

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

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

310:677-1-2 [AMENDED]

310:677-1-3 [AMENDED]

Subchapter 3. Nurse Aide Training and Competency Examination Program

310:677-3-4 [AMENDED]

Subchapter 5. Nurse Aide Registry

310:677-5-2 [AMENDED]

Subchapter 13. Certified Medication Aides

310:677-13-1 [AMENDED]

Subchapter 15. ~~Developmentally Disabled Direct~~ ICF/IID Care Aides

310:677-15-1 [AMENDED]

310:677-15-2 [AMENDED]

310:677-15-3 [AMENDED]

310:677-15-4 [AMENDED]

310:677-15-5 [AMENDED]

Subchapter 17. Residential Care Aides

310:677-17-1 [AMENDED]

Subchapter 19. Adult Day Care Program Aides

310:677-19-1 [AMENDED]

SUMMARY:

This action proposes to amend numerous sections within this chapter. The current Rule uses the terms “Mental Retardation”, “Mentally Retarded” and “Qualified Mental Retardation Professional”. These terms are outdated and may be considered disrespectful. This proposal replaces the aforementioned terms with “Individuals with Intellectual Disabilities”, “Individuals with Developmental Disabilities”, or “Qualified Intellectual Disability Professional”. Pursuant to Title 25 O.S. § 40, statutes and administrative rules should avoid language that equates persons with their condition and should replace nonrespectful language by referring to persons with disabilities as persons first. Further, national organizations such as the Americans with Disabilities Act National Network, American Association on Intellectual and Developmental Disabilities and Centers for Medicare and Medicaid encourage use of more respectful language that has gained wide acceptance in recent disability laws.

This action proposes to amend the classification of Developmentally Disabled Direct Care Aides to ICF/IID Care Aides. "ICF/IID" is defined to mean an Intermediate Care Facility for Individuals with Intellectual Disabilities.

AUTHORITY:

Commissioner of Health, 63 O.S. § 1-104; 25 O.S. § 40 63 O.S. § 1951(B)

COMMENT PERIOD:

February 15, 2019, through March 21, 2019. Persons wishing to make comments may do so in person, by mail, or by email through March 21, 2019 at: Oklahoma State Department of Health, Attn: Agency Rule Liaison, Health Policy, Partnerships and Planning. 1000 Northeast Tenth Street, Oklahoma City, OK 73117-1207, or OSDHRules@health.ok.gov

PUBLIC HEARING:

Pursuant to 75 O.S. § 303 (A), the public hearing for the proposed rulemaking in this chapter shall be on March 19, 2019, at the Oklahoma State Department of Health, 1000 Northeast Tenth Street, Oklahoma City, OK 73117-1207, in room 1102 beginning at 10 am. In the event of state offices closing due to inclement weather, there will be an alternate hearing date on March 21, 2019, at the same location in room 1102 beginning at 10am.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, on the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule. Business entities may submit this information in writing through March 21, 2019.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSONS:

James Joslin, Assistant Deputy Commissioner. Protective Health Services, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207; phone (405) 271-6868, e-mail james@health.ok.gov. Spencer Kusi, Agency Policy Coordinator, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207; e-mail OSDHRules@health.ok.gov

INITIAL RULE IMPACT STATEMENT

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

1. **DESCRIPTION:** *(a brief description of the proposed rule [75 O.S. §303(D)(2)(a)])*
This action will amend numerous sections within this chapter. The current Rule uses the terms “Mental Retardation”, “Mentally Retarded” and “Qualified Mental Retardation Professional”. These terms are outdated and derogatory. This proposal replaces the aforementioned terms with “Individuals with Intellectual Disabilities”, “Individuals with Developmental Disabilities”, or “Qualified Intellectual Disability Professional”. Pursuant to Title 25 O.S. § 40, statutes and administrative rules should avoid language that equates persons with their condition and should replace nonrespectful language by referring to persons with disabilities as persons first. Further, national organizations such as the Americans with Disabilities Act National Network, American Association on Intellectual and Developmental Disabilities and Centers for Medicare and Medicaid encourage use of more respectful language that has gained wide acceptance in recent disability laws.
2. **DESCRIPTION OF PERSONS AFFECTED AND COST IMPACT RESPONSE:** *(a description of the persons who most likely will be affected by the proposed rule, including classes that will bear the costs of the proposed rule, and any information on cost impacts received by the agency from any private or public entities [75 O.S. §303(D)(2)(b)])*

Persons directly affected will be residents of nursing and specialized facilities as well as their family members. Additionally, the proposed amendments have the potential to affect numerous other individuals by encouraging respectful language to be used by the general public.

3. **DESCRIPTION OF PERSONS BENEFITING, VALUE OF BENEFIT AND EXPECTED HEALTH OUTCOMES:** *(a description of the classes of persons who will benefit from the proposed rule [75 O.S. §303(D)(2)(c)])*

Persons benefiting will include residents and their families as well as owners, operators, staff of nursing homes and specialized facilities and associated professionals. The amendments will encourage residents to be referred to in a more respectful manner. This change in language will promote respect and will have a positive impact on the perception of residents as well as their family members.

The Oklahoma State Department of Health (OSDH) received correspondence from an individual who is concerned about the current language. The individual voiced the desire to have the offensive language removed from use and stated that the terminology is outrageous and unacceptable. Further, she asked if the OSDH could work to improve the way in which individuals with disabilities are referenced within the Oklahoma Administrative Code (OAC).

In November 2006, 25 O.S. §40 was adopted and states that all new and revised administrative rules should replace nonrespectful language. Since 2006, only one section with disrespectful language has been amended to remove the language. In an effort to expedite this process, the OSDH proposes these rule changes to alter the language of all affected sections of the OAC at one time.

4. **ECONOMIC IMPACT, COST OF COMPLIANCE AND FEE CHANGES:** *(a description of the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change [75 O.S. §303(D)(2)(d)])*

There is no anticipated economic impact or cost associated with compliance. There will be no impact on political subdivisions and it will not require their cooperation in implementing or enforcing the proposed amendment.

5. **COST AND BENEFITS OF IMPLEMENTATION AND ENFORCEMENT TO THE AGENCY:** *(the probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and any anticipated effect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency [75 O.S. §303(D)(2)(e)])*

The cost to the OSDH to implement the amendments will be approximately \$784 to cover the costs of rule drafting, adoption, publication, distribution, and education. The proposed rules will be implemented and enforced by existing OSDH personnel and will not result in an increase in authorized full-time equivalent personnel.

No impacts on other agencies are anticipated.

6. **IMPACT ON POLITICAL SUBDIVISIONS:** *(a determination of whether implementation of the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule [75 O.S. §303(D)(2)(f)])*

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

7. **ADVERSE EFFECT ON SMALL BUSINESS:** *(a determination of whether implementation of the proposed rule may have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act [75 O.S. §303(D)(2)(g)])*

There is no anticipated adverse effect on small business.

8. **EFFORTS TO MINIMIZE COSTS OF RULE:** *(an explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule [75 O.S. §303.D.2(h)])*

The costs associated with this rule change are minimal and include only the costs of drafting, adoption, publication, distribution and education.

9. **EFFECT ON PUBLIC HEALTH AND SAFETY:** *(a determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk [75 O.S. §303(D)(2)(i)])*

This change will help foster inclusiveness and acceptance of individuals with disabilities by referring to them as individuals first. The language used in the updated rule is more respectful and will have a positive effect on individuals with intellectual and developmental disabilities.

10. **DETRIMENTAL EFFECTS ON PUBLIC HEALTH AND SAFETY WITHOUT ADOPTION:** *(a determination of any detrimental effect on the public health, safety and environment if the proposed rule is not implemented [75 O.S. §303(D)(2)(j)])*

If this change is not made, Oklahoma will continue to utilize outdated and nonrespectful language regarding individuals with disabilities. This language has an adverse effect on the individuals as well as their family members.

11. **PREPARATION AND MODIFICATION DATES:** *(the date the rule impact statement*

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

This rule impact statement was prepared on December 7, 2018, and subsequently modified on January 25, 2019.

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

SUBCHAPTER 1. GENERAL PROVISIONS

310:677-1-2. Definitions

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

"Abuse" means *any intentional physical or mental injury or sexual assault on a resident of a facility; by any person.* [63 O.S. 1991 §1-1902].

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

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

"Clinical skills observer" means a registered nurse, qualified ~~mental retardation~~ 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. 1991, § 1-1902(7)].

"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 portion and/or a clinical skills portion.

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

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

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

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

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

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

"Misappropriation of property" means the taking, misapplication, deprivation, transfer, or attempted transfer to any person not entitled to receive any property, real or personal, or anything of value belonging to or under the legal control of a resident or client without the effective consent of the resident or client or other appropriate legal authority, or the taking of any action contrary to any duty imposed by federal or state law prescribing conduct relating to the custody or disposition of a resident's/client's property.

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

"Neglect" means a failure to provide adequate medical or personal care or maintenance which results in physical or mental injury to a resident. [63 O.S. 1991, §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 ~~mentally retarded or developmentally disabled~~

~~persons~~ [individuals with intellectual or developmental disabilities].
[63:1-1902(11)]

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

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

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

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

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

310:677-1-3. Applicability

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

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

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

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

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

- (1) The individual submits all information specified on the Department's Nurse Aide Training and Competency Evaluation Program Waiver Application (ODH Form 844), which requires the following:
 - (A) Individual's full name and personal identifying information;
 - (B) Telephone number and address to include street, city, state, and zip code;

(C) Photocopy of diploma from an approved practical or registered nurse program;

(D) Type of nurse aide training and competency testing requesting to be waived; and

(E) Identification of all states, territories and districts of the United States and other countries where the individual has practiced or been licensed, certified or registered as a nurse; and

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

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

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

(A) Individual's full name;

(B) Telephone number and address to include street, city, state, and zip code;

(C) The location outside of the United States where the individual received their nursing education and licensing examination if applicable;

(D) The type of nurse aide training requesting to be excepted;

(E) Documentation verifying legal entry and resident status in the United States including but not limited to a photocopy of a Social Security Card, Visa, Green Card or naturalization papers; and

(F) A photocopy of a certified, translated diploma and transcript in English; and

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

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

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

(A) Home Health Aide ~~Deemed~~ deemed to Long Term Care Aide (ODH Form 755) with no fee required;

(B) Home Health Aide ~~Deemed~~ deemed to ~~Developmentally Disabled Direct~~ ICF/IID Care Aide (ODH Form 836);

(C) Home Health Aide ~~Deemed~~ deemed to residential Care Aide (ODH Form 837);

(D) Home Health Aide ~~Deemed~~ deemed to Adult Day Care Aide (ODH Form 838);

(E) Long Term Care Aide ~~Deemed~~ deemed to ~~Developmentally Disabled Direct~~ ICF/IID Care Aide (ODH Form 830);

(F) Long Term Care Aide ~~Deemed~~ deemed to ~~residential Residential~~ Care Aide, (ODH Form 831);

(G) Long Term Care Aide ~~Deemed~~ deemed to Adult Day Care Aide, (ODH Form 839);

(H) ~~Developmentally Disabled Direct~~ ICF/IID Care Aide ~~Deemed~~ deemed to Residential Care Aide (ODH Form 834); and

(I) ~~Developmentally Disabled Direct~~ ICF/IID Care Aide ~~Deemed~~ deemed to Adult Day Care Aide (ODH Form 835);

(2) Home Health Aide Reciprocity Application (ODH Form 735), \$15.00 fee;

(3) Training Exception Application (ODH Form 832), or Foreign Graduate Training Exception Application (ODH Form 843), \$15.00 fee; or

(4) Nurse Aide Training and Competency Evaluation Program Waiver Application (ODH Form 844), \$15.00 fee.

(5) The fees specified in (1) through (4) of this subsection apply to applications for home health aides, certified medication aides, ~~developmentally disabled direct~~ ICF/IID care aides, residential care aides, and adult day care aides. A fee shall not be charged on an application requesting certification as a long term care aide only.

(g) An individual who has previously completed a Department approved Nurse Aide Training and Competency Evaluation Program and is unable to renew certification may obtain approval to take a retest by filing a Certified Nurse Aide Retest Application (ODH Form 841) if any of the following criteria are met:

(1) The individual did not provide eight (8) hours of nursing or health related services for compensation during the twenty-four (24) months prior to expiration of the certification;

(2) The individual did not provide eight (8) hours of nursing or health related services for compensation up to twenty-four (24) months after expiration; or

(3) The individual's nurse aide certification has been expired for over two (2) years but less than three (3) years.

(4) A Certified Nurse Aide Retest Application (ODH Form 841) submitted by a home health aide, ~~developmentally disabled direct~~ ICF/IID care aide, residential care aide, or adult day care aide shall be accompanied by a fifteen dollar (\$15.00) nonrefundable fee.

(5) An individual who fails the approved retest shall be required to retrain before taking any subsequent retests.

(h) An individual may request a duplicate or amended certification card by submitting a Duplicate or Amended Nurse Aide Card Application (ODH Form 738) with a nonrefundable ten dollar (\$10.00) fee. A fee shall not be charged on an application requesting a duplicate or amended long term care aide certification card.

SUBCHAPTER 3. NURSE AIDE TRAINING AND COMPETENCY EXAMINATION PROGRAM

310:677-3-4. Program requirements

(a) Before the Department approves a nurse aide training and competency examination program or a competency examination program, the

Department shall determine whether the nurse aide training and competency examination program or the competency examination program meets the minimum requirements.

(b) The Department shall not approve, or shall withdraw approval, of an employer based program when the employer has been assessed the following penalties or actions by the Department:

(1) License suspended or revoked or had a conditional license issued.

(2) An administrative money penalty of five thousand dollars (\$5,000) or more for deficiencies cited under state licensure.

(3) Closed or had its residents or clients transferred pursuant to the Department's action.

(4) Enforcement actions based on the Department's authority under Medicare and Medicaid certification programs, except for facilities certified as Intermediate Care Facilities for ~~the Mentally Retarded~~ individuals with intellectually disabilities.

(5) For Intermediate Care Facilities for ~~the Mentally Retarded~~ 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;

(B) The curriculum does not include at least the subjects specified under 310:677-9-4 Home Health Aides, 310:677-11-4 Long Term Care Aides, 310:677-13-4 Certified Medication Aides, 310:677-15-3 ~~Developmentally Disabled Direct~~ ICF/IID Care Aides, 310:677-17-3 Residential Care Aides, and or 310:677-19-3 Adult Day Care Aides;

(C) A minimum of 16 hours of specified training for Long Term Care Aides is not provided prior to direct contact with residents;

(D) At least sixteen (16) hours of supervised practical training under the direct supervision of a registered nurse or a licensed practical nurse. The sixteen (16) hours does not include the administration of the skills examination.

(3) The entity uses an uncertified individual as a nurse aide for longer than four months. To use an uncertified individual as a nurse aide for four months or less, an entity must have a temporary emergency waiver approved pursuant to 63 O.S. Section 1-1950.3.

(4) The onsite review determines the training program is out of compliance with the requirements of 63 O.S. Section 1-1950.1, 1-1950.3 or 1-1951, or OAC 310:677.

(d) The Department shall withdraw approval of a nurse aide training and competency evaluation program if:

(1) The entity refuses to permit the Department to make unannounced visits; or

(2) The entity falsifies records of competency or training.

(e) Withdrawal of approval shall be for a period of two (2) years or until the Department is assured through review that the entity complies with the requirements.

(f) If the Department withdraws approval of a nurse aide training and competency examination program, the Department shall:

(1) Notify the entity in writing, indicating the reason for withdrawal of approval.

(2) Allow the trainees who have started a training and competency examination program to complete the program or allow the trainees who have started the program to transfer to another approved program.

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

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

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

SUBCHAPTER 5. NURSE AIDE REGISTRY

310:677-5-2. Registry operation

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

(b) Only the Department may place in the registry findings of abuse, neglect, mistreatment or misappropriation of property.

(c) The nurse aide registry shall indicate which individuals:

(1) Successfully completed a nurse aide training and competency examination;

(2) Were given a training exception to bypass training requirements and sit for the competency examination;

(3) Had the nurse aide training and competency examination program requirements waived; or

(4) Were placed on the Oklahoma Nurse Aide Registry via reciprocity from another state.

(d) A home health aide, long term care aide, ~~developmentally disabled-direct~~ 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, ~~developmentally disabled-direct~~ ICF/IID care aide, residential care aide, or adult day care aide shall file a Recertification Application (ODH Form 717). The individual certified as a long term care aide shall file a Recertification Application for Long Term Care Aide (ODH Form 840). Each recertification application requires:

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

(2) Documentation that the applicant has provided at least eight (8) hours of nursing or health related services for compensation during the preceding 24 months. On and after July 1, 2008, the documentation shall consist of one of the following:

- (A) A statement signed by the administrator or the administrator's representative for the licensed nursing facility, specialized facility, residential care home, home health or home care agency, adult day care center, assisted living center, continuum of care facility, Oklahoma Department of Veterans Affairs nursing facility, or Oklahoma correctional facility where the applicant provided services;
- (B) A statement signed by a physician or nurse under whose supervision the applicant provided services; or
- (C) A check stub, IRS Form W-2 or similar proof of wages paid to the applicant by a licensed nursing facility, specialized facility, residential care home, home health or home care agency, adult day care center, assisted living center, continuum of care facility, Oklahoma Department of Veterans Affairs nursing facility, or Oklahoma correctional facility; and
- (3) An oath of truthfulness and completeness to be signed by the applicant.
- (e) A home health aide, ~~developmentally disabled direct~~ ICF/IID care aide, residential care aide, or adult day care aide shall pay a ten dollar (\$10.00) fee for the processing and renewal of certifications and for replacement of a wallet card for change of name or other reason.

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 ~~developmentally disabled direct~~ ICF/IID care aide listed in the Department's Nurse Aide Registry, prior to admission to a State approved certified medication aide training program. The Department shall make available an attestation form that training programs may use for admission to certified medication aide training.
- (b) A certified medication aide shall complete at least eight (8) hours of continuing education every twelve (12) months, excluding the first year of certification, from a State approved program. A record of successful completion shall be kept in the certified medication aide's personnel file.
- (c) An employer shall not use as a certified medication aide any individual who does not comply with 63 O.S. Section 1-1950.3(E), OAC 310:677, and the employer's policies and procedures.
- (d) A certified medication aide shall renew certification every 12 months. Recertification 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 ~~developmentally disabled direct~~ 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 ~~developmentally disabled direct~~ 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 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.

SUBCHAPTER 15. ~~DEVELOPMENTALLY DISABLED DIRECT~~ ICF/IID CARE AIDES

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

(a) A certified ~~developmentally disabled~~ 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 orientation specific to the facility population. Documentation of the sixteen (16) hours of orientation shall be submitted to the Department and the certified ~~developmentally disabled~~ ICF/IID care aide will be placed on the registry as a certified residential care aide or a certified adult day care aide. The employers to which this subsection applies are:

(1) Residential care.

(2) Adult day care.

(b) The Department shall deem a certified long term care aide or a home care aide who has at least sixteen (16) hours of training specific to ~~the developmentally disabled client population~~ individuals with intellectual or developmental disabilities to meet the requirements for ~~a developmentally disabled direct~~ an ICF/IID care aide. Documentation of the sixteen (16) hours of training shall be submitted to the Department and the certified long term care nurse aide or the certified home care nurse aide will be added to the registry as being certified as a ~~developmentally disabled direct~~ ICF/IID care aide.

310:677-15-2. Instructor qualifications

(a) The instructor for training ~~developmentally disabled direct~~ ICF/IID care aides shall be a licensed nurse or a qualified ~~mental retardation~~ 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.

310:677-15-3. Curriculum

(a) The ~~developmentally disabled direct~~ 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 ~~developmentally disabled direct~~ 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 ~~mental retardation~~ 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.

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

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

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

310:677-15-5. Recertification

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

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

SUBCHAPTER 17. RESIDENTIAL CARE AIDES

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

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

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

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

(b) The Department shall deem a certified long term care aide, a certified home care aide or a certified ~~developmentally disabled direct~~ 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

~~developmentally disabled direct~~ ICF/IID care aide shall be certified as a certified adult day care aide.