

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

**RULEMAKING ACTION:**

EMERGENCY adoption

**RULES:**

Subchapter 1. General Provisions [AMENDED]  
310:677-1-7 [NEW]

**AUTHORITY:**

Oklahoma State Commissioner of Health, Title 63 O.S. Section 1-104; Oklahoma Executive Department's Third Amended Executive Order 2020-07.

**COMMENT PERIOD:**

None

**PUBLIC HEARING:**

None

**ADOPTION:**

April 1, 2020

**EFFECTIVE:**

Immediately upon Governor's approval.

**EXPIRATION:**

Effective through September 14, 2021, unless superseded by another rule or disapproved, by the Legislature.

**SUPERSEDED EMERGENCY ACTIONS:**

n/a

**INCORPORATIONS BY REFERENCE:**

n/a

**FINDING OF EMERGENCY:**

The purpose of the rule is to address impending and actual staffing shortages among those health care providers that are required to employ certified nurse aides, medication aides and technicians, and feeding assistants. During the emergency, access to training and testing for these occupations is limited or non-existent. Demand for staffing has increased based on restrictions on communal dining, staff screening, and the COVID19 virus. This emergency rule identifies procedures for facilities to document that a licensed health care professional has verified the new employee demonstrated competency in a skill prior to assignment.

**GIST/ANALYSIS:**

To address impending and actual staffing shortages among those health care providers that are required to employ certified nurse aides, medication aides and technicians, and feeding assistants. During the emergency, access to training and testing for these occupations is limited or non-existent. Demand for staffing has increased based on restrictions on communal dining, staff screening, and the COVID19 virus.

This emergency rule seeks enactment under the emergency rule making authority established in the Oklahoma Executive Department's Third Amended Executive Order 2020-07, and would be effective immediately upon approval by the Governor and valid for the duration of the emergency declaration, except where time limited by the Administrative Procedures Act at 75 O.S. § 253. Nothing in this emergency rule supersedes the requirements in statute in Title 63 of the Public Health Code relating to the employment and certification of nurse aides. Title 63 O.S. § 1-1951(A)(2) authorizes the Department to approve nurse aide training and competency programs including, but not limited to, education-based programs and employer-based programs. Where a nursing facility, specialized facility for individuals with developmental disabilities, continuum of care facility, assisted living center, adult day care center or residential care home, a facility operated by the Oklahoma Department of Veterans Affairs, home health agency, or hospice

agency meets the requirements specified in law, this emergency rule grants presumptive approval of an employer based nurse aide training program.

Title 63 O.S. § 1-1950.3 authorizes the issuance of temporary emergency nurse aide training waivers. This emergency rule grants presumptive approval of temporary emergency waivers for the employment of nurse aide trainees in employer based nurse aide training programs, where said programs meet the requirements specified in law.

The rule establishes procedures for facilities to document that the required training is provided consistent with the established curriculum and that a licensed health care professional has verified the new employee demonstrated competency in a skill prior to working.

This emergency rule would not waive the employment screening requirements established under the Long Term Care Security Act, Title 63 O.S. 1-1944 et seq.

**CONTACT PERSON:**

Audrey C. Talley, Agency Rules Liaison, Oklahoma State Department of Health, 1000 N.E. 10<sup>th</sup> Street, Oklahoma City, OK 73117-1207; phone (405) 271-9444 ext. 56535 e-mail: AudreyT@health.ok.gov.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(F):**

**SUBCHAPTER 1. GENERAL PROVISIONS**

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.

(a) This section of rule is enacted under the emergency rule making authority established in the Oklahoma Executive Department's Third Amended Executive Order 2020-07.

(b) This rule is shall be effective immediately upon approval by the Governor and valid for the duration of the emergency declaration in Executive Order 2020-07, as amended, except where time limited by the Administrative Procedures Act at 75 O.S. § 253.

(c) Nothing in this emergency rule supersedes the requirements in statute in Title 63 of the Public Health Code relating to the employment and certification of nurse aides.

(d) Title 63 O.S. § 1-1951(A)(2) authorizes the Department to approve nurse aide training and competency programs including, but not limited to, education-based programs and employer-based programs. Where a nursing facility, specialized facility for individuals with developmental disabilities, continuum of care facility, assisted living center, adult day care center or residential care home, a facility operated by the Oklahoma Department of Veterans Affairs, home health agency, or hospice agency meets the requirements specified in law, this emergency rule grants presumptive approval of an employer based nurse aide training program.

(e) Title 63 O.S. § 1-1950.3 authorizes the issuance of temporary emergency nurse aide training waivers. This emergency rule grants presumptive approval of temporary emergency waivers for the employment of nurse aide trainees in employer based nurse aide training programs, where said programs meet the requirements specified in law.

(f) The following requirements of this Chapter are suspended for this emergency for those facilities operating under the presumptive approval authority of this section: OAC 310:677-1-6, temporary emergency waiver; OAC 310:677-3-3, application; OAC 310:677-3-4(b), relating to disqualifying criteria for training program approval; and OAC 310:677-13-1, relating to prior certification of medication aides. The requirements at OAC 310:677-13-8(a)(3) and (4), relating to certification of medication aides as nurse aides and experience, are not applicable to the medication aide in training, with the exception that no trainee may have an abuse notation.

(g) Facilities with presumptive approval shall provide curriculum and skills assessments for their applicable training program consistent with the curriculum and skill assessment requirements specified in this Chapter and the following:

- (1) Document training progress in the applicant's training record;
- (2) Document in the training record the time spent in training in each of the required areas;
- (3) Document satisfactory completion of applicable skill elements on the Skills Performance Checklist or Medication Skills Checklist, provided by the Department;
- (4) When a skill element has been documented to have been demonstrated at satisfactory competency the trainee is authorized to perform the task; and
- (5) An appropriate licensed health care professional documents and signs to acknowledge the training in competencies and demonstration of satisfactory performance for each skill.

(h) Unlicensed health professionals under this section seeking certification may, at any time, but not later than 120 days following the lifting of the declaration of emergency, submit a training exception request and sit for the competency examination pursuant to OAC 310:677-1-3(c).

(i) The requirements for issuance of certificates, registration and registration renewal for feeding assistants, as specified in Subchapter 19 of Chapter 675 of this Title, are suspended for the duration of the emergency declaration. Nursing facilities employing feeding assistants should continue to provide the feeding assistant eight hours of training as evidenced by signed statements from authorized facility staff, as established at Subchapter 19 of Chapter 675 of this Title.

(j) Unlicensed health professionals and feeding assistants addressed in this section remain subject to the requirements of the Long Term Care Security Act, 63 O.S. 1-1944 et seq. Nurse aide trainees shall be enrolled in OK-SCREEN, the Departments' web based employee screening portal, in the position category of "Technical, Unlicensed Health Care," and in the position of "Nurse Aide in Training." This enrollment shall serve as the registry for nurse aide trainees, as required in 63 O.S. 1-1951.

(k) Unlicensed health professionals and feeding assistants addressed in this section remain subject to all applicable state and federal law and rule prescribing conduct for a nurse aide, home health or hospice aide, medication aide or technician, or feeding assistant; that prohibit abuse, neglect, exploitation or misappropriation; and reporting requirements to applicable authorities and the Department for violations of those provisions.

(l) An applicant actively certified on another State's nurse aide registry as a nurse aide, home health aide, or medication aide, is presumptively approved for reciprocity of their certification to Oklahoma and may be employed. Maintain validation of the employee's certification from another state in their personnel record.