee must obtain a probationary license.
- (b) The transferee shall notify the Department of the transfer and apply for a license no less than thirty days prior to final transfer.
- (c) The transferor shall notify the Department of the transfer no less than thirty (30) days prior to final transfer and shall remain responsible for the operation of the home until such time as a probationary license is issued to the transferee. The transferor shall remain liable for all penalties assessed which are imposed for violations occurring prior to transfer of ownership.

310:680-3-12. Voluntary closing

- (a) Any owner of a residential care home shall give ninety (90) days' notice to the residents and the Department prior to voluntarily closing a home or closing any part of a home if the closing will require the transfer or discharge of more than ten percent (10%) of the residents. The notice shall include the proposed date of closing and the reason for closing.
- (b) The home shall offer to assist the resident in securing alternate placement.
- (c) The Department shall be notified if there is need for relocation assistance.

310:680-3-13. Temporary Managers

The provisions of OAC 310:675-15 shall apply to the qualification and selection of a temporary manager, except that the temporary manager shall be or employ a residential care home administrator.

310:680-3-14. Appropriate occupancy

The residents of a residential care home shall be ambulatory and essentially capable of participating in their own activities of daily living, but shall not routinely require nursing services [63 O.S. Section 1-820(a)]. The resident may receive nursing services that an individual otherwise may receive in their private home provided by an individual or agency qualified under state or federal law.

[Source: Added at 27 Ok Reg 2548, eff 7-25-10; Amended at 34 Ok Reg 1314, eff 10-1-17]

SUBCHAPTER 5. CONSTRUCTION REQUIREMENTS AND PHYSICAL PLANT

310:680-5-1. General criteria

Residential care homes must meet or exceed the following requirements:

- (1) Plans for construction or remodeling must be submitted to the Department for review and approval prior to the start of construction.
- (2) Mobile homes shall not be approved.
- (3) The residential care home shall be constructed or remodeled to provide an adequate living arrangement for residents.
- (4) On and after the effective date of this subsection, each residential care home that undergoes design changes or construction and each newly licensed residential care home shall be designed and constructed in conformity with requirements for accessibility to physically disabled persons as specified in Chapter 11 of the International Building Code, 2003 Edition, published by the International Code Council.
- (5) Any first-time residential care home shall have a minimum of fifty (50) square feet of outside yard space for each licensed bed up to 100 beds (5,000 sq. ft.) For each additional licensed bed, a minimum of twenty-five (25) square feet shall be provided.
- (6) A multiple building residential care home shall be considered as a unit and be subject to the provisions of these regulations as if the home was a single building. Each building of a multiple building unit shall be no more than 175 feet from the building housing the kitchen and dining room.
- (7) All first-time licensed homes shall have seating capacity at dining room tables for the number of licensed beds.
- (8) Each residential care home shall maintain sufficient equipment and furnishings to provide for the needs of all residents.
- (9) Each residential care home shall be maintained in good repair for operation and appearance.
- (10) Each residential care home shall be free from safety hazards.

[Source: Amended at 21 Ok Reg 2809, eff 7-12-04]

310:680-5-2. Plumbing and electrical systems

- (a) Electrical, heating, and plumbing facilities must be certified by a licensed plumber, licensed electrician, or municipal building inspector as being in good working order, of safe design and installation, and meet local code requirements.
- (b) Water shall be from a public water supply or meet the standards of a public water supply.
- (c) Fuel-fire and water heaters must be vented to the outside and have adequate combustion air. They shall not be installed in habitable areas and must be enclosed. Water heaters must have pressure and temperature relief valves. Water heaters and surrounding areas must be kept clean.

310:680-5-3. Heating, cooling and ventilating systems

- (a) Heating systems shall maintain temperatures of not less than 65° Fahrenheit and shall be operating efficiently and in good repair. Open faced, unvented combustion heaters and electrical heaters with exposed heating elements shall not be used.

- (b) Refrigerated air conditioning shall be provided to each resident's room. Refrigerated air conditioning units and vents shall be kept clean and in good repair.
- (c) Ventilation must be provided and the air shall be circulated to assure an environment that will not jeopardize the health and/or safety of the resident.
- (d) Maximum temperature in all areas occupied by residents shall not exceed 85° Fahrenheit, unless authorized or recommended by a physician.

[Source: Amended at 17 Ok Reg 425, eff 11-1-99 (emergency); Amended at 17 Ok Reg 2074, eff 6-12-00]

310:680-5-4. Location

- (a) Each residential care home shall be conveniently located to the following services:
 - (1) Safe water supply that complies with rules and regulations adopted by the Board of Health.
 - (2) Sanitary sewage disposal system that complies with rules and regulations adopted by the Board of Health.
 - (3) Sanitary garbage disposal.
 - (4) Electrical services.
- (b) The residential care home shall be located in an area where the local fire department will respond to emergencies
- (c) The residential care home shall be located adjacent to an all-weather road.
- (d) The residential care home shall be located on property that meets the requirements of local zoning regulations. A letter of approval from the zoning authority shall be submitted to the Department.

310:680-5-5. Fire safety

Each residential care home shall provide documentation that the State Fire Marshal or the State Fire Marshal's representative has inspected and approved the home prior to issuance of an initial license. Each residential care home with more than six beds shall provide documentation of annual inspection and approval prior to issuance of a license renewal.

310:680-5-6. Building elements

- (a) Each residential care home shall have its address clearly visible from the street.
- (b) At least two (2) flashlights in working order shall be maintained for emergency lighting.
- (c) All doors and windows opening to the outside for ventilation shall be screened. Screens shall be well fitted and in good repair.
- (d) Adequate enclosed secure storage space shall be provided for items belonging to residents.
- (e) Each residential care home shall have one toilet facility for every six (6) residents. Toilet facility shall contain one (1) stool and one (1) lavatory.
- (f) Bathtubs or showers shall be provided at the rate of one (1) for each ten (10) residents.
- (g) Hot water temperatures at faucets accessible to residents shall be maintained within a range of 100° to 120° Fahrenheit.
- (h) Laundry equipment, if on premises, shall be housed in a safe, well-ventilated and clean area. Laundry equipment shall be kept clean and dryer shall be vented to outside.
- (i) Linen storage areas shall be provided and be clean and organized.
- (j) Cleaning supplies and equipment shall be stored in a separate, clean, and locked area.
- (k) Telephone service must be available within the building. Pay phones are not acceptable as the only telephone service.

[Source: Amended at 34 Ok Reg 1314, eff 10-1-17]

310:680-5-7. Resident rooms

- (a) Each resident shall be provided with clean, comfortable orderly, and reasonably private living accommodations.
- (b) Each resident's room shall have direct access to exits and other areas of the home without passing through another resident's room, the kitchen, laundry, or bathroom.
- (c) Each single resident room shall contain a minimum of 80 square feet of floor space.

- (d) Each resident room containing multiple beds shall provide a minimum of 60 square feet per bed.
- (e) Each resident room shall have at least one (1) outside operable window installed in a vertical wall which can be used as an emergency exit. However, if a home has a sprinkler system approved by the State Fire Marshall, it shall be exempt from the requirement of an outside operable window in each resident room useable as an emergency exit but shall be required to have a window. Minimum dimension of this window shall be 22 inches and the area shall be minimum of 5 square feet. Windows shall have adjustable coverings to provide privacy.
- (f) Each resident room shall have a full door which can be closed to provide privacy.
- (g) Male and female residents shall not be housed in the same or adjoining rooms which do not have a full floor-to-ceiling partition and door which can be locked, except immediate family may occupy the same room.
- (h) Each resident room shall have an electrical outlet.
- (i) Each resident room shall have a minimum of 20 foot candle power of lighting.
- (j) Unless the resident elects otherwise, each resident shall have a comfortable chair, a bedside table and a bureau or its equivalent for storing personal belongings.
- (k) When residents' personal furniture is used, it shall be clean and in good repair.
- (l) Each resident's bed shall have a comfortable mattress and bed linens which are clean and in good condition.
- (m) Clean towels and wash cloths shall be available to meet the needs of all residents. Towels and wash cloths shall be in good condition.

[Source: Amended at 9 Ok Reg 3123, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1677, eff 6-1-93; Amended at 34 Ok Reg 1314, eff 10-1-17]

310:680-5-8. Lounge area

A clean and comfortably furnished sitting room of adequate size shall be provided for residents. Furnishings shall be in good repair.

[Source: Amended at 19 Ok Reg 2119, eff 7-1-02]

310:680-5-9. Submission of plans and specifications and related requests for services

(a) **Submission of plans.** Before construction is begun, plans and specifications covering the construction of new buildings or major alterations to existing buildings shall be submitted to the Department for review as provided in OAC 310:680-5-10 or OAC 310:680-5-11.

- (1) Plans and specifications are required for the following alterations:
 - (A) Changes that affect path of egress;
 - (B) Change of use or occupancy;
 - (C) Repurposing of spaces;
 - (D) Structural modifications;
 - (E) Heating, ventilation and air conditioning (HVAC) modifications;
 - (F) Electrical modifications that affect the essential electrical system;
 - (G) Changes that require modification or relocation of fire alarm initiation or notification devices;
 - (H) Changes that require modification or relocation of any portion of the automatic fire sprinkler system;
 - (I) Replacement of fixed medical equipment if the alteration requires any work noted in (A) through (H) of this paragraph;
 - (J) Replacement of or modifications to any required magnetic or radiation shielding;
 - (K) Changes to or addition of any egress control devices or systems.
- (2) Plans and specifications are not required for the following alterations:
 - (A) Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work provided that the new finishes shall meet the requirements of this Chapter;
 - (B) Ordinary repairs and maintenance;
 - (C) Modifications to nurse call or other signaling/communication/information technology systems provided the modifications meet the requirements of this Chapter; or

(D) Replacement of fixed or moveable medical equipment that does not affect electrical, HVAC, or shielding requirements noted above.

(b) **Fees.** Each construction project submission shall be accompanied by the appropriate review fee based on the cost of design and construction of the project. Fees for plan and specification reviews and related Department services are as follows:

- (1) Design and construction plans and specifications fee: two one-hundredths percent (0.02%) of the cost of design and construction of the project, with a minimum fee of Fifty Dollars (\$50.00) and a maximum fee of One Thousand Dollars (\$1,000.00);
- (2) Request for exception or temporary waiver fee: Five Hundred Dollars (\$500.00);
- (3) Application for self-certification fee: Five Hundred Dollars (\$500.00);
- (4) Courtesy construction inspection fee: Five Hundred Dollars (\$500.00);
- (5) Professional consultation or technical assistance fee: Five Hundred Dollars (\$500.00) for each eight hours or major fraction thereof of staff time. For technical assistance requiring travel, the fee may be increased to include the Department's costs for travel.

(c) **Fees when greater than two (2) submittals required.** The fee for review of design and construction plans and specifications shall cover the cost of review for up to two (2) stage one and two (2) stage two submittals and one final inspection. If a stage one or stage two submittal is not approved after two (2) submissions, another review fee shall be required with the third submittal. Fast-track projects shall be allowed two reviews for each package submitted. If a fast-track stage package is not approved after the second submittal, another review fee based on the cost of the project shall be required with the third submittal of the package.

(d) **Review process.** Design and construction plans and specifications shall be reviewed in accordance with the following process.

- (1) Unless otherwise provided in this Subchapter, the Department shall have ten (10) calendar days in which to initially determine if the filed application is administratively complete
 - (A) Upon determining that the application is not administratively complete, the Department shall immediately notify the applicant in writing and shall indicate with reasonable specificity the inadequacies and measures necessary to complete the application. Such notification shall not require nor preclude further review of the application and further requests for specific information. If the Department fails to notify the applicant as specified in this Paragraph, the period for technical review shall begin at the close of the administrative completeness review period. Upon submission of correction of inadequacies, the Department shall have an additional ten (10) calendar days to review the application for completeness.
 - (B) Upon determination that the application is administratively complete, the Department shall immediately notify the applicant in writing. The period for technical review begins.
- (2) The Department shall have forty-five (45) calendar days from the date a completed application is filed to review each application for technical compliance with the relevant regulations and reach a final determination.
 - (A) The time period for technical review is tolled (the clock stops) when the Department has asked for supplemental information and advised the applicant that the time period is tolled pending receipt.
 - (B) To make up for time lost in reviewing inadequate materials, a request for supplemental information may specify that up to 30 additional calendar days may be added to the deadline for technical review, unless the request for supplemental information is a second or later request that identifies new deficiencies not previously identified.
 - (C) Failure by an applicant to supplement an application within 90 calendar days after the request shall be deemed to be withdrawn unless the time is extended by agreement for good cause.
 - (D) Extensions may be made as provided by law.

[Source: Added at 34 Ok Reg 1314, eff 10-1-17]

(a) **Stage one.** Preliminary plans and outline specifications shall be submitted and include sufficient information for approval by the Department of the following: scope of project; project location; required fire-safety and exiting criteria; building-construction type, compartmentation showing fire and smoke barriers, bed count and services; the assignment of all spaces, areas, and rooms for each floor level, including the basement. A residential care home has the option, at its own risk, to bypass the stage one submittal and proceed directly to submittal of stage two documents.

(b) **Stage two.** A proposed construction document shall be submitted that includes final drawings and specifications adequate for proposed contract purposes. All final plans and specifications shall be appropriately sealed and signed by an architect registered by the State of Oklahoma. All construction modifications of approved documents are subject to review and approval, and shall be submitted timely.

(c) **Special submittals.**

(1) **Fast-track projects.** The fast track process applies only to stage two submittals. A stage one submittal and functional program must be approved before entering the fast track process.

(A) Equipment and built-in furnishings are to be identified in the stage one submittal.

(B) The residential care home has the option to submit two packages: civil, landscaping and structural in stage one, and the balance of the components in stage two.

(C) Fast-track projects shall have prior approval and be submitted in no more than four (4) separate packages.

(i) Site work, foundation, structural, underslab mechanical, electrical, plumbing work, and related specifications.

(ii) Complete architectural plans and specifications.

(iii) All mechanical, electrical, and plumbing plans and specifications.

(iv) Equipment and furnishings.

(2) **Radiation protection.** Any project that includes radiology or special imaging equipment used in medical diagnosis, treatment, and therapy of residents, shall include plans, specifications, and shielding criteria, prepared by a qualified medical physicist. These plans shall be submitted and approved by the Department prior to installation of the equipment.

(d) **Floor plan scale.** Floor plans are to be submitted at a scale of one-eighth (1/8) inch equals one (1) foot, with additional clarifying documents as required.

(e) **Application form.** The submittal shall be made using a Department application form which requests information required by this Chapter and specifies the number of copies and format for document submittal.

[Source: Added at 34 Ok Reg 1314, eff 10-1-17]

310:680-5-11. Self-certification of plans

(a) The Department shall make available consultation and technical assistance services covering the requirements of this section to a residential care home considering self-certification of plans. The consultation and technical assistance is subject to the fees specified in OAC 310: 680-5-9, The consultation is optional and not a prerequisite for filing a request through the self-certification review process.

(b) The residential care home and the project architect or engineer may elect to request approval of design and construction plans through a self-certification review process. The residential care home and the project architect or engineer shall submit a self-certification request on a form provided by the Department, along with the review fee specified in OAC 310:680-5-9. The form shall be signed by the residential care home and the project architect or engineer attesting that the plans and specifications are based upon and comply with the requirements of this Chapter. The form shall require information necessary to demonstrate compliance with OAC 310:680-5-11(c).

(c) To be eligible for self-certification, projects must comply with the following requirements:

(1) The project involves any portion of the residential care home where residents are intended to be examined or treated and the total cost of design and construction is two million five hundred thousand dollars (\$2,500,000) or less; or

(2) The project involves only portions of the residential care home where residents are not intended to be examined or treated; and

(3) The project architect or engineer attesting the application has held a license to practice architecture or engineering for at least five (5) years prior to the submittal of the application, is licensed to practice in Oklahoma; and

(4) The residential care home owner/operator acknowledges that the Department retains the authority to:

(A) Perform audits of the self-certification review program and select projects at random for review;

(B) Review final construction documents;

(C) Conduct on-site inspections of the project;

(D) Withdraw approval based on the failure of the residential care home or project architect or engineer to comply with the requirements of this Chapter; and

(5) The residential care home agrees to make changes required by the Department to bring the construction project into compliance with this Chapter.

(d) Within twenty-one (21) calendar days after receipt of a complete application, the Department shall approve or deny the application for self-certification and send notification to the residential care home. If the application is denied, the residential care home shall have thirty (30) calendar days to submit additional or supplemental information demonstrating that the application complies with the requirements for self-certification of plans and specifications. The Department shall have fourteen (14) calendar days after receipt of supplemental information to reconsider the initial denial and issue a final approval or denial of the self-certification request.

(e) After denial of the application for self-certification and prior to the start of construction, the residential care home shall pay the applicable fee for plan review specified in OAC 310:680-5-9. Upon receipt of the plan review fee, the Department shall review the residential care home's plans in accordance with the process in OAC 310:680-5-9.

[Source: Added at 34 Ok Reg 1314, eff 10-1-17]

SUBCHAPTER 7. ENVIRONMENTAL HEALTH AND SANITARY REQUIREMENTS

310:680-7-1. Control of premises

The administrator shall have access to and authority over the entire premises. The person in charge shall be specifically designated in writing by the administrator and shall have authority to act in his/her absence and have access to the home's records if the owner or operator is not immediately available.

310:680-7-2. Premises (sanitation and cleanliness)

Surroundings shall be kept clean and neat and free from accumulated rubbish, weeds, ponded water or other characteristics of a similar nature which would have a tendency to create a health hazard.

310:680-7-3. Insect and rodent control

Methods shall be employed to prevent the entrance and harborage of insects, spiders, and rodents. Homes shall be kept free of insects, and rodents.

310:680-7-4. Garbage disposal

(a) All garbage shall be properly stored and safely disposed of in accordance with local ordinance.

(b) All garbage waste containers shall have tight-fitting covers and shall be insect and rodent resistant.

(c) Approved containers shall be kept clean by washing and airing as needed. Outside storage of garbage in plastic bags is prohibited.

(d) Trash cans in resident areas shall be kept clean.

310:680-7-5. Housekeeping

(a) The interior and exterior of the home shall be safe, clean and sanitary.

(b) Practices and procedures shall be utilized to keep the home free from offensive odors, accumulation of dirt, rubbish, dust, and safety hazards.

- (c) Floors and floor coverings shall be clean and in good condition. Floor polishes shall provide for a non-slip finish.
- (d) Walls and ceilings shall be in good condition and shall be cleaned regularly. All homes shall have walls capable of being cleaned.
- (e) Deodorizers shall not be used to cover up odors caused by unsanitary conditions or poor housekeeping practices.
- (f) Home and surrounding areas shall be kept free from refuse, discarded furniture, and old newspaper. Combustibles such as cleaning rags and compounds must be kept in closed metal containers in areas away from residents' rooms. No items shall be stored in the hot water heater closet or furnace closet.
- (g) General laundry shall be placed in linen hampers, carts, laundry bags, or similar containers suitable for laundry not soiled by body fluids.
- (h) Soiled linens or clothing shall be placed in bags or nonporous containers with lids tightly closed.

[Source: Amended at 34 Ok Reg 1314, eff 10-1-17]

310:680-7-6. Residential and visiting pets

- (a) Each home that allows residential or visiting animals shall adopt and comply with policies that meet or exceed 310:680-7-6(a) and 310:680-7-6(b). The facility's policies shall describe the schedule of animal care and zoonotic infection control for the respective facility. The facility shall not allow any animal to reside in the facility until all of the following requirements are met:
 - (1) The animal is a dog, cat, fish, bird, rabbit, or guinea pig. If a home desires to include other types of animals in their program, the home shall submit a supplemental request accompanied by its policies, procedures, and guidelines to the Department and receive written approval from the Department prior to implementation.
 - (2) For residential pets, excluding fish, the number of animals in a home shall be limited to no more than one dog per 50 residents; 1 cat, rabbit, or guinea pig per 30 residents; or 1 bird per 20 residents, unless the home has received the Department's prior approval of a greater number of pets through a supplemental request pursuant to 310:675-7-19(a)(1).
 - (3) The home adopts policies ensuring non-disruption of the home.
 - (4) All pets are housed and controlled in a manner that ensures that neither the pet nor the residents are in danger. A pet cage or container must not obstruct an exit or encroach on the required corridor width.
 - (5) The following veterinary medical services are obtained for each pet, when applicable to species, and a record of service is maintained on file at the home:
 - (A) A health certificate from a veterinarian licensed to practice in Oklahoma stating the animal is healthy on physical exam and of acceptable temperament to be placed in the home;
 - (B) Proof of evaluation by a veterinarian licensed to practice in Oklahoma for presence of internal parasites on a semi-annual basis and for the presence of external parasites as needed;
 - (C) Proof of current rabies immunization for dogs and cats, and leptospirosis immunization for dogs administered by a licensed veterinarian;
 - (D) Proof of spaying/neutering for dogs and cats over six months of age; and
 - (E) Statement from a licensed veterinarian certifying that each bird tested negative for *Chlamydia psittaci* infection (psittacosis) within 30 days prior to placement in the home. Birds equal in size to or larger than a parakeet shall receive a serologic test. Culture from fresh droppings or cloacal swab will be acceptable test in smaller birds, such as canaries and finches.
 - (6) The pet's skin appears normal, and its coat or feathers are free of ectoparasites, matted hair, feces, and other debris.
 - (7) Residential pets shall be the responsibility of the administrator, who shall designate at least one attendant to supervise the care and maintenance of resident animals. The administrator and the designated attendants shall at least annually review the home's policy on residential and visiting pets, and shall document that they have read and understood the policy.

(8) The home provides for the cleaning and disinfecting of any areas contaminated by urine or excrement, and for the regular cleaning of aviaries, aquariums, and animal cages. Water in aquariums and fish bowls shall be appropriately maintained to prevent bacterial growth in the water.

(9) Residential dogs and cats shall not be allowed to remain in the resident areas after visiting hours. No animal shall be allowed in an area used for food storage or preparation, dining, medication preparation or administration, or clean or sterile supply storage.

(10) If there is more than one resident per room, permission shall be obtained from each resident in the room before allowing animal visitation.

(b) The home may allow other animals to visit the home. Visiting animals shall be under the control of the person bringing the pet into the home. The attendant of visiting animals shall adhere to the home's policies and procedures for residential pets. Proof of current rabies immunization must be provided to the administrator before any dog, cat or ferret can be allowed as a visiting pet in the home.

(c) The Department shall publish and distribute to homes recommended husbandry and veterinary care guidelines for residential pets. The guidelines shall include but not be limited to recommendations for housing, cleaning needs, exercise, diet, fecal examinations, grooming, attendant training on animal care and nutrition, and preventive health care. The guidelines shall be used for the information and education of homes.

(d) Section 310:680-7-6 does not supersede any local or state rules that regulate animals.

[Source: Added at 14 Ok Reg 3145, eff 7-25-97; Amended at 16 Ok Reg 2526, eff 6-25-99; Amended at 18 Ok Reg 2550, eff 6-25-01]

SUBCHAPTER 9. DIETARY REQUIREMENTS

310:680-9-1. Food service

(a) A residential care home shall have available a minimum of three (3) meals per day, constituting a palatable, nutritionally adequate general diet and should include the basic four (4) food groups in the recommended amounts.

(b) There shall be no more than fourteen (14) hours between the substantial evening meal and the following morning meal. Between meal snacks shall not replace regular meals.

(c) Fresh drinking water shall be available and easily accessible to the residents. Ice from an approved source shall be available.

(d) Menus shall be planned, dated, and posted at least one (1) week in advance. Menus are to be retained in the home for one (1) year.

(e) Three (3) days supply of food shall be in the home at all times, including cold storage.

(f) Dining room seating capacity shall be a minimum of 15 square feet per resident.

(g) A residential care home having residents requiring special diet(s) prescribed by a physician shall contract with a consulting registered/licensed dietitian to provide services to institute and monitor these special diets. Special diet menus shall be approved and signed by a registered/licensed dietitian.

(h) A residential care home licensed for twenty (20) beds or more, and/or having residents who require special diets, shall designate an employee who is properly trained to supervise menu planning, food preparation, food inventory, food distribution, and health issues related to diet.

(i) A residential care home providing special diets shall ensure that each resident is offered the correct diet.

(j) A residential care home shall be in compliance with Chapter 257 of this Title, regarding storage, preparation, and serving of food (including milk and ice). A residential care home may use residential equipment provided that the equipment must maintain hot and cold temperatures as required in OAC 310:257.

[Source: Amended at 27 Ok Reg 2548, eff 7-25-10]

SUBCHAPTER 11. STAFFING REQUIREMENTS

310:680-11-1. Requirements

Residential care homes shall employ sufficient personnel appropriately qualified and trained to provide the essential services of the home.

(1) Sufficient number of persons.

(A) Each residential care home shall have one (1) person who is administratively responsible for the home.

(B) There shall be at least one (1) person in charge of the home and its operation on duty in the home whenever residents are present.

(C) There shall be a minimum of 3/4 hour of personnel per day per resident based on average daily census.

(D) All residential care homes shall have a signed, written agreement with a registered nurse to act as a consultant. Documentation of the use of the nurse consultant shall be maintained in the home.

(2) Staff qualifications.

(A) Each residential care home shall have a person designated as "Administrator," who is licensed in accordance with Title 63 O.S. Section 330.51 et seq.

(B) All personnel who have the responsibility for administering or monitoring medication to residents shall obtain a certificate of training in medication administration from an institution of higher learning whose program has been reviewed by the Department.

(Currently licensed physicians, registered nurses and licensed practical nurses shall be deemed to meet the medication administration training requirement.)

(C) All other staff shall have training and/or experience relevant to their job description.

(D) Personnel responsible for providing professional services must be appropriately certified, registered, or licensed.

(3) Staff training. In order to ensure all homes maintain a level of competency necessary to meet the needs of each individual served in the home, personnel must complete the following training requirements.

(A) At all times there shall be in the home at least one staff person currently trained in first-aid and cardiopulmonary resuscitation that is Red Cross training or equivalent training with a hands-on component. Proof of training shall be kept on file in the home. First-Aid and CPR training shall be kept current.

(B) Administrators shall obtain continuing education training as required to maintain an administrator's license pursuant to Title 63 O.S. Section 330.51 et seq. All training shall be documented and the record kept in the home.

(C) Direct care staff who are responsible for administering or monitoring medication shall annually be required to receive at least eight (8) hours of training by the administrator of the home in patient reporting and observation, record keeping, independent or daily living skills, leisure skills and recreation, human relations and such other training relevant to residential care program and operation.

(D) All direct care staff shall begin eight (8) hours of inservice by the administrator of the home or other person designated by the administrator of the home within ninety (90) days of employment and completed within twelve (12) months of employment. Eight (8) hours of inservice shall be required annually thereafter.

(E) All residential care programs shall provide a new employee orientation program which includes instruction in policies and procedures regarding the areas of abuse and neglect, resident rights, confidentiality, procedure for handling emergencies, and job descriptions.

(4) Personnel practices.

(A) Residents shall not supervise other residents.

(B) The behavior of staff reflects sensitivity to the needs of the individuals served for privacy and dignity. For example, confidentiality and normal sensibility are exercised in speaking about an individual, and undignified displays, exhibitions, or exposure of individuals served, whether deliberate or unintentional, do not occur.

(C) The home shall have written personnel policies and procedures which address such issues as: job description, terms of employment, authorized leave procedures, grievance procedures, and professional conduct.

SUBCHAPTER 13. MEDICATION STORAGE AND ADMINISTRATION

310:680-13-1. Medications

Correct medication and pharmacy techniques and principles shall be used when medications are administered or monitored. The home shall comply with the following:

(1) Storage and Maintenance.

- (A) Medications shall be stored in an area that is locked, is well lighted, and room temperature not to exceed 86° Fahrenheit.
- (B) Medications requiring refrigeration shall be kept in a refrigerator with a temperature range of 36° Fahrenheit (2° C) to 48° Fahrenheit (8° C) and separate from food and other items. A method of locking these medications shall be provided.
- (C) Medications shall not be stored with any other non-drug item.
- (D) Each individual's medications shall be kept separate.
- (E) Externally applied medications shall be stored separately from medications taken internally.
- (F) The medication of each resident shall be kept or stored in the original container.
- (G) The medication area shall have a work counter and shall be kept clean and well organized.
- (H) Hand washing facilities with hot and cold water shall be in close proximity to the medication area.
- (I) Any unusual resident reaction to medication shall be reported to the physician at once and documented in the resident's record.
- (J) No prescribed medication or over-the-counter medication for one (1) resident may be administered to or allowed in the possession of another resident.
- (K) All prescription medication shall be clearly labeled to include the resident's full name, physician's name, prescription number, strength of drug, dosage, directions for use, date of issue, quantity, and name, address, and phone number of pharmacy or physician dispensing the drug.
- (L) Resident's first and last name shall be on all over-the-counter drugs used. The home shall have a written policy to identify resident ownership of over-the-counter medication.
- (M) All drugs shall be kept locked, and documented when taken by the resident.
- (N) Documentation of medication ordered by the physician to be administered as circumstances may require (p.r.n.) shall be done immediately after administration and shall include date, time, dose, drug, route, and person responsible for administration.
- (O) Only the person responsible for administering or monitoring medications shall have possession of the key to the locked medication area.
- (P) Labels on containers shall be legible and firmly affixed.
- (Q) No one shall alter labels on prescription containers. If a medication dosage change is made by the physician, then the container must be flagged at that time showing a label change is to be made.
- (R) An individual inventory record and documentation for accountability shall be maintained for each Schedule II drug prescribed for each resident.
- (S) Schedule II drugs shall be kept in a separate locked box within the locked medication area.
- (T) All new or refilled prescription medication shall be counted upon receipt in the home and documented in each resident's medication record.
- (U) Discontinued medications may be kept up to three (3) months and must be separated from the current medications within the locked medication area.
- (V) The home shall have a written policy for safe disposal of discontinued medications and it shall be an approved method by the State Department of Health. Documentation shall be retained in the individual resident's record. Over-the-counter medications shall be destroyed in the presence of two (2) residential care home staff persons. Documentation shall include

the name of the medication, the amount destroyed, the method of destruction, and shall be retained in the individual resident's record.

(W) When a resident is admitted to a home, or returns to a home from a temporary leave, the medications brought into the home shall be counted and documented by the person admitting the resident and countersigned by the resident or responsible party.

(X) When a resident is discharged, moves, or goes on a temporary leave from the home, the unused prescription shall be sent with the resident or with the responsible party. The resident record shall contain documentation of quantities of medication sent, as well as the signature of the resident or the responsible party receiving the drugs and of the staff person of the home that counted them.

(Y) Unused drugs prescribed for residents who have died shall be kept for one (1) month and then shall be destroyed in accordance with Item (V) of this subsection.

(Z) The R.N. shall do a documented medication review on every resident in the home quarterly.

(AA) Each residential care home shall have a first-aid kit for emergency use.

(2) Administration of medications.

(A) Only persons who meet requirements for administration of medications shall administer medications.

(B) The person responsible for medication administration must personally prepare the dosage, observe the resident swallowing the medication, and chart the medication.

(C) The person administering the medication shall maintain an accurate written record of medications administered.

(D) Charting the administration of medications shall be done within an hour after it is taken and correct procedures followed to assure that medications are not documented by memory.

(E) All medications shall be administered according to label directions.

(F) A resident who has been determined by his physician as capable of self-administering medication may retain the medications in a safe location in the resident's room. The facility shall develop and follow policies for accountability. Scheduled medications shall not be authorized for self-administration. A resident who has been declared legally incompetent is not eligible for self-administration of medications.

(3) Monitoring of medications.

(A) Only persons who have completed an approved course in medication administration shall monitor medications.

(B) An accurate written record of medication monitoring shall be made by the individual monitoring the medication. This record must identify the individual responsible for the drug monitoring.

(C) Charting the monitoring of medication shall be done within an hour after it is taken and correct procedure followed to assure that medications are not documented by memory.

(D) All medications monitored shall be taken according to label directions.

[Source: Amended at 11 Ok Reg 911, eff 12-17-93 (emergency); Amended at 11 Ok Reg 2649, eff 6-25-94]

310:680-13-2. Bulk nonprescription drugs

A facility may maintain nonprescription drugs for dispensing on an as needed basis from a common or bulk supply as *ordered or otherwise authorized by a physician currently licensed to practice medicine in this state* [63:1-1950(B)] if all of the following are accomplished.

(1) **Policy of facility.** The facility must have and follow a written policy and procedure to assure safety in dispensing and documentation of medications given to each resident.

(2) **Acquisition.** The facility shall maintain records which document the name of the medication acquired, the acquisition date, the amount and the strength received for all medications maintained in bulk.

(3) **Dispensing.** Only licensed nurses, physicians, pharmacists or medication aide technicians (MAT) may dispense these medications.

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

(5) **Records.** The facility shall maintain records of all bulk medications which are dispensed on an individual signed medication administration record (MAR).

(6) **Labeling.** The original labels shall be maintained on the container as it comes from the manufacturer or licensed repackager or on the unit-of-care (blister packs) package.

(7) **Package size.** The maximum size of packaging shall be established by the facility in its policy and procedures and shall insure that each resident receives the correct dosage; provided however, that no liquid medication shall be acquired nor maintained in a container larger than 16 fluid ounces.

(8) **Allowed nonprescription drugs.** Facilities may have drugs from each of the following categories for bulk dispensing. No other categories may be maintained as bulk medications.

(A) Oral analgesics.

(B) Antacids.

(C) Laxatives.

[Source: Added at 11 Ok Reg 911, eff 12-17-93 (emergency); Added at 11 Ok Reg 2649, eff 6-25-94; Amended at 33 Ok Reg 1533, eff 9-11-16]

SUBCHAPTER 15. RESIDENTS' FUNDS

310:680-15-1. Resident's contract

(a) A written contract shall be executed between a resident or his/her guardian or responsible party, or if the resident is a minor, his parent, and a home or its agent within one hundred twenty (120) days from the time a resident is admitted to a home, or at the expiration of the period of previous contract, or when the source of payment for the resident's care changes from private to public funds or from public to private funds, or when the terms of the contract are changed.

(b) A copy of the contract form shall be given to the resident and to the resident's representative, if any, at the time of the resident's admission to the residential care home.

(c) A copy of the contract for a resident who is supported by nonpublic funds other than the resident's own funds shall be made available to the person providing the funds for the resident's support.

(d) The contract shall be written in clear and unambiguous language and shall be printed in type no smaller than standard typewriter pica or elite type. The general form of the contract shall be prescribed by the Department.

(e) The contract shall specify:

(1) The terms of the contract.

(2) The services to be provided under the contract and the charges for the services.

(3) The services that may be provided to supplement the contract and the charges for the services.

(4) The sources liable for payments due under the contract.

(5) The amount of deposit paid.

(6) The rights, duties, and obligations of the resident, except that the specification of a resident's right may be furnished on a separate document.

(f) The contract shall designate the name of the resident's representative, if any.

(g) The contract shall provide that if the resident dies, or is compelled by a change in physical or mental health to leave the residential care home, the contract and all obligations under it shall terminate immediately. All charges shall be prorated as of the date on which the contracts terminates, and, if any payments have been made in advance, the excess shall be refunded to the resident.

310:680-15-2. Protection of residents' funds

To protect each resident's funds, the residential care home:

(1) Shall reserve a portion of each resident's monthly income in an amount not less than twenty-five dollars (\$25.00) as a personal needs allowance for use by the resident, or for use on behalf of the resident by his guardian or other representative designated by the resident.

(2) Shall at the time of admission, provide each resident and his representative with a written statement explaining the resident's rights regarding personal funds and listing services for which the resident will be charged, and obtain a signed acknowledgment from each resident and his representative that he has received the statement.

- (3) May accept funds from a resident for safekeeping and managing, if the home receives written authorization from the resident or his guardian; such authorization shall be attested to by a witness who has no pecuniary interest in the facility or home or its operations, and who is not connected in any way to the home personnel or the administrator in any manner whatsoever,
- (4) Shall maintain and allow each resident and responsible party access to a written record of all financial arrangements and transactions involving the individual resident's funds.
- (5) Shall provide each resident and his representative with a written itemized statement on request, of all financial transactions involving the resident's funds.
- (6) Shall keep any funds received from a resident for safekeeping in an account separate from the home's funds and shall maintain such funds as required by the Department and other regulations.
- (7) Shall return to the resident, upon written request by the resident or his guardian, if court appointed, all or any part of the resident's funds given the home for safekeeping, including the interest accrued from deposits.
- (8) Shall place any monthly allowance to which a resident is entitled in that resident's personal account, or give it to the resident, unless the home has written authorization from the resident or the resident's guardian or, if the resident is a minor, to handle it differently.
- (9) Unless otherwise provided by State Law, upon the death of a resident, shall provide the administrator or executor of the resident's estate with a complete accounting of all the resident's personal property including any funds of the resident being held by the residential care home.
- (10) If the residential care home is sold, shall provide the buyer a written verification by a public accountant of all residents' monies and properties being transferred, and obtain a signed receipt from the new owner.

310:680-15-3. Guardianship

Any owner, operator, administrator or employee of a facility subject to the provision of the Residential Care Act shall not be appointed guardian of a resident of such facility unless the owner, operator, administrator or employee is the spouse of the resident or a relative of the resident within the second degree of consanguinity and is otherwise eligible for appointment.

SUBCHAPTER 17. INVOLUNTARY TRANSFER OR DISCHARGE OF RESIDENT

310:680-17-1. Transfer or discharge of resident

A residential care home shall not involuntarily transfer or discharge a resident except for medical reasons, for the resident's safety, or for the safety of other residents, or for nonpayment for the resident's stay, unless limited by the Federal Social Security Act.

310:680-17-2. Notice of involuntary transfer or discharge

(a) Involuntary transfer or discharge of a resident from a residential care home shall be preceded by a minimum written notice of ten (10) days. The ten-day requirement shall not apply in any of the following instances:

- (1) When an emergency transfer or discharge is mandated by the resident's health care needs and is in accordance with the written orders and medical justification of the attending physician.
- (2) When the transfer or discharge is necessary for the physical safety of other residents as documented in the resident's record.

(b) The written notice of involuntary transfer or discharge shall contain an explanation of the reasons for transfer or discharge and inform the resident and resident's representative, if any, of the right to request a hearing by the Department if they are aggrieved by the decision.

(c) Written notice of involuntary transfer shall be sent to the resident and to an advocate for the resident if no resident's representative exists

310:680-17-3. Hearing on involuntary transfer or discharge

A resident who is aggrieved by an involuntary transfer or discharge may request a hearing by the Department within five (5) days of receipt of the notice. Decisions reached in a hearing shall be binding on

all parties, unless appealed to the Commissioner of Health.

310:680-17-4. Transfer by the department

- (a) The Department shall initiate the transfer or discharge of a resident in any of the following situations:
- (1) When the resident's health care needs are not being met according to a licensed medical authority.
 - (2) When the transfer or discharge is necessary for the physical safety of other residents as observed or as documented in the records.
 - (3) When it is determined that a resident's rights have been violated or the resident has been unduly taken advantage of in fiscal matters, or has been physically, mentally, or sexually abused
- (b) The resident's wishes, in all situations, will be given careful consideration in determining whether or not the health or safety aspects involved outweigh the trauma of a resident being transferred or discharged.

SUBCHAPTER 19. RESIDENTS RIGHTS AND RESPONSIBILITIES

310:680-19-1. Posting and distribution

Each residential care home shall have posted in a conspicuous, easily accessible place in each residential care home, and shall provide to each resident or resident's representative, prior to or upon admission, a copy of rights and responsibilities.

310:680-19-2. Statement provisions

- (a) A statement of rights and responsibilities shall include but not be limited to the following:
- (1) Every resident's civil and religious liberties, including the right to independent personal decisions and knowledge of available choices, shall not be infringed and the residential care home shall encourage and assist in the exercise of these rights.
 - (2) Every resident shall have the rights to have private communications and consultations with the physician, attorney, or any other person of his choice, and may send and promptly receive, unopened, his personal mail.
 - (3) Every resident shall have the right, without fear of reprisal, to present grievances on behalf of himself or others to the residential care home's staff or administrator, to governmental officials, or to any other person and to join with other residents or individuals within or outside of the facility to work for improvements in resident care.
 - (4) Every resident shall have the right to manage his own financial affairs, unless the resident or his representative, if any, delegates the responsibility, in writing to the residential care home pursuant to the program certification requirements. The resident and his representative, in any, shall have at least a quarterly accounting of any personal financial transactions undertaken in his behalf by the residential care home during any period of time such responsibilities have been delegated to the residential care home.
 - (5) Every resident shall have the right to receive adequate and appropriate medical care consistent with established and recognized medical practice standards within the community. Every resident shall be fully informed by his attending physician of his medical condition and proposed treatment in terms and language that the resident can understand, unless medically contraindicated, and to refuse medication and treatment after being fully informed of and understanding the consequences of such actions.
 - (6) Every resident shall receive respect and privacy in his medical care program. Case discussion, consultation, examination, and treatment shall remain confidential and shall be conducted discreetly. Personal and medical records shall be confidential.
 - (7) Every resident shall have the right to retain and use his personal clothing and possessions, unless medically contraindicated, and shall have the right to security in the storage and use of such clothing and possessions.
 - (8) Every resident shall have the right to receive courteous and respectful care and treatment and a written statement of the services provided by the residential care home, including those required to be offered on an as-needed basis, and a statement of related charges, including any costs for

services not covered under medicare or medicaid, or not covered by the residential care home's basic per diem rate.

(9) Every resident shall be free from mental and physical abuse, and from physical and chemical restraints as provided by the program certification standards.

(10) Every resident shall receive a statement of the facility's regulations and an explanation of the resident's responsibility to obey all reasonable regulations of the facility and to respect the personal rights and private property of the other residents.

(11) No resident shall be required to perform services for a residential care home. Regular participation in shared household tasks shall not be construed to mean "services for a residential care home" when said tasks are included as part of a training, habilitation, or rehabilitation plan for the resident pursuant to the program certification requirements for the residential care home and are performed as a part of normal shared household tasks.

(12) Every resident shall have privacy for spousal visits. Every resident may share a room with his/her spouse, if the spouse is residing in the same residential care home.

(13) When a physician indicates it is appropriate, a residential care home shall immediately notify the resident's next of kin, or representative of the resident's death or when the resident's death appears to be imminent.

(b) No licensed facility shall deny appropriate care on the basis of the resident's source of payment as defined in the regulations.

(c) Each residential care home shall prepare a written plan and provide appropriate staff training to implement each resident's rights as stated.

SUBCHAPTER 21. RESIDENTIAL CARE FACILITIES, THREE (3) BEDS OR LESS

310:680-21-1. Qualifications

This subchapter of the Standards and Regulations for Licensure of Residential Care Homes shall be applicable to small homes serving three (3) or less residents. Homes qualifying under this subsection shall be exempt from other subsections of this Chapter except as may be specifically referenced in this subsection.

(1) **Licensure requirements.** The requirements of Subchapter 3 of this Chapter shall be applicable to homes licensed for three (3) or less beds.

(2) **Construction requirements and physical plant.** The requirements of Subchapter 5 of this Chapter shall also be applicable to homes licensed for three (3) beds or less.

(3) **Environmental health and sanitary requirements.** The requirements of Subchapter 7 of this Chapter shall be applicable to homes licensed for three (3) or less beds.

(4) **Dietary requirements.** In accordance with the needs of the residents, Subchapter 9 of this Chapter shall be applicable to small homes.

(5) **Staffing requirements.** Each small residential care home shall employ sufficient personnel appropriately qualified and trained to meet the needs of the residents.

(A) **Number of personnel.**

(i) Each small home shall have a person who holds a residential care home administrator's certificate of training who is responsible for the home.

(ii) Other staff shall be employed in accordance with the needs of the residents.

(B) **Staff qualifications.**

(i) The person designated as administrator shall be at least 21 years of age and of reputable and responsible character, who has obtained a certificate of training for a residential care administrator.

(ii) All other staff shall have training and/or experience relevant to their job description.

(iii) Persons responsible for providing professional services must be appropriately certified, registered, or licensed.

(C) **Staff training.** In order to ensure a level of competency to meet the needs of each individual served in the home, personnel must complete the following training requirements:

- (i) All employees shall be currently certified in first-aid and cardiopulmonary resuscitation (Red Cross training or the equivalent). First Aid and CPR certificates shall be renewed as required to remain current.
- (ii) Individuals who administer medications in a small residential care home shall be certified in an approved training program for medication administration (M.A.T.).
- (iii) In addition, staff who are responsible for administering medication shall annually receive at least eight (8) hours of training by the administrator of the home in patient reporting and observation, record keeping, independent or daily living skills, leisure skills and recreation, human relations and such other training relevant to residential care home programs and operations.
- (iv) All small residential care homes shall provide a new employee orientation program which includes instruction in policies and procedures regarding the areas of abuse and neglect, resident rights, confidentiality, procedure for handling emergencies, and job descriptions.
- (v) All direct care staff shall begin eight (8) hours of in-service within ninety days of employment and complete within twelve months of employment. Eight (8) hours of in-service shall be required annually thereafter.

(D) Personnel practices.

- (i) Residents shall not supervise other residents.
- (ii) The behavior of the staff shall reflect sensitivity to the needs of individuals served for privacy and dignity.

(6) Medication storage and administration.

(A) Storage and Maintenance.

- (i) Medications shall be stored in an area that is locked, is well lighted, and room temperature not to exceed 86 degrees Fahrenheit.
- (ii) Medication requiring refrigeration shall be kept in a refrigerator within a temperature range of 36° Fahrenheit to 48° Fahrenheit and separate from food and other items. A method of locking these medications shall be provided.
- (iii) Medications shall not be stored with any other non-drug item.
- (iv) Each individual's medications shall be kept separate.
- (v) Externally applied medications shall be stored separately from medications taken internally.
- (vi) The medication of each resident shall be kept or stored in the original container.
- (vii) No prescribed medication or over-the-counter medication for one resident may be administered to or allowed in the possession of another resident.
- (viii) All prescription medication shall be clearly labeled to include the resident's full name, physician's name, prescription number, strength of drug, dosage, directions for use, date of issue, quantity, and name, address, and phone number of pharmacy or physician dispensing the drug.
- (ix) Resident's name shall be on all over-the-counter drugs used.
- (x) All drugs shall be kept locked, and documented when taken by the resident.
- (xi) Only persons responsible for administering medications shall have possession of the key to the locked medication area.
- (xii) Labels on containers shall be legible and firmly affixed.
- (xiii) No one shall alter labels on prescription containers. If a medication dosage change is made by the physician, then the container must be flagged showing a label change is to be made.
- (xiv) An individual inventory record and documentation for accountability shall be maintained for each Schedule II drug prescribed for each resident.
- (xv) Schedule II drugs shall be kept in a separate locked box within the locked medication area.
- (xvi) All new or refilled prescribed medication shall be counted upon receipt in the home and documented in each resident's medication record.

- (xvii) Discontinued medications may be kept up to three (3) months and must be separated from the current medications within the locked medication area.
- (xviii) The home shall have a written policy for safe disposal of discontinued medications and it shall be a method approved by the Department of Health. Documentation shall be retained in the individual resident's record.
- (xix) When a resident is admitted to a home, or returns to a home from a temporary leave, the medication brought into the home shall be counted and documented by the person admitting the resident and countersigned by the resident or responsible party.
- (xx) When a resident is discharged, moves, or goes on a temporary leave from the home, the unused medication shall be sent with the resident or the responsible party. The resident record shall contain documentation of quantities of medication sent, as well as the signature of the resident or responsible party receiving the medications and of the staff person releasing the medications.
- (xxi) Unused drugs prescribed for residents who have died shall be kept for one (1) month and then destroyed in accordance with item xix of this section of the Standards.

(B) Administration of medications.

- (i) Only persons who have completed an approved course in medication administration shall administer medications.
- (ii) The person responsible for medication administration shall personally prepare the dosage, observe the resident swallowing the medication, and chart the medication.
- (iii) The person administering the medication shall maintain an accurate written record of medications administered.
- (iv) Charting the administration of medications shall be done within an hour after it is taken and correct procedure followed to assure that medications are not documented by memory.
- (v) All medications shall be administered according to label directions.

(C) Monitoring medications.

- (i) Only persons who have completed an approved course in medication administration shall monitor medications.
- (ii) An accurate written record of medication monitoring shall be made by the individual monitoring the medication. This record must identify the individual responsible for the medication monitoring.
- (iii) Charting the monitoring of medication shall be done within an hour after it is taken and correct procedure followed to assure that medications are not documented by memory.
- (iv) All medications monitored shall be taken according to label requirements.
- (v) Records of medications monitored for residents preparing for self-administration shall be documented by the resident and acknowledged by the staff member monitoring the medication.

(D) Self-Administration.

- (i) Self-administration of all medications, prescription and over-the-counter, is permitted only after the resident has been monitored and documentation shows the resident capable of self-administration of medications. Monitoring shall include observation of resident taking the proper medication, in the proper dosage, at the correct time, documenting medication taken, and storing the medication in a safe manner.
- (ii) The home staff shall conduct at least a monthly documented review of the individual's self-administration program which shall include a count of each medication included in the self-administration program.
- (iii) All medications must be stored in locked containers.

- (7) **Residents' Funds.** Subchapter 15 of this Chapter shall be applicable to small residential care homes.
- (8) **Involuntary Transfer or Discharge of Residents.** Subchapter 17 of this Chapter shall also apply to small residential care homes.
- (9) **Residents' Rights.** Subchapter 19 of this Chapter shall also be applicable to small residential care homes.

Adult Day Care Act

63 O.S. § 1-870 et seq

Statute was pulled from OSCN on 2-9-24 for this binder. This captures existing statute from one point in time. The Adult Day Care Act is subject to change when bills become law which amend, repeal, or add new law to the Act.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Adult Day Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-870 - Legislative Findings and Declarations

Cite as: O.S. §, ___ __

The Oklahoma State Legislature hereby finds and declares that there is an inadequate range of community-based services for frail elderly and disabled adults and that there is an urgent need to establish, support and regulate a community-based system of quality adult day care programs to:

1. Provide a protective social environment which may include health remedial, restorative and social services designed to maintain maximum independence and to prevent premature or inappropriate institutionalization of functionally impaired elderly or disabled adults;
2. Provide periods of relief for family caregivers, sometimes called respite care, to enable them to continue caring for an impaired person at home; and
3. Enable family caregivers to continue gainful employment.

Historical Data

Laws 1989, SB 88, c. 192, § 1, eff. November 1, 1989.

Citationizer[®] Summary of Documents Citing This Document

<i>Cite Name</i>	<i>Level</i>
Oklahoma Court of Civil Appeals Cases	
<i>Cite</i>	<i>Name</i> <i>Level</i>
<u>2000 OK CIV APP 80, 8 P.3d 940, 71 OBJ. MATTER OF THE GUARDIANSHIP OF LOHSE</u>	<i>Cited</i>
<u>1826,</u>	

Citationizer: Table of Authority

Cite **Name** **Level**

None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Adult Day Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-871 - Short Title

Cite as: O.S. §, ___

Section 2 through 9 of this act shall be known and may be cited as the "Adult Day Care Act".

Historical Data

Laws 1989, SB 88, c. 192, § 2, eff. November 1, 1989.

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Title 63. Public Health and Safety

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Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Adult Day Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-872 - Definitions

Cite as: O.S. §, ___ __

As used in the Adult Day Care Act:

1. "Adult day care center" or "center" means a facility which provides basic day care services to unrelated impaired adults for more than four (4) hours in a twenty-four-hour period. A center shall be a distinct entity, either freestanding or a separate program of a larger organization. A center shall have a separately verifiable staff, space, budget and participant record system. The terms "adult day care center" or "center" shall not include retirement centers and senior citizen centers;
2. "Basic day care services" means supervised health, social supportive, and recreational services in a structured daytime program which serves functionally impaired adults who continue to live in their own homes, usually with the aid of family care givers;
3. "Department" means the State Department of Health; and
4. "Participant" means any person attending an adult day care center.

Historical Data

Laws 1989, SB 88, c. 192, § 3, eff. November 1, 1989; Amended by Laws 1996, HB 2391, c. 104, § 1, eff. November 1, 1996; Amended by Laws 1998, SB 1095, c. 319, § 1, eff. November 1, 1998 ([superseded document available](#)).

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Adult Day Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-873 - Minimum Licensure Requirements - Standards

Cite as: 63 O.S. § 1-873 (OSCN 2024), Adult Day Care Act

A. The State Commissioner of Health, with the advice of the Long-Term Care Facility Advisory Board, created pursuant to Section 1-1923 of this title, shall define minimum adult day care licensure requirements and rules including standards for:

1. Health and social services which may be provided to participants;
2. The range of services to be provided by a center based on the type of participants to be served;
3. Staff to participant ratios;
4. Staff and volunteer qualifications;
5. Staff training;
6. Food services;
7. Participant records and care plans;
8. Antidiscrimination policies;
9. Sanitary and fire standards; and
10. Any other requirements necessary to ensure the safety and well-being of frail elderly and disabled adults.

B. Centers to be licensed shall include all adult day care centers. Sheltered workshops and senior recreational centers which do not receive participant fees for services are not required to be licensed. It shall be unlawful to operate a center without first obtaining a license for such operation as required by the Adult Day Care Act, regardless of other licenses held by the operator. Organizations operating more than one center shall obtain a license for each site.

C. The license for operation of a center shall be issued by the State Department of Health. The license shall:

1. Not be transferable or assignable;
2. Be posted in a conspicuous place on the licensed premises;
3. Be issued only for the premises named in the application; and
4. Expire thirty-six (36) months from the date of issuance, provided an initial license shall expire one hundred eighty (180) days after the date of issuance. Licenses may be issued for a period of more than twelve (12) months, but not more than thirty-six (36) months, for the licensing period immediately following November 1, 2021, in order to permit an equitable distribution of license expiration dates to all months of the year.

D. A center shall meet the safety, sanitation and food service standards of the State Department of Health.

E. Local health, fire and building codes relating to adult day care centers shall be classified as an education use group.

F. The issuance or renewal of a license after notice of a violation has been sent shall not constitute a waiver by the State Department of Health of its power to subsequently revoke the license or take other enforcement action for any violations of the Adult Day Care Act committed prior to issuance or renewal of the license.

Historical Data

Laws 1989, SB 88, c. 192, § 4, eff. November 1, 1989; Amended by Laws 1996, HB 2391, c. 104, § 2, eff. November 1, 1996; Amended by Laws 2000, HB 1880, c. 48, § 1, emerg. eff. April 14, 2000 ([superseded document available](#)); Amended by Laws 2011, HB 1397, c. 105, § 34, eff. November 1, 2011 ([superseded document available](#)); Amended by Laws 2021, SB 654, c. 94, § 2, eff. November 1, 2021 ([superseded document available](#)).

Citationizer[®] Summary of Documents Citing This Document

<i>Cite Name</i>	<i>Level</i>
Oklahoma Session Laws - 2000	
<i>Cite</i>	<i>Name</i>
<i>2000 O.S.L. 48, 2000 O.S.L. 48.</i>	<i>[HB 1880] - An Act relating to public health and safety; amending 63 O.S. 1991, Section 1-873, (63 O.S. Supp. 1999, Section 1-873), which relates to Adult Day Care Act facilities; modifying licensure requirements and licensing provisions, etc.</i>
	<i>Level</i>
	<i>Discussed at Length</i>

Citationizer: Table of Authority

Cite Name Level

None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Adult Day Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-874 - Applicant for License to Operate Adult Day Care Center - Renewal - Evidence of Compliance.

Cite as: 63 O.S. § 1-874 (OSCN 2024), Adult Day Care Act

A. An applicant for a license to operate an adult day care center must file an application on a form approved by the State Department of Health and pay an initial license fee which shall be determined by the Department.

B. Applications for license renewal must be filed at least forty-five (45) days before the expiration date of the current license on a form approved by the Department and a license renewal fee must be paid which shall be determined by the Department. The license renewal fee shall be Seventy-five Dollars (\$75.00) per year of licensure. Revenue generated by the collection of license fees shall be deposited into the Department revolving fund and shall be used to help finance the costs associated with the licensing of such center.

C. The applicant must provide evidence of compliance with the requirements of all applicable federal, state and local laws and regulations. In addition to other requirements, an applicant shall provide a statement of ownership and a financial statement.

Historical Data

Laws 1989, SB 88, c. 192, § 5, eff. November 1, 1989; Amended by Laws 2021, SB 654, c. 94, § 3, eff. November 1, 2021 ([superseded document available](#)).

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Adult Day Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-875 - State Department of Health Inspections

Cite as: O.S. §, ___ __

The State Department of Health shall at least annually and whenever it deems necessary inspect each adult day care center to determine compliance with the Adult Day Care Act and rules and regulations promulgated thereto.

Any licensee or applicant for a license shall be deemed to have given consent to any duly authorized employee or agent of the Department to inspect and enter the home in accordance with the Adult Day Care Act or rules promulgated thereto. Refusal to permit such entry or inspection may constitute grounds for the denial, nonrenewal, suspension or revocation of a license.

Historical Data

Laws 1989, SB 88, c. 192, § 6, eff. November 1, 1989.

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Adult Day Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-876 - Denial, Suspension, or Revocation or License or License Renewal

Cite as: O.S. §, ___ __

- A. The State Department of Health may deny, suspend, deny renewal or revoke the license of an applicant or a licensed adult day care center which fails to comply with the licensing requirements and rules and regulations specified by the provisions of the Adult Day Care Act.
- B. The Department shall give a center thirty (30) days' written notice that its license is to be suspended or revoked, and shall take action at the end of that time if the center is still out of compliance. However, if the health and safety of participants is threatened, the suspension or revocation shall be effective immediately, and the center closed.
- C. Holders of suspended or revoked licenses shall be entitled to a hearing before Department licensure officials if requested within ten (10) days of their notification. The hearing shall be held at least ten (10) days before final action is taken and conducted pursuant to the Administrative Procedures Act.
- D. Suspended licenses may be reinstated if deficiencies are corrected within a time frame established by the Department.

Historical Data

Laws 1989, SB 88, c. 192, § 7, eff. November 1, 1989.

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Adult Day Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-877 - Ceasing of Adult Day Care Center Operations - Notification - Surrender of License

Cite as: O.S. §, ___ __

A. If an adult day care center ceases operations, the center shall notify the participants in writing of its intention to do so at least thirty (30) days prior to the effective date of closure unless the Department has ordered immediate closure, which would require immediate participant notification. If ceasing operations for any reason other than license revocation, the center shall also notify the Department of its intention to do so at least thirty (30) days prior to the effective date of closure.

B. Immediately upon discontinuance of operations of a center, the owner-operator shall surrender the license to the Department and the license shall be canceled.

Historical Data

Laws 1989, SB 88, c. 192, § 8, eff. November 1, 1989.

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Adult Day Care Act

Article Article 8 - Nursing Homes, Rest Homes, and Specialized Homes

Section 1-878 - Licensure Requirement - Penalties for Violations

Cite as: O.S. §, ___ __

A. It shall be unlawful to operate an adult day care center, without possessing a current, valid license issued pursuant to the provisions of the Adult Day Care Act. It shall be unlawful for any holder of a license issued pursuant to the provisions of the Adult Day Care Act to advertise or hold out to the public that it holds a license for a center other than that for which it actually holds a license. It shall be unlawful for any individual or entity to advertise or hold out to the public that it provides adult day care services without first possessing a current, valid license issued pursuant to the provisions of the Adult Day Care Act or the Continuum of Care and Assisted Living Act.

B. Any person who has been determined by the State Department of Health to have violated any provision of the Adult Day Care Act or any rule or order issued pursuant thereto may be liable for an administrative penalty of not more than Five Hundred Dollars (\$500.00) for each day that such violation continues.

C. The amount of the penalty shall be assessed by the Department pursuant to the provisions of subsection B of this section, after notice and hearing. In determining the amount of the penalty, the Department shall include but not be limited to consideration of the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, the effect on ability of the person to continue to do business, and any show of good faith in attempting to achieve compliance with the provisions of the Adult Day Care Act.

D. Any license holder may elect to surrender his license in lieu of such fine but shall be forever barred from obtaining a reissuance of such license.

E. Any person who violates any of the provisions of the Adult Day Care Act, upon conviction, shall be guilty of a misdemeanor. Each day upon which such violation occurs shall constitute a separate violation.

F. 1. The Attorney General or the district attorney of the appropriate district court of Oklahoma may bring an action in a court of competent jurisdiction for the prosecution of a violation by any person of a provision of the Adult Day Care Act or any rule or order issued pursuant thereto.

2. Enforcement of any action for equitable relief to redress or restrain a violation by any person of a provision of the Adult Day Care Act or for an injunction or recovery of any administrative or civil penalty assessed pursuant to the provisions of the Adult Day Care Act may be brought by:

a. the district attorney of the appropriate district court of the State of Oklahoma;

b. the Attorney General on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma; or

c. the Department on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma, or as otherwise authorized by law.

3. The court has jurisdiction to determine such action, and to grant the necessary or appropriate relief, including but not limited to mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

Historical Data

Laws 1989, SB 88, c. 192, § 9, eff. November 1, 1989; Amended by Laws 1998, SB 1095, c. 319, § 2, eff. November 1, 1998
(superseded document available).

Citationizer[®] Summary of Documents Citing This Document

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Citationizer: Table of Authority

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None Found.

OAC 310:605

Adult Day Care Centers

Rule text was pulled from the official record on the Oklahoma Office of Administrative Rules (OAR) web page on 02-08-24. Rules are subject to change through the rule promulgation process. When rule promulgation results in rule change, updated language is published to the official OAR site a few weeks after the effective date of the rule change. *Emergency rules are not published to the OAR site.

CHAPTER 605. ADULT DAY CARE CENTERS

[Authority:63 O.S., §§ 1-104 et seq. and 1-870 et seq.]

[Source:Codified 6-11-92]

SUBCHAPTER 1. GENERAL PROVISIONS

310:605-1-1. Purpose

The standards in this Chapter are promulgated, as provided for by the Adult Day Care Act (Title 63 O.S. Section 1-870 et seq.) to establish criteria for issuance or renewal of an adult day care center license. These standards also provide the criteria which will be used in enforcing the provisions of the Act as deemed necessary, and to carry out its purpose which is to:

- (1) Provide a protective social environment which may include health remedial, restorative, and social services designed to maintain maximum independence and to prevent premature or inappropriate institutionalization of functionally impaired elderly or disabled adults.
- (2) Provide periods of relief for family caregivers, sometimes called respite care, to enable them to continue caring for an impaired person at home.
- (3) Enable family caregivers to continue gainful employment.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92; Amended at 18 Ok Reg 2492, eff 6-25-01]

310:605-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Adult Day Care Aide" means an individual who has met the state qualifications for certification and who assists the professional staff members in the implementation of the programs and services of the center, and has completed an orientation program provided by the center.

"Adult Day Care Center" or **"center"** means a facility which provides basic day care services to unrelated impaired adults for more than four (4) hours in a twenty-four-hour period. A center shall be a distinct entity, either freestanding or a separate program of a larger organization. A center shall have a separately verifiable staff, space, budget and participant record system. The terms "adult day care center" or "center" shall not include retirement centers and senior citizen centers [63:1-872].

"Adult Day Care Provider" means the person, corporation (for profit or not for profit), partnership, association, or organization legally responsible for the overall operation of the adult day care center, who has a current license.

"Associated day care program" is an adult day care center which is physically attached with another organization established primarily to offer other services (such as medical care or long term care) but has distinctly designated space and staff for an adult day care program which is in addition to the existing space and staffing requirements for the residents, patients, or clients.

"Basic Day Care Services" means supervised health, social supportive, and recreational services in a structured daytime program which serves functionally impaired adults who cannot take care of themselves who continues to live in their own homes, usually with the aid of family caregivers.

"Caregiver" means a person who is responsible for the care of the participant in the home.

"Case Manager" means an individual who is responsible for providing and/or coordinating individual and group counseling to participants and family or caregiver, and who assists the participant in obtaining needed resources within the community.

"Department" means the State Department of Health.

"Dietary or Food Service Supervisor" means an individual qualified by training or experience who is responsible for food service in the center.

"Direct Care Staff" means those staff (paid and volunteer) assigned to take care of the direct needs of participant.

"Free-Standing Adult Day Care Center" means a center which does not share staffing or licensed space or any physical components of space, equipment, furnishings, dietary, security, maintenance

or utilities used in the provision of services with any other organization, or service.

"Functionally impaired adult" means an individual aged eighteen years or older who requires care and/or supervision.

"Medication Aide" means an individual who has received certification to administer medications from a program approved by the Department.

"Nurse" means a licensed practical nurse or registered nurse currently licensed in the State of Oklahoma.

"Participant" means a person who attends an adult day care center.

"Participant's Guardian" means a court appointed guardian.

"Participant's Representative" means an individual designated in writing by the participant to act as responsible party to act in his/her stead.

"Qualified Dietitian" means an individual who is registered as a dietitian by the American Dietetic Association, or has a baccalaureate degree with major studies in food and nutrition, dietetics, or food service management, has one year of supervisory experience in the dietetic service of a health care institution, and participates annually in continuing dietetic education.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92; Amended at 18 Ok Reg 2492, eff 6-25-01; Amended at 20 Ok Reg 1182, eff 5-27-03]

SUBCHAPTER 3. RIGHTS

310:605-3-1. Participant rights

Each participant of the adult day care program shall be assured of the following rights:

- (1) To be treated as an adult, with respect and dignity regardless of race, color, or creed.
- (2) To participate in a program of services and activities which promote positive attitudes regarding ones usefulness and capabilities.
- (3) To participate in a program of services designed to encourage learning, growth, and awareness of constructive ways to develop ones interests and talents.
- (4) To maintain ones independence to the extent that conditions and circumstances permit, and to be involved in a program of services designed to promote personal independence.
- (5) To be encouraged to attain self-determination within the adult day care setting, including the opportunity to participate in developing ones care plan for services; to decide whether or not to participate in any given activity; and to be involved in the extent possible in program planning and operation.
- (6) To be cared for in an atmosphere of sincere interest and concern in which needed support and services are provided.
- (7) To have privacy and confidentiality.
- (8) To be free of mental and physical abuse.
- (9) To be free of restraint unless under physician's order as indicated in individual care plan.
- (10) To have access to telephone to make or receive calls, unless necessary restrictions are indicated in the individual care plan.
- (11) To be free of interference, coercion, discrimination or reprisal.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92]

SUBCHAPTER 5. LICENSURE REQUIREMENTS

310:605-5-1. License required

(a) It shall be unlawful to operate an adult day care center without possessing a current, valid license issued pursuant to the Adult Day Care Act. It shall be unlawful for any holder of a license issued pursuant to the Adult Day Care Act to advertise or hold out to the public that it holds a license for a center other than that for which it actually holds a license.

(b) *Centers to be licensed shall include all adult day care centers. Sheltered workshops and senior recreational centers which do not receive participant fees for services are not required to be licensed. It*

shall be unlawful to operate a center without first obtaining a license for such operation as required by the Adult Day Care Act, regardless of other licenses held by the operator. Organizations operating more than one center shall obtain a license for each site. [63:1-873.B]

(c) The license for operation of a center shall be issued by the State Department of Health. The license shall:

- (1) Not be transferable or assignable;*
- (2) Be posted in a conspicuous place on the licensed premises;*
- (3) Be issued only for the premises named in the application; and*
- (4) Expire thirty-six (36) months from the date of issuance, provided an initial license shall expire one hundred eighty (180) days after the date of issuance. Licenses may be issued for a period of more than twelve (12) months, but not more than thirty-six (36) months, for the licensing period immediately following November 1, 2021, in order to permit an equitable distribution of license expiration dates to all months of the year.[63:1-873.C(4)]*

(d) The issuance or renewal of a license after notice of a violation has been sent shall not constitute a waiver by the State Department of Health of its power to subsequently revoke the license or take other enforcement action for any violations of the Adult Day Care Act committed prior to issuance or renewal of the license. [63:1-873.F]

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92; Amended at 18 Ok Reg 2492, eff 6-25-01; Amended at 39 Ok Reg 1337, eff 9-11-22]

310:605-5-2. Application for license or renewal

- (a) An applicant for a license to operate an adult day care center must file an application on a form provided by the State Department of Health and pay an initial license fee of seventy-five dollars (\$75.00).
- (b) Application for license renewal must be filed at least forty-five (45) days before the expiration date of the current license on a form approved by the Department and a license fee of seventy-five dollars (\$75.00) per year of licensure must be paid.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92; Amended at 18 Ok Reg 2492, eff 6-25-01; Amended at 39 Ok Reg 1337, eff 9-11-22]

310:605-5-3. Inspections

- (a) The Department shall at least annually, and whenever it deems necessary, inspect each adult day care center to determine compliance with the Adult Day Care Act and rules and regulations promulgated thereto.
- (b) Any licensee or applicant for a license shall be deemed to have given consent to any duly authorized employee or agent of the Department to inspect and enter the center in accordance with the Adult Day Care Act or rules promulgated thereto. Refusal to permit such entry or inspection may constitute grounds for the denial, nonrenewal, suspension or revocation of a license.
- (c) A notice of violation shall be sent to any adult day care center when violations are cited as a result of an inspection. The center shall have ten (10) days after receipt of the notice of violation in which to prepare and submit a plan of correction. The plan of correction shall include a fixed time period not in excess of thirty (30) calendar days, within which the violations are to be corrected.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92]

310:605-5-4. Sanctions

(a) The Department may deny, suspend, deny renewal, or revoke the license of an applicant or a licensed adult day care center which fails to comply with the licensing requirements and rules and regulations specified by the provisions of the Adult Day Care Act.

- (1) The Department shall give a center thirty (30) days written notice that its license is to be suspended or revoked, and shall take action at the end of that time if the center is still out of compliance. However, if the health and safety of participants are threatened, the suspension or revocation shall be effective immediately, and the center closed.

(2) Holders of suspended or revoked licenses shall be entitled to a hearing before Department licensure officials if requested within ten (10) days of their notification. The hearing shall be held at least ten (10) days before final action is taken and conducted pursuant to the Administrative Procedures Act.

(3) Suspended licenses may be reinstated if deficiencies are corrected within a time frame established by the Department.

(b) Any person who has been determined to have violated any provision of the Adult Day Care Act or any rules, regulations, or order issued pursuant thereto may be liable for an administrative penalty of not more than five hundred dollars (\$500.00) for each day that said violation continues. The amount of the penalty shall be assessed by the Department, after notice and hearing. In determining the amount of the penalty, the Department shall include but not be limited to consideration of:

(1) the nature, circumstances, and gravity of the violation and, with respect to the persons found to have committed the violation, the degree of culpability.

(2) the effect on ability of the person to continue to do business.

(3) any show of good faith in attempting to achieve compliance with the provisions of the Adult Day Care Act.

(c) Any license holder may elect to surrender his/her license in lieu of said fine but shall be forever barred from obtaining a reissuance of said license.

(d) Any person who violates any of the provisions of the Adult Day Care Act, upon conviction shall be guilty of a misdemeanor. Each day upon which such violation occurs shall constitute a separate violation.

(e) The Attorney General or the district attorney of the appropriate district court of Oklahoma may bring an action in a court of competent jurisdiction for the prosecution of a violation by any person of a provision of the Adult Day Care Act or any rule, regulation, or order issued pursuant thereto.

(f) Enforcement of any action for equitable relief or redress or restrain a violation by any person of a provision of the Adult Day Care Act or for an injunction or recovery of any administrative or civil penalty assessed pursuant to the Adult Day Care Act may be brought by:

(1) the district attorney of the appropriate district court of the State of Oklahoma.

(2) the Attorney General on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma.

(3) the Department on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma or as otherwise authorized by law.

(g) The court has jurisdiction to determine said action, and to grant the necessary or appropriate relief, including but not limited to mandatory or prohibitive injunction relief, interim equitable relief, and punitive damages.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92]

SUBCHAPTER 7. ORGANIZATION AND ADMINISTRATION

310:605-7-1. Governing body and functions

(a) The adult day care center shall have a governing body that has full authority and responsibility for operation of the center.

(b) Centers owned and operated by a sole proprietor may be governed by a single person who assumes all the responsibilities of the governing body.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92]

310:605-7-2. Responsibilities

The governing body of an adult day care shall:

(1) Ensure continual compliance and conformity with all relevant local, state, and federal laws and regulations.

(2) Designate a center director who manages the center.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92; Amended at 20 Ok Reg 1182, eff 5-27-03]
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310:605-7-3. Lines of responsibility

- (a) There shall be a clear division of responsibility between the governing body and the adult day care director.
- (b) The director shall be given full authority and responsibility to plan, staff, direct, and implement the program for day to day operation of the center.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92]

310:605-7-4. Development of written policies and procedures

Written policies and procedures shall be developed by the center which include the following:

(1) Enrollment criteria.

- (A) Each center shall have enrollment policies.
- (B) The written enrollment policies shall contain specific admission criteria to define the participants who can be served by the center.
- (C) The center's enrollment policies shall prohibit enrollment of persons whose needs exceed the capability of the center's program, and persons excluded by the Adult Day Care Center Act.

(2) **Hours and days of operation.** The center shall establish polices and procedures covering the hours and days of operation.

(3) **Rates and payments.** The center shall establish policies and procedures governing rates and payments which include the following:

- (A) Charges for basic services.
- (B) Services that may be obtained on a fee basis, but are not included in the basic services.
- (C) Public disclosure of the above.

(4) **Types of services provided.** The center shall have written policies and procedures which contain the range of services provided by the center, including specialized services, i.e., speech therapy, physical therapy, counseling, transportation, etc., and other services that may be arranged through the center with other resources within the community.

(5) **Medication storage and administration.** The center shall have written policies and procedures governing the storage, maintenance, and administration of medications as stated in section 310:605-13-2(2).

(6) Admission and discharge.

(A) **Admission.** The center's policies and procedures for admission and discharge of participants shall include, but not be limited to the following:

- (i) An application for enrollment to be completed prior to or upon admission to the center.
- (ii) The requirement for a current medical report and medical assessment by the participant's physician to be obtained within 5 working days of admission.

(B) **Discharges.** The written policies and procedures regarding discharge from the center shall include but not be limited to the following:

- (i) Provision for emergency discharge of participant to other health care facilities or to caregiver when the health or safety of the participant or other participants is endangered.
- (ii) Notice requirements and causes for involuntary termination of services to a participant.
- (iii) Discharge planning in accordance with all requirements at 310:605-9-2.

(7) **Personnel policies and practices.** The center shall have written policies and procedures pertaining to personnel practices.

(8) **Personnel records system.** A personnel record shall be established for each employee and each volunteer counted in the staffing ratio.

(9) **General record system.** Each center shall establish a general record system.

- (A) Records of any incident or accident involving a participant shall be kept and maintained.
- (B) Participant records for social services and medical information shall be maintained.

(C) All records may be kept and maintained electronically in a computer system and in a central storage location, accessible on site. A backup of the computer system shall be maintained.

(D) The employee and participant records shall be retained for not less than five years after the participant's discharge or employee's termination.

(10) Emergency services.

(A) Each center shall have written policies for handling emergencies involving participants or staff.

(B) The policies and procedures shall provide instruction on obtaining outside emergency services.

(C) The policies and procedures shall be designed to insure that the family member, caregiver, or responsible party designated in the participant's record is notified when an emergency occurs.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92; Amended at 20 Ok Reg 1182, eff 5-27-03]

310:605-7-5. Residential and visiting pets

Each center that permits residential or visiting pets shall have written policies and procedures regarding those pets. The center shall not allow any pet to reside in the center unless all of the following requirements are met:

(1) The pet is a dog, cat, fish, or bird. A center may establish a program which includes animals other than dogs, cats, fish, or birds if the center submits its policies, procedures, and program guidelines to the Department and receives written approval from the Department prior to implementation of the program.

(2) The center has no more than two (2) dogs or cats as residential pets unless the center has received prior approval from the Department as a stated special program pursuant to 310:605-7-5-(a) (1).

(3) The center's policy ensures non-disruption of the center.

(4) For each pet, the center has or provides the following:

(A) Proof of current rabies immunization and leptospirosis immunizations for dogs and cats administered by a veterinarian licensed to practice in Oklahoma;

(B) A statement from a veterinarian licensed to practice in Oklahoma certifying the pet is free from disease communicable to humans;

(C) Proof of evaluation by a veterinarian licensed in Oklahoma for presence of internal parasites on a semi-annual basis and for the presence of external parasites as needed; and,

(D) A statement from a veterinarian licensed in Oklahoma certifying that each bird has been proven free of psittacosis.

(5) The pet's skin appears normal, and its coat is free of ectoparasites, matted hair, feces, and other debris.

(6) The center adopts a policy for control of pets to ensure that neither the pet nor the participants are in danger. If necessary, a pet shall be on a leash or harness, muzzled, caged, or in a container. A pet cage or container must not obstruct an exit or encroach on the required corridor width.

(7) Residential pets shall be the responsibility of the director's designated attendant.

(8) The center provides for the cleaning and disinfection of any area(s) contaminated by urination or excrement, and the center provides for the cleansing of aviaries, aquariums and fish bowls. The aquariums and fish bowls shall be monitored to prevent bacterial growth in the water.

(9) Residential dogs and cats shall not be allowed in the participants' areas after the hours of operation. Pets shall not be allowed in the kitchen, dining room or in areas used for food storage or preparation, dining, medication preparation or administration, or clean supply storage.

(10) The center shall arrange for care of the pet during periods outside of the center's normal operational hours, such as evenings, weekends, and holidays.

(A) The center may allow pets to visit the center. A visiting pet shall be under the control of the person who brought the pet into the center. The visiting pet's attendant shall adhere to the center's policies for residential pets.

(B) Section 310:605-7-5 does not supersede any local or state requirements regulating animals or pets.

[Source: Added at 14 Ok Reg 3144, eff 7-25-97; Amended at 16 Ok Reg 2513, eff 6-25-99; Amended at 18 Ok Reg 2492, eff 6-25-01; Amended at 20 Ok Reg 1182, eff 5-27-03]

SUBCHAPTER 9. ADMISSIONS AND DISCHARGES

310:605-9-1. Admission

(a) A signed application for participation and current medical information shall be obtained. The medical information shall be obtained from or verified by the participant's physician and shall include the following:

- (1) Physician's name and telephone number.
- (2) Date of last visit.
- (3) Current illnesses or health problems.
- (4) Current medication.
- (5) Dietary restrictions, if any.

(b) A current medical report and a medical assessment by the participant's physician of the participant's medical condition shall be obtained within five (5) days of the participant's entry into the adult day care program.

(c) Each participant shall have an individualized written plan of care developed within ten (10) days following participant's entry into the adult day care program. The plan of care shall be reviewed at least every six (6) months and updated as warranted by changes in the participant's condition.

(d) If a participant is not under a physician's care nor is taking any medications, the center may substitute a nursing assessment by a registered nurse for the medical assessment required in subsection (b) of this Section. In this case, the center may also verify the medical information with family or friends of the participant. If the nursing assessment reveals medical problems, the participant shall not be admitted to the center without the medical assessment.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92; Amended at 11 Ok Reg 901, eff 12-17-93 (emergency); Amended at 11 Ok Reg 2635, eff 6-25-94; Amended at 20 Ok Reg 1182, eff 5-27-03]

310:605-9-2. Discharge

(a) A participant, his or her family member, guardian, and/or representative shall be given a minimum of two weeks notice of the center's intent to terminate services to the participant unless continued attendance would infringe on the safety or well being of other participants or staff.

(b) There shall be a detailed report of circumstances leading to each unplanned discharge.

(c) Prior to a planned discharge of a participant, the staff shall develop an aftercare plan of supports and resources provided to the participant.

(d) A discharge summary to accompany a participant going to another center of health care shall include the needs of the participant, his/her medication history, social needs, and other data that will assist in his/her care at the new location.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92; Amended at 20 Ok Reg 1182, eff 5-27-03]

SUBCHAPTER 11. STAFFING REQUIREMENTS

310:605-11-1. Staffing requirements

Each adult day care center shall have a staff adequate in number, and appropriately qualified and trained to provide the essential services of the center.

(1) Each adult day care center shall have the following positions:

- (A) A director who shall have the authority and responsibility for managing and implementing the day care program.
- (B) An activity director.

(C) A social services coordinator or case manager.

(D) A dietary supervisor. Centers that are a part of larger organization which provides food service to the center, or centers that contract with an outside service for food service may employ a part time dietary supervisor.

(2) Each center shall employ additional staff, such as nurses, therapists, consultants, drivers, etc., as needed.

(3) Staff who serve in more than one staff position shall meet the minimum qualifications for each position served.

(4) Centers that administer medication shall have a registered nurse (R.N.), licensed practical nurse (L.P.N.), certified medication aide (CMA), or a medication administration technician (MAT) who has successfully completed a course of training in administration of medications approved by the Department. Monthly consultation by an R.N. or L.P.N. shall be required for centers where medications are administered by a certified medication aide (CMA), or a medication administration technician.

(5) Staff who have direct contact with participants shall be free of communicable disease.

(6) Each center shall be in compliance with the criminal arrest check, training, examination, application, registration and certification requirements in 63 O.S. Section 1-1950.1, 1-1950.3, 1-1950.4, and 1-1951.

(7) Each paid day care center staff person (professional or non-professional) shall arrange for an employment examination within 72 hours of employment which shall include but not be limited to a test for tuberculosis. All tests and examinations shall be in conformance with the 2019 Guidelines for preventing the transmission of *mycobacterium tuberculosis* in healthcare settings as published by the Centers for Disease Control and Prevention.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92; Amended at 20 Ok Reg 1182, eff 5-27-03; Amended at 37 Ok Reg 1420, eff 9-11-20]

310:605-11-2. Staff ratios

(a) There shall be provided a sufficient number of direct care staff on duty at all times to meet the needs of each participant. There shall be a minimum of one full time equivalent direct care staff person for every eight (8) participants who are present and one (1) additional direct care staff person for a major portion of eight (8) additional participants present.

(b) There shall be at least two (2) responsible persons at the center when participants are present; one shall be a staff member.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92; Amended at 11 Ok Reg 901, eff 12-17-93 (emergency); Amended at 11 Ok Reg 2635, eff 6-25-94; Amended at 20 Ok Reg 1182, eff 5-27-03]

310:605-11-3. Staff qualifications

(a) **Director.** The Director shall have at a minimum a Bachelor's degree and one year supervisory experience in a social or health services setting, or a minimum of a high school diploma plus five consecutive years supervisory work experience (full-time or equivalent) in a long term care or geriatric setting.

(b) **Social Services Coordinator or Case Manager.** The social services coordinator or case manager shall have a minimum of a bachelor's degree, or a minimum of a high school diploma plus five consecutive years of work experience in a long term care or geriatric setting.

(c) **Nurse.** A nurse shall be a registered or a licensed vocation/practical nurse who is currently licensed by the State of Oklahoma and has experience working with the aging and chronically impaired adult.

(d) **Activities Director.** The activities director shall be qualified by training or experience in recreation or related area.

(e) **Dietary Supervisor.** A food service supervisor shall be qualified by training or experience.

(f) **Adult day Care Aide.** An Adult Day Care Aide who provides direct personal care services shall be Certified at least to the Adult Day Care level of nursing aide training.

(1) Each certified adult day care aide employed by the Center shall be in compliance with the criminal arrest check, training, examination, application, registration and certification requirements in 63 O.S. Section 1-1950.1, 1-1950.3, 1-1950.4, and 1-1951.

(2) The Center shall contact the Department's nurse aide registry prior to employing a nurse aide to determine whether the person is listed on the registry, and if there is a confirmed finding of abuse, neglect, or misappropriation of property.

(3) The Center shall ensure that the certification for each nurse aide is current.

(g) **Therapist.** Physical therapists, occupational therapists, recreational therapists, and speech therapists who provide services to the Center and/or its participants shall have valid state credentials. Staff may work independently under directions of the licensed therapist.

(h) **Consultant.** The individual consultant shall be available to provide services to the participant as prescribed by the physician in order to supplement professional staff. Consulting services may be done on an individual basis or by contract or written agreement with a community group source or individual.

(i) **Volunteers.** Volunteer staff who are counted in the staffing ratio shall be qualified by training and/or experience to perform duties and responsibilities required by the written job description.

(j) **Direct care.** Direct care paid staff shall be at least eighteen (18) years of age and qualified for the position held.

(k) **Driver.** Each driver shall have a valid and current state driver's license appropriate for the position, a safe driving record, and training in first aid and CPR.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92; Amended at 11 Ok Reg 901, eff 12-17-93 (emergency); Amended at 11 Ok Reg 2635, eff 6-25-94; Amended at 20 Ok Reg 1182, eff 5-27-03]

310:605-11-4. Orientation and training

(a) All staff, prior to performing job responsibilities, including non-direct care, direct care, and volunteers, shall be given a general orientation to the program, its policies, fire, safety, and emergency procedures.

(b) In-service training for each staff person shall be provided quarterly.

(c) Each staff member shall be competent, ethical, shall hold personal information regarding participants in confidence, and treat all participants with respect and dignity.

(d) Documentation of attendance and content for all orientation and training shall be maintained by the center.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92; Amended at 20 Ok Reg 1182, eff 5-27-03]

310:605-11-5. Personnel records

Individual personnel records for both paid and volunteer staff counted in the staffing ratio shall include:

(1) A valid form of photo identification;

(2) Position title;

(3) Job description;

(4) Copies of license(s) or certification(s) of professional qualification(s) applicable to the position;

(5) Education background;

(6) Employment history and references;

(7) Results of criminal background check, if applicable.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92; Amended at 18 Ok Reg 2492, eff 6-25-01; Amended at 20 Ok Reg 1182, eff 5-27-03]

SUBCHAPTER 13. SERVICES

310:605-13-1. Required services

Each adult day care center shall provide supervision of participants, assistance with activities of daily living, planned activities, social services, nutritious meals, and emergency and first aid services.

(1) **Supervision of participants.** Supervision and monitoring of participants shall include, but not be limited to, the following:

- (A) Knowledge of participant's whereabouts while attending the program.
- (B) Assistance as needed in interaction with other participants and staff.
- (C) Observing functional status to determine if a change in the participant's plan of care is needed.

(2) **Activities of daily living.** Provisions shall be made for assistance and training in walking, feeding, toileting, personal care, and other activities of daily living according to each participant's plan of care. Assistance shall be provided by those qualified by licensure or certification.

(3) **Planned activities.**

- (A) The adult day care center shall provide planned activities during at least one-half (1/2) of daily operations, with a minimum of four (4) hours of planned activities.
- (B) Activities shall be planned to meet the needs, interests and abilities of participants.
- (C) Participants shall be encouraged but may refuse to participate in any given activity.
- (D) All activities shall be adequately supervised by program staff.
- (E) A monthly schedule of activities shall be planned and shall be displayed prior to the first day of the month.
- (F) Daily activities shall be posted in a visible location.

(4) **Social services.**

- (A) The center may, upon request by a participant or his or her legal guardian, recommend to participants and their family available counseling services, if needed and desired, either within the center or by arrangement with resources in the community.
- (B) Social services shall be directed toward the following:
 - (i) Maintaining the maximum social functions of the participant.
 - (ii) Assisting with personal, family, and adjustment problems.
 - (iii) Safeguarding and fostering the human and civil rights, human dignity and personal worth of each participant.

(5) **Nutrition and food service.**

- (A) The adult day care center shall provide or make arrangements for a minimum of one meal daily which is of suitable quality and quantity for participants who are in the center for four (4) or more hours. The meal shall meet at least one-third (1/3) of an adult's current recommended dietary allowance (RDA) of the Food and Nutrition Board, National Academy of Sciences-National Research Council.
- (B) Food shall be stored, prepared, and served in accordance with the Rules and Regulations for Food Service Establishments adopted by the State Board of Health.
- (C) Food that is not prepared on site shall be prepared in a facility which meets the local and state health regulations.
- (D) Poisons and other dangerous materials shall be stored in a non-food preparation and/or storage area.
- (E) Potable water shall be available to all participants as needed.
- (F) Menus shall be planned and written for a minimum of a two-week cycle, if meals are prepared on site.
- (G) The menu shall be dated for the week of service and posted in a prominent area for the availability to the participant, family, or participant's designated representative.
- (H) A therapeutic diet shall be provided for a participant when prescribed in writing by a physician.
- (I) A qualified dietitian/nutritionist shall be provided for consultation with staff on basic and special nutritional needs and proper food handling techniques.
- (J) Appropriate food containers and utensils shall be available as needed for use by handicapped participants.
- (K) Dining areas shall be sufficiently equipped with tables and chairs to meet the needs of each participant including participants using wheelchairs.
- (L) Garbage shall be stored, bagged, and disposed of in accordance to local and state health regulations.

(6) Emergencies and first aid.

- (A) Written detailed plans for handling emergencies shall be established and shall be displayed in a conspicuous place within the facility.
- (B) The plan shall relate to non-medical and medical emergencies and the responsibilities of each staff position shall be specified.
- (C) All staff shall be knowledgeable about the plan.
- (D) Each participant shall provide an emergency information sheet, medical history, and a signed liability release form for use in an emergency.
- (E) The name and telephone number of participant's family member, caregiver, or responsible party shall be on file and retrievable by the staff.
- (F) Emergency phone numbers shall be conspicuously posted to include ambulance, hospital, fire, and police when 911 is not available.
- (G) There shall be at least one staff person on duty at all times who is trained in CPR.
- (H) There shall be conducted regular drills for all staff in handling different kinds of emergencies and documented as to date, kind of emergency, and individual receiving training. Emergency drills shall be conducted at least once every three months.
- (I) Any sickness, or accidents involving a participant, resulting in physical injury or suspected physical injury to the participant shall be reported to the director who shall arrange for appropriate action.
- (J) Any participant who shows symptoms of illness or infectious disease shall be given the necessary attention and/or removed from the group.
- (K) The provider shall have available a room for participants who require removal from the group due to temporary illness.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92; Amended at 11 Ok Reg 901, eff 12-17-93 (emergency); Amended at 11 Ok Reg 2635, eff 6-25-94; Amended at 20 Ok Reg 1182, eff 5-27-03]

310:605-13-2. Additional Services

Adult day care centers shall provide the following as indicated by the center's program goals and the individual needs of the participants served:

(1) Health Monitoring.

- (A) The health, functional, and psychosocial status of each participant shall be observed for significant changes and documented in the participant's record at least monthly by the designated professional staff. Each family and/or physician shall be notified of such changes.
- (B) The staff shall arrange for contacts with health professionals as needed by each participant.
- (C) There shall be proper administration of medications as prescribed by the physician.
- (D) Written policies and procedures shall be developed and implemented for participants self-medication administration and staff medication administration.

(2) Medications.

- (A) Participants shall be encouraged to retain and administer their own medications while attending the adult day care program.
- (B) When a participant has been determined to be unable to be responsible for his medication, the following procedures shall be followed:
 - (i) The medication shall be retained in a safe, secure, locked area for storing medications or drugs until prescribed time.
 - (ii) Medications maintained by the center shall be retained in containers in which they were dispensed from the pharmacy. The containers shall be labeled with the participant's full name, the name and strength of the medication, and the dosage and administration instructions.
 - (iii) Medications may not be administered without an order from a physician.
 - (iv) Physician's phone orders may be taken only by a licensed nurse.

- (v) The phone orders shall be signed and dated by the physician within three (3) working days after giving the phone order. Orders by facsimile are acceptable as original signatures.
- (vi) Phone orders shall be written into the participant's record and date noted by the licensed nurse who received them.
- (vii) Orders regarding medications and treatments shall be in effect as indicated by the physician for a specified number of days.
- (viii) Changes in health status, including reaction to medication and/or treatments, shall be communicated immediately to the participant's physician by the licensed nurse. If the facility is unable to contact the participant's personal physician, emergency medical procedure shall be followed.
- (ix) All medications shall be packaged and labeled in accordance with professional pharmacy standards, state and federal drug laws and regulations, and the United States Pharmacopeia (USP). Labeling shall include cautionary instructions, as well as expiration date, when applicable, and name of medication specified by the physician.
- (x) Over the counter drugs for individual participants shall be labeled with at least the participant's name.
- (xi) Schedule II drugs shall be kept in a locked box.
- (xii) Medications requiring refrigeration shall be kept refrigerated in a locked refrigerator or in a locked box within the refrigerator or in a refrigerator within a locked room.
- (xiii) The temperature range of the medication refrigerator shall be 36o F. (2o C) to 48o F. (8o C).
- (xiv) No food shall be stored with refrigerated medication except for food used for medication and administration.
- (xv) The administration and storage medication system shall be reviewed by a licensed nurse not less than every three (3) months.
- (xvi) A written medication administration record shall be maintained for medications administered.
- (xvii) Documentation of medications administered shall be done within one hour after administration of medication.
- (xviii) Records of all Schedule II drugs shall be maintained.

(3) Specialized services.

- (A) A planned program of activities shall be available to all participants in accordance to participant's plan of care.
- (B) The following services which are designed to improve or maintain participant's independent functional ability may be arranged and secured through qualified community resources: physical therapy, occupational therapy, recreational therapy, and speech therapy.

(4) Transportation. The following requirements must be met if transportation is provided by the adult day care center to ensure the health and safety of the participants:

- (A) The number of participants allowed in a car, station wagon, van, bus, or whatever the type of transportation used shall not exceed the number for which the vehicle is designed. Each person transported must have a seat.
- (B) There shall be provisions made to accommodate participants who use assistive devices for ambulation.
- (C) Participants shall be offered an opportunity to have a rest stop when being transported for more than one hour.
- (D) The center shall be sufficiently staffed to ensure the safety of participants being transported by facility vehicles.
- (E) The provider shall conform to all state laws regarding regulations, drivers, vehicles, and insurance.
- (F) The center shall maintain the vehicle in good repair.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92; Amended at 11 Ok Reg 901, eff 12-17-93 (emergency); Amended at 11 Ok Reg 2635, eff 6-25-94; Amended at 20 Ok Reg 1182, eff 5-27-03]

310:605-13-3. Participant records

All adult day care centers shall maintain an individual folder for each participant. Each record shall include but not be limited to the following:

- (1) Admission information including medical and social history and identification.
- (2) Physician's orders for medications, treatments, diet, rehabilitation, and special medical procedures.
- (3) Current health evaluations.
- (4) A chart of medications administered and any reactions, if applicable.
- (5) A written plan of care.
- (6) Copies of initial and periodic examinations, evaluations, and progress notes.
- (7) An authorization statement for emergency medical assistance including the name of a designated physician.
- (8) Name, address, and phone number of at least two (2) family members, guardians, and/or other persons designated to be contacted in an emergency.
- (9) Discharge plan and summary, when appropriate.

[Source: Added at 11 Ok Reg 901, eff 12-17-93 (emergency); Added at 11 Ok Reg 2635, eff 6-25-94; Amended at 20 Ok Reg 1182, eff 5-27-03]

SUBCHAPTER 15. PHYSICAL FACILITY

310:605-15-1. General criteria

The facility and grounds shall be safe, clean, and designed with consideration for the special needs and interests for the aging, disabled, and handicapped adult participants.

- (1) The center shall comply, when applicable, with all local and state laws and codes and ordinances as pertain with this occupancy.
- (2) A telephone shall be available to participants to make and receive calls.
- (3) A cooling, heating, and ventilation system shall provide comfort and shall accommodate all participants.
- (4) Room temperature shall be maintained between sixty-eight degrees Fahrenheit (68^o F.) and eighty-five degrees Fahrenheit (85^o F.).
- (5) Lighting shall be adequate in all areas.
- (6) A method shall be provided to control excessive noises.
- (7) Equipment and supplies shall be adequate to meet the needs of participants.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92; Amended at 20 Ok Reg 1182, eff 5-27-03]

310:605-15-2. Buildings and grounds

- (a) The building must meet the approval of local building and fire inspectors or the state fire marshal's office.
- (b) On and after the effective date of this subsection, each center that undergoes design changes or construction and each newly licensed center shall be designed and constructed in conformity with requirements for accessibility to physically disabled persons as specified in Chapter 11 of the International Building Code, 2003 Edition, published by the International Code Council.
- (c) The building shall be designed or adapted to meet heating, air conditioning, and water supply approved by the Department according to rules and design standards of the Board of Health.
- (d) There shall be at least two (2) exits from the center which can be used as disaster escape routes.
- (e) The heating system shall comply with local and state codes. Heating pipes, radiators or hot water pipes in rooms and areas used by participants shall be covered or protected.
- (f) Portable space heaters shall not be used.
- (g) Plumbing and plumbing fixtures shall conform to local and state codes. There shall be no cross-connection between the potable water supply and any pollution source through which the potable water

might become contaminated.

- (h) An adequate supply of water under sufficient pressure shall be provided to properly serve the participants.
- (i) At least one toilet and hand washing facility shall be provided for each 12 participants.
- (j) The lavatory shall have hot and cold running water. Hot water shall not exceed one hundred fifteen degrees Fahrenheit (115 F.).
- (k) A trash receptacle, soap, toilet paper, and individual paper towels shall be provided at all times and shall be within reach of the participants.
- (l) The toilet room shall be within easy access to the activity areas and shall provide privacy for the participant.
- (m) Each toilet room shall be equipped for approved ventilation.
- (n) There shall be a separate room or partitioned area for temporarily isolating participants in case of illness.
- (o) Grounds shall be maintained in a clean, orderly, and safe manner.
- (p) Outside lighting shall be provided at the center's entrances and grounds.
- (q) There shall be parking available for delivery and pickup of participants.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92; Amended at 20 Ok Reg 1182, eff 5-27-03; Amended at 21 Ok Reg 2754, eff 7-12-04]

310:605-15-3. Space requirements

- (a) A minimum of forty (40) square feet of space shall be provided for each participant, excluding hallways, storage areas, offices, rest rooms, and kitchens.
- (b) Office space shall be provided.
- (c) Space shall be provided for special therapies and designated areas to permit privacy.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92; Amended at 20 Ok Reg 1182, eff 5-27-03]

310:605-15-4. Location

- (a) The site or location of an adult day care center shall be chosen for the accommodation to the program and the participants served.
- (b) Adult day care centers located in conjunction with another program that is also licensed by the Department shall meet the specific requirements of the adult day care center. The facility or program with which it is located shall meet its own license requirements.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92]

310:605-15-5. Furnishings and equipment

- (a) The center shall be furnished adequately to meet the needs of the participants.
- (b) There shall be at least one bed located in a quiet space separate from other program activities.
- (c) Equipment and supplies shall be adequately provided to meet the needs of all participants.
- (d) All furnishings and equipment shall be in safe condition and properly maintained.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92; Amended at 20 Ok Reg 1182, eff 5-27-03]

310:605-15-6. Sanitation and housekeeping

- (a) Housekeeping and maintenance services shall be sufficiently provided to maintain the center in a clean, orderly, sanitary, and safe manner. The center shall be free of offensive odors.
- (b) Handwashing facilities in bathrooms and kitchens shall at all times be supplied with soap and disposable towels.
- (c) An insect, rodent, and pest control program shall be maintained and conducted regularly in a manner which continually protects the health and well-being of the participant. There shall be documented evidence of routine efforts of an existing pest control program. Opened windows shall be screened.

- (d) Soiled clothing shall immediately be placed in airtight containers. Clean clothing and linen shall at no time be stored in the same room with soiled clothing and linen.
- (e) There shall be procedures used by the kitchen and laundry which prevent cross-contamination between clean and soiled utensils and clean and soiled linens.
- (f) Waste, trash, and garbage shall be disposed of from the center's premises regularly in accordance to local and state regulations. Refuse containers, inside and outside, shall have tightly fitted lids and left in closed position.
- (g) The center's waste water and sewage shall be discharged into a municipal sewerage system approved by local and state regulations. Where such a system is not available, a facility providing sewage treatment must conform to applicable local and state regulations.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92; Amended at 20 Ok Reg 1182, eff 5-27-03]

310:605-15-7. Fire safety

- (a) Fire safety shall be observed at all times. The center shall have an agreement with the local fire service to respond to the facility in the event of an emergency or have access to a 911 emergency service.
- (b) Electrical, heating, and cooling systems shall be kept in good repair and safely maintained.
- (c) Use of extension cords or temporary wiring shall be prohibited.
- (d) All fires shall be reported to the licensing agency within 72 hours. Fires causing injury or death shall be reported immediately. A written report to the Department shall follow a telephone report.
- (e) Draperies or other window dressings, upholstery, and other fabrics and decorations shall be fire-resistant.
- (f) At least one telephone within the center shall be available to staff in case of an emergency. Emergency telephone numbers shall be posted on the designated emergency telephone to include fire, police, ambulance, and hospital if 911 emergency is not available.
- (g) All facilities shall at a minimum have smoke detectors placed appropriately throughout the facility and maintained in good operation.

[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92; Amended at 20 Ok Reg 1182, eff 5-27-03]

310:605-15-8. General safety

- (a) General safety requirements should meet ADA standards and the state minimum standards adopted by the state fire marshal's office.
- (b) The center's exterior site conditions shall be designed, constructed, and maintained with consideration for participants' safety.
- (c) Stairways and hallways shall be well lighted at all times. All stairways shall have non-slip surface.
- (d) All rugs and floor coverings shall be secured to floor. Throw rugs shall not be used.
- (e) Elevators for participants' use shall be maintained in safe condition.
- (f) The hot water system connected to fixtures used by participants shall deliver warm water at a temperature not to exceed 115° F.
- (g) Drugs, cleaning agents, pesticides, and poisonous products shall be stored out of reach of the participants and used in a manner which assures the safety of the participants.
- (h) There shall be no activities adversely affecting the safety of the participant on the premises.

[Source: Added at 8 Ok Reg 2983, eff 5-25-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92; Amended at 20 Ok Reg 1182, eff 5-27-03]