



Oklahoma State  
Department of Health

## **LONG-TERM CARE FACILITY ADVISORY BOARD**

### **Regular Meeting**

**July 9, 2008 at 1:30 p.m. in Room 1102**

Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK

### **Draft Minutes**

#### **1. Call to Order**

Wendell short called the meeting to order at 1:38 p.m. Wednesday, July 9, 2008. The 2008 Long-Term Care (LTC) Facility Advisory Board meeting notices were filed and posted with the Secretary of State's office website and the Oklahoma State Department of Health (OSDH) website on November 15, 2007. The July 9, 2008 meeting agenda was posted July 7, 2008 on the OSDH website and at the OSDH building's front entrance.

#### **2. Roll Call**

Gayle Freeman called roll. The following members were present: Wendell Short, Chair; Kay Parsons, Vice Chair; Margaret Wallace, Secretary-Treasurer; Donna Bowers; Jane Carlson; Clara Haas; Diane Hambric; Esther Houser; Cassell Lawson; Dawn Mendenhall; Jane Mershon; H.F. Timmons; and Dr. Peter Winn.

The following members were absent: Ginny Bond; Theo Crawley; Chris Kincaid; Mich Magness; JoAnne Sellars; Tracy DeForest; and Dewey Sherbon.

Dr. Jean Root and Esther Houser arrived after the meeting was in progress.

There are currently five vacancies.

Identified OSDH staff present were: Dorya Huser, Chief of LTC; James Joslin, Chief of HRDS; Sue Davis, LTC; Lisa McAlister, Nurse Aide Registry; Karen Gray, LTC; Patty Scott, LTC; Matt Schue, Director of Occupational Licensing for the Okla. State Department of Health and Gayle Freeman, LTC.

Identified guests present were: Mary Brinkley, OKAHSAs; and Marietta Lynch, OAHCP; Tana Parrott, DHS, Charles Pruitt, DHS; Rick Billings LTCA of Enid; OKDHS/ASD; Andrea Pogue, Career Technology; Tom Hoetger, General Medicine P.C.; and Ann Osborne, Francis Tuttle Technology Center

4 Meetings are posted at:

<http://www.health.ok.gov/calendar/mtngs/index.html>

<http://www.sos.state.ok.us/meetings/agencymeets.asp?int.Agency=316>

Approved minutes are posted at <http://www.health.ok.gov/calendar/mtngs/ltcab.html>

A quorum was reached. Introduction of LTC Facility Advisory Board members and attendees commenced.

**3. Review and Action to Approve/Amend the April 9, 2008 Regular Meeting Minutes.**

Approval/Amendment of minutes for April 9, 2008 regular meeting.

*After brief discussion, Dr. Winn made a motion to approve the April 9, 2008 regular meeting minutes.*

*Seconded by Cassell Lawson. Motion carried.*

Aye: 14 Abstain: 0 Nay: 0 Absent: 7

Ginny Bond	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Vacant-Pharmacist	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Donna Bowers	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Vacant	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Gayla Campbell	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Dawn Mendenhall (Exp)	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Jane Carlson	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Jane Mershon (Exp)	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Vacant (Exp)	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Kay Parsons	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Vacant-NH Adm	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Dr. Jean Root	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Theo Crawley (Exp)	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	JoAnne Sellars	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Tracy DeForest	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Dewey Sherbon	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Clara Haas	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Wendell Short	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Diane Hambric (Exp)	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	H.F. Timmons	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
*Esther Houser	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Margaret Wallace (exp)	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Chris Kincaid (Exp)	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Dr. Peter Winn	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Cassell Lawson	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay		* Arrived after the vote
Mich Magness	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay		Shading = Absent

**4. Appointment of the Nomination Committee for the 2009 LTCFAB officers**

Volunteers for the 2009 nomination committee is: Diane Hambric, Chair, Kay Parsons, Jane Mershon, Clara Haas and Esther Houser.

**5. Report concerning CEU's for Oklahoma Nurses**

Wendell Short discussed a letter he received from the Board of Nursing on June 11, 2008; in August of 2007 the LTCFAB voted to have Diane Hambric the Chair Person write a letter to the Board of Health and to the Board of Nursing expressing support for CEUs for licensed nurses in Oklahoma. Through the course of time, the Board of Nursing has looked at the topic of Continued Education and it will be discussed in a meeting on July 22, 2008. A forty-five minute period will be made available for public presentations. There will be no decisions made at the meeting. Wendell advised he will go to the Board of Nursing meeting as an interested Stakeholder from a larger body, LTCFAB, and will address the Nursing Board in the time he is allotted. He will convey to the Board of Nursing that there continues to be a consensus among the members of the Long Term Care Advisory Board that there is a need for Continued Education for Oklahoma licensed and Registered Nurses.

## **6. Advantage Waiver for Assisted Living in Oklahoma**

Tom Dunning Program Administrator for Home and Community based services unit in Aging Services Division of DHS presented a power point presentation on the ADvantage Waiver Program. He introduced Rick Billings the Director of Long Term Care Authority of Enid and Tana Parrott and Charles Pruitt with Aging Services. The housing options were explained, and the fact that the ADvantage Program does not pay for room and board was reviewed. The ADvantage Assisted Living program outline included information concerning OSDH licensing and OKDHS certification. Tom explained the physical requirements of the resident's room for certification they include: lockable doors, private rooms, private bathroom, kitchenette and the square footage requirements. The Assisted Living Services are personal care and supportive services furnished in a homelike, non-institutional setting, including 24-hour on-site response capability to meet needs and provide supervision, safety and security. ADvantage Assisted Living services to meet consumers needs may include: personal care, housekeeping, laundry, meal preparation, nursing evaluations and supervision, nursing care, medication administration and assistance with transfer or ambulation. Tom explained the reimbursement rate structure and the room and board costs in relation to the SSI Federal Benefit. There were questions asked throughout the presentation. Mr. Dunning's number is (405) 522-3078; his email address is tom.dunning@okdhs.org.

Wendell thanked Mr. Dunning for his presentation.

## **7. Fire Extinguisher Industry Licensing Act**

Matt Schue, Director of Occupational Licensing for the Okla. State Department of Health presented information on the newly implemented act known as the "Fire Extinguisher Licensing Act". He explained the purpose of the act is to regulate the sale, installation and servicing of portable fire extinguishers. Matt provided a handout of the Fire Extinguisher Industry Act and gave an overview of the information covered by the act. Matt provided information on the new Uniform Code, the color-coding system for the fire extinguisher tags, and the information that should be on the tag. The web address for additional information on the "Fire Extinguisher Licensing Act", including an application and the rules and regulations, is OLD@health.ok.gov

Wendell Short thanked Matt for his presentation.

## **8. Update: "Best Practices Medical Directors Subcommittee"**

Dr. Winn spoke to the members of the Advisory Board regarding the ongoing progress of the "Best Practices Medical Directors Subcommittee". The Long-Term Care Facility Advisory Board members and guests of the meeting received a copy of the minutes of the last meeting of the Best Practices Medical Directors Subcommittee. Dr. Winn explained that part of the process of the subcommittee includes; gathering information to determine where we are as far as quality of care in Long Term care, evaluating the priorities of the Commissioner of Health, including physical restraints, pressure ulcers, and looking at some of the guidelines. The subcommittee would like to bridge the gap, meet the needs, and complement what the Department of Health is doing. Dr Winn recommend everyone look at the website [www.myinnerview.com](http://www.myinnerview.com) Management Intelligence for healthcare.

## **9. Activities and Social Directors Training Ad Hoc Committee**

Margaret Wallace gave a synopsis of the June 26, 2008 meeting of the Ad Hoc Activities and Social Directors Regulation Review Committee. Margaret provided a copy of the agenda from the meeting for the Board members and the LTCFAB guests. The Board was brought up to date on some work that the

committee is unraveling. Margaret explained there had been two meetings of the Ad Hoc committee to date. The first meeting was in May and was primarily an informational meeting in order to look at what is out there and what is being offered at this time. The second meeting in June was to hone in on detailed items in order to help the department develop specific criteria for an approval system for activities and social service directors as mandated by statute and rule. Margaret explained the committee was a passionate group of professionals that truly make life better for the residents in facilities across the state. She expressed her appreciation for their passion. Margaret related there were some definite common denominators among the committee in relation to quality programs as far as curriculum. There is another meeting scheduled for August 27, 2008 at 1:30 p.m.

### **10. Update for Long Term Care**

Dorya Huser provided an update from Long Term Care. She expressed her appreciation for the wonderful job both the Best Practice Medical Director's Subcommittee and the Activities and Social Directors Training Committee is doing. Dorya shared that we were looking forward to Dr. Root speaking next week, July 16 & 17th at Provider Training; at this time, we have approximately 300 people registered. The Assisted Living training with Dr Winn speaking again, will be August 7th and the ICF/MR training is Sept 16 & 17th. Guest speaker, published author, David Troxell, will be doing an Alzheimer's training October 23rd and 24th, people will only sign up for one day each day will be repeated. CMS is formalizing a requirement on sprinkler systems in facilities; they are no longer going to give any waivers for anything. If a facility has any waivers for whatever reason, they will no longer be valid. There will be a five year phase in, if a facility is going to have some expensive work done or renovations they will have a five year period to accomplish the work. CMS, is going to be implementing a rating system, they are hoping for a target date of Dec. 08. This will be a national system. Dorya advised; If you have input or if you want to see what the status is at this point in time you can check their website at [bettercare@cms.hhs.gov](mailto:bettercare@cms.hhs.gov). The mail out that is coming your way has three letters in it; one is to address temperatures in facilities, it is that time of year where we want to remind people about making sure you address your plans if your air conditioner goes out. A second letter is a reminder to order your flu vaccine for the fall and the third letter concerns the fire extinguisher law that is going into effect.

### **11. New Business**

Not reasonably anticipated 24 hours in advance of meeting

Karen Gray announced that CMS had released the advanced copy of the revised guidelines for F325, nutritional parameters, and F371, kitchen sanitation and they will go into effect Sept. 1, 2008.

### **12. Public Comment**

Public comments were made throughout the meeting

### **13. Adjournment**

The meeting adjourned at 3:50 p.m.

**Oklahoma State Board of Health**  
*Thursday, September 11, 2008*

**Wes Bledsoe**  
**A Perfect Cause**

**Criminal Acts in Long-Term Care Facilities**

There is no question - criminal acts including rapes, sexual assaults, physical assaults, neglect, abuse, and more are occurring in Oklahoma's long-term care facilities.

The question is - what are we doing about it?

With this in mind, I would like to pose a few questions and propose key measures to address the issue of criminal acts in Oklahoma's long-term care facilities.

At the end of this presentation, we ask the Board to offer its support for a meeting with representatives from the Oklahoma State Department of Health (OSDH); Oklahoma Department of Human Services (DHS) - Adult Protective Services - Long Term Care Investigations Unit; Department of Human Services - Long Term Care Ombudsman; Attorney General's Office - Medicaid Fraud Unit; invited Oklahoma legislators; Oklahoma County District Attorney's Office; Oklahoma District Attorneys Council; Oklahoma Association of Chiefs of Police; Oklahoma Association of Health Care Providers; Oklahoma Association of Homes and Services for the Aging; AARP, and A Perfect Cause to discuss the issue of criminal acts in long-term care and what we can do to address the issue.

What is the Department of Health's current policy on reporting criminal acts to law enforcement, for the following crimes:

- a. Rape
  - b. Sexual Assault
  - c. Physical Assault
  - d. Murder
  - e. Abuse
  - f. Neglect
  - g. Exploitation
  - h. Interference / Obstruction of Justice
2. Reporting crimes to law enforcement - current and proposed Oklahoma statutes
    - a. Oklahoma Statue Title 43A - Section 10-104
    - b. Oklahoma Statue Title 63 - Article 19 - Section 1-1939
  3. Proposed interim policy?
  4. Other Measures to Safeguard Residents, Staff, and Visitors
    - a. Video Monitoring and Recording in:
      - i. Common Areas - Mandatory
      - ii. Residents' Rooms, without Repercussions - At the Discretion of the Resident and / or Resident's Legal Representative(s)
    - b. Criminal Background Checks for Residents
    - c. Tracking of Offenses & Assailants
    - d. Expanding Types of Offenders in Secure Long-Term Care Facility(s)
    - e. Consensual Sex Policies
  5. Policy for DHS notification to OSDH regarding placement of residents who pose a risk to themselves and / or others
  6. Status of the Sex Offenders Long-Term Care Facility Law (formerly known as HB2704), bid process

**Oklahoma Statutes Citationized**

**Title 43A. Mental Health**

**Chapter 1 - Mental Health Law of 1986**

**Protective Services for the Elderly and for Incapacitated Adults Act**

**Section 10-104 - Report of a Possible Abused Person - Contents - False Report**

Cite as: O.S. §. \_\_\_

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**A. Any person having reasonable cause to believe that a vulnerable adult is suffering from abuse, neglect, or exploitation shall make a report as soon as the person is aware of the situation to:**

1. The Department of Human Services; or
2. The municipal police department or sheriff's office in the county in which the suspected abuse, neglect, or exploitation occurred.

**B. Persons required to make reports pursuant to this section shall include, but not be limited to:**

1. Physicians;
2. Operators of emergency response vehicles and other medical professionals;
3. Social workers and mental health professionals;
4. Law enforcement officials;
5. Staff of domestic violence programs;
6. Long-term care facility personnel, including staff of nursing facilities, intermediate care facilities for persons with mental retardation, assisted living facilities, and residential care facilities;
7. Other health care professionals;
8. Persons entering into transactions with a caretaker or other person who has assumed the role of financial management for a vulnerable adult;
9. Staff of residential care facilities, group homes, or employment settings for individuals with developmental disabilities; and

**D. If the initial report is made to the local municipal police department or sheriff's office, such police department or sheriff's office shall notify, as soon as possible, the Department of Human Services of its investigation.**

**E. Any person who knowingly and willfully fails to promptly report any abuse, neglect, or exploitation as required by the provisions of subsection A of this section, upon conviction, shall be guilty of a misdemeanor punishable by imprisonment in the county jail for a term not exceeding one (1) year or by a fine of not more than One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.**

## 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.

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 criminal intent is suspected. Such situations shall also be reported to local law enforcement,** 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.



WES BLEDSOE  
FUNDRAISER & CITIZEN ADVOCATE

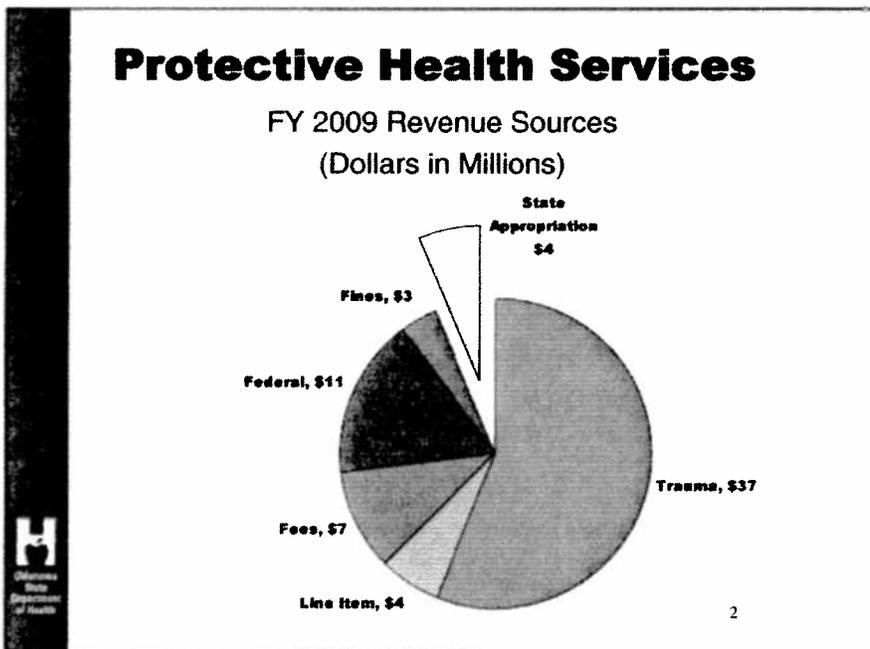
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Oklahoma City, OK 73103

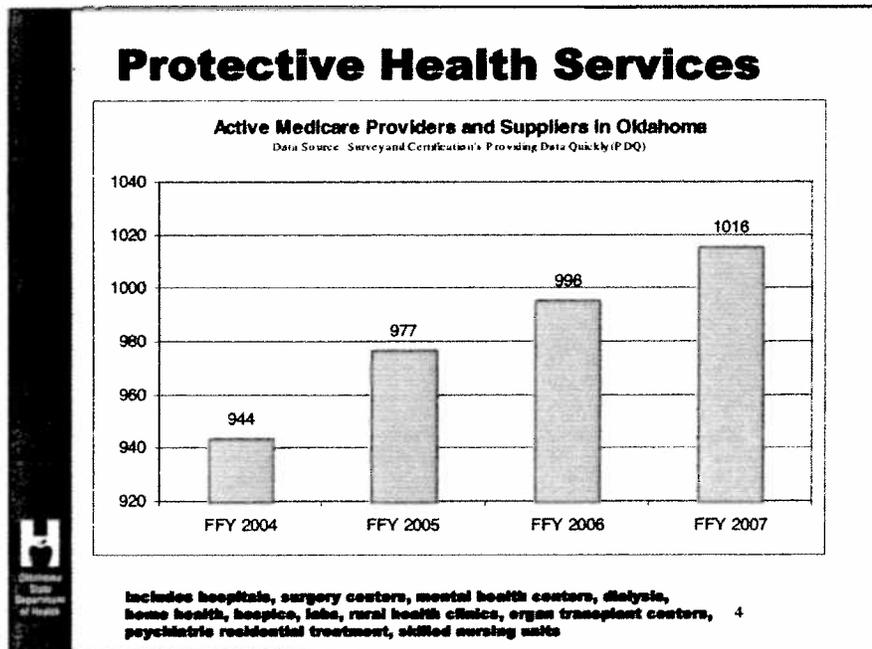
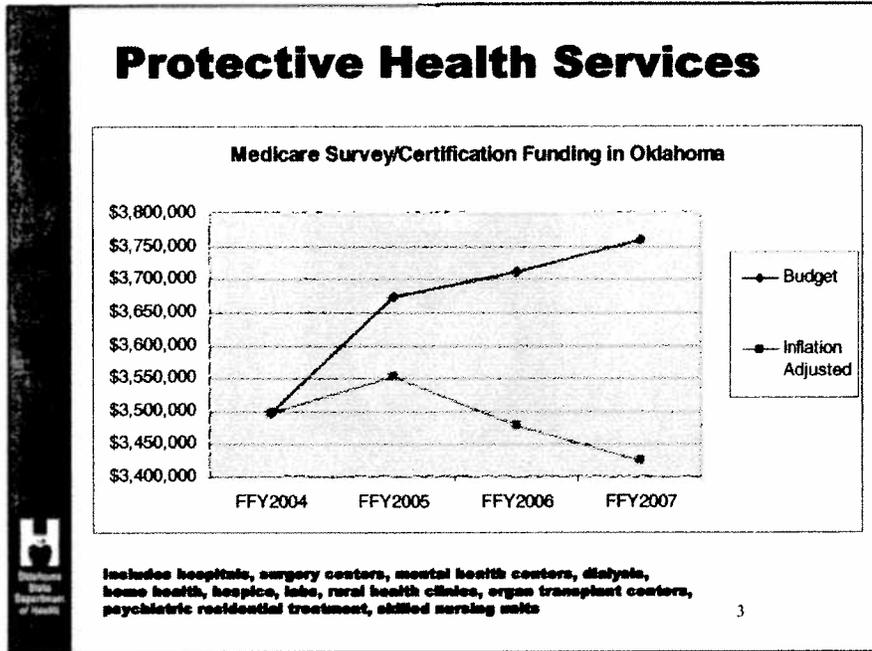
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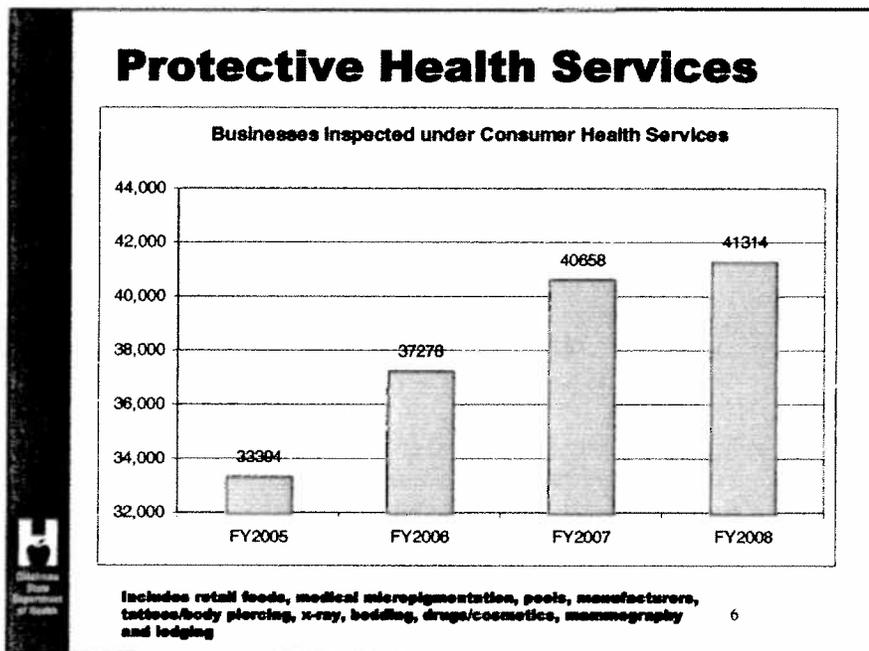
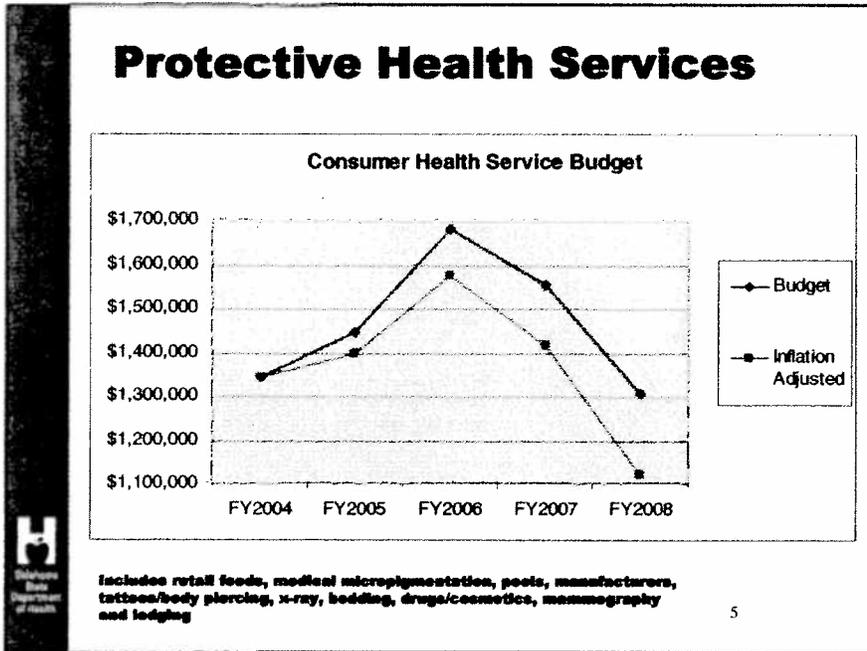
Wes@APerfectCause.org

### Reporting of Abuse/Neglect/Exploitation/Misappropriation and Suspected Crimes in Oklahoma Long Term Care Facilities

Citations to Laws and Rules Where Requirements are Specified						
Trigger Events, People Involved, Deadlines	Protective Services for Vulnerable Adults Act (PSVAA)	Nursing Home Care Act and Rules	Residential Care Act and Rules	Continuum of Care and Assisted Living Act and Rules	Adult Day Care Act	Nurse Aide Training Rules (Applies to all LTC)
<b>What happened?</b>	Abuse, Neglect, Exploitation [43A:10-104(A)]	Abuse, Neglect, Misappropriation [63:1-1939(i)]	All incidents [310:680-3-6]	Abuse, neglect, misappropriation [310:663-19-1(b)(1)-(3)]		Abuse, neglect, mistreatment, misappropriation [310:677-1-4(a)] by nurse aide
<b>Who was affected?</b>						
Vulnerable Adult Resident, Client, Participant	43A:10-104(A)	63:1-1939(i) & 310:675-7-5.1(b)	310:680-3-6	310:680-3-9 & 3-10	not specific at 19-1(b)(11)	[310:677-1-4(a)]
<b>Who reports?</b>						
Any Person or Individual Facility Staff	43A:10-104(A) 43A:10-104(B)			310:680-3-10 310:680-3-9		
Other Professional Facility/Home/Center Administrator	43A:10-104(B)	310:675-7-5.1(b) 63:1-1939(H)	310:680-3-6	310:680-3-9 310:680-3-10	310:663-19-1(b)	[310:677-1-4(a)]
<b>To whom is report made?</b>						
Police Department	43A:10-104(A)(2) (or DHS)	310:675-7-5.1(b) refers to PSVAA		310:680-3-9 and 3-10 refer to PSVAA	Local law enforcement [310:663-19-1(b)]	
County Sheriff	43A:10-104(A)(2) (or DHS)	310:675-7-5.1(b) refers to PSVAA		310:680-3-9 and 3-10 refer to PSVAA	Local law enforcement [310:663-19-1(b)]	
Okla. Department of Human Services	43A:10-104(A)(1) (or police or sheriff)	310:675-7-5.1(b) refers to PSVAA		310:680-3-9 and 3-10 refer to PSVAA		
Okla. State Department of Health		63:1-1939(H), 63:1-1939(I)(e) and 310:675-21-2(b)	310:680-3-6	310:680-3-10	310:663-19-1(a)	[310:677-1-4(a)]
<b>Deadlines</b>		24 Hours [63:1-1939 and 310:675-7-5.1]	Next working day [310:680-3-6]	Administrator shall act immediately to rectify problem [310:680-3-10]	Within one day [310:663-19-1(a)]	Within 24 hours [310:677-1-4(b)]
<b>Other</b>		If physical harm, report immediately to police or sheriff [310:675-7-5.1(g)]	If in doubt about reporting, consult police or sheriff [310:675-7-5.1(g)]	310:680-3-9 refers also to misappropriation	Report to professional licensing boards within 5 days [310:663-19-1e]	







## Response to Current Fiscal Shortfall in Long Term Care

Oklahoma State Department of Health  
Protective Health Services  
October 8, 2008

### **Increasing Expenses**

- Insurance ↑ 8% on avg. over 2 yrs
- Retirement ↑ 1% each yr over 2 yrs
- Fuel 31% ↑ over last year

### **Become more efficient**

- Provider education to reduce survey times and enforcement actions
- Reduce hours per survey
  - Travel time
  - Onsite time
  - Report time
- Reduce hours per application review
- Automate renewal processes
- Identify common errors in applications and educate or amend process

### **Reduce services provided**

- Hiring Freeze
  - HRDS 6 Unfilled FTEs in 12 mo. 25% ↓
  - LTC 12 unfilled FTE in 12 mo. 13.9% ↓
- Where service not mandated in statute
- With least impact to resident health and safety
- Request rule change to amend workload mandates

### **Increase revenues**

- Request increased appropriation from OHCA
- Request increased appropriation from CMS
- Examine activities that can be funded through CMP
- Request rule changes to increase or impose rule based fees
  - All LTC licensure fees set in statute w/ exception of ADC initial
  - Most nurse aide fees set in rule but capped in statute @ 15\$
- Request statute changes to increase fees

<b>Protective Health Services</b>		
<b>Long Term Care Service</b>		
	<b>Actual FY08 Budgeted</b>	<b>Anticipated FY09 Budget</b>
<b>Salaries</b>	\$6,084,942	\$5,767,181
<b>Fringes</b>	\$2,595,758	\$2,578,017
<b>Travel</b>	\$636,000	\$580,000
<b>Supplies</b>	\$24,000	\$25,000
<b>Contracts</b>	\$262,000	\$416,912
<b>Equipment</b>	\$0	\$0
<b>Other</b>	\$115,000	\$80,427
<b>IDC</b>	\$1,138,405	\$899,181
<b>IT Costs</b>	\$297,000	\$270,272
	<b>\$11,153,105</b>	<b>\$10,596,990</b>
<b>State Revenue</b>	\$1,719,490	\$2,147,393
<b>Federal Revenue</b>	\$8,307,782	\$8,320,050
	<b>\$10,027,272</b>	<b>\$10,467,443</b>
<b>Money Left to Budget</b>	(\$1,125,833)	(\$129,547)



- | <b>Protective Health Services</b>                    |                                                                                                                        |
|------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|
| * <b>Impact of FY 2009 Revenue Shortfalls</b>        |                                                                                                                        |
| – <b>State long term care</b>                        |                                                                                                                        |
| •                                                    | Inspecting assisted living centers at rate of once every two years (rule requires annual inspections)                  |
| •                                                    | Inspecting residential care homes at rate of once every four years (law requires biennial inspections, visits 3X/year) |
| •                                                    | Holding ~75% of complaints until next survey                                                                           |
| •                                                    | Not doing routine adult day care inspections                                                                           |
| – <b>Federal long term care (nursing facilities)</b> |                                                                                                                        |
| •                                                    | Averaging 12.6 months between surveys, up from 12.3 (12.9 is maximum allowed)                                          |
| •                                                    | Conducting “10-day” complaint investigations in 31 days                                                                |



## **Protective Health Services**

- \* **Impact of FY 2009 Revenue Shortfalls**
  - **Hospitals, surgery centers, home health, hospice, dialysis –**
    - \* **Per federal directive, placing initial Medicare/Medicaid surveys at lowest priority**
    - \* **Inadequate funding to meet all priorities**
    - \* **Not meeting federal deadlines on all complaint investigations**
    - \* **Responding to complaints, but not conducting state license renewal inspections**
    - \* **Not acquiring equipment or training**



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## **Protective Health Services**

- \* **Impact of FY 2009 Revenue Shortfalls**
  - **Consumer Health/Protection – Food Service**
    - \* **Providing \$500,000 from food license fees to County Health Departments: \$2,500,000 is needed**
    - \* **Not meeting voluntary program standards as developed by Food and Drug Administration**



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## **Protective Health Services**

### **\* Impact of FY 2009 Revenue Shortfalls**

- **Jails: Reducing to statutory minimum of one inspection/year**
- **Quality Improvement/Evaluation: Reducing training opportunities for LTC/Home Health providers to one/year**
- **Administration: Reducing funding for database programming, delaying efforts to make licensure services available online for consumers**



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## **Protective Health Services**

### **\* FY2010 Requests**

- **Long Term Care – \$1,889,858**
  - **Fund 6 state surveyor for assisted living, residential care, adult day care**
  - **Fund 16 surveyors for nursing facilities**
  - **Fund one admin support staff**
- **Hospitals, surgery centers, home health, hospice, dialysis – \$603,807**
  - **Fund 7 surveyor positions**
- **Increase license fees – for Long Term Care, Medical Facilities, and Consumer Health**
  - **LTC and Medical : ~\$1 million**
  - **Consumer Health (food, lodging): \$2.5 million<sub>12</sub>**



# Impact of Reduced Resources in Long Term Care – October 1, 2008

<b>SFY 2007</b>	<b>SFY 2008 – As of October 1, 2008</b>
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**# Surveyors**

NF/SNF	66	59	
ICF/MR	6	5	
LSC	7	7	
AL, RC	6	3	
ADC	1	0	No surveys being performed at this time
<b>Total</b>	<b>86</b>	<b>74</b>	<b>13.9% reduction in 12 mo.</b>

**# Support Staff**

11	8	For about 4 months in 2007, there were 4-5 vacancies. Vacancies in 2007 resulted in federally required time lines not being met. Short staffing in 2008 will result in federally required time frames possibly not being met.
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**As of June 1, 2008**

**Survey Interval**

NF/SNF	11.8 mo.	12.2 mo.	Cannot exceed 12.9 per federal requirements
AL	29.8 mo	10.4 mo	Cannot exceed 12 month Average Interval
RC	19.9 mo	13.6 mo	3 times per year and no less than 120 days prior to license renewal (progress in AL and RC is now reversing and will rise significantly over the next few months.)

**Complaint Survey Ave.**

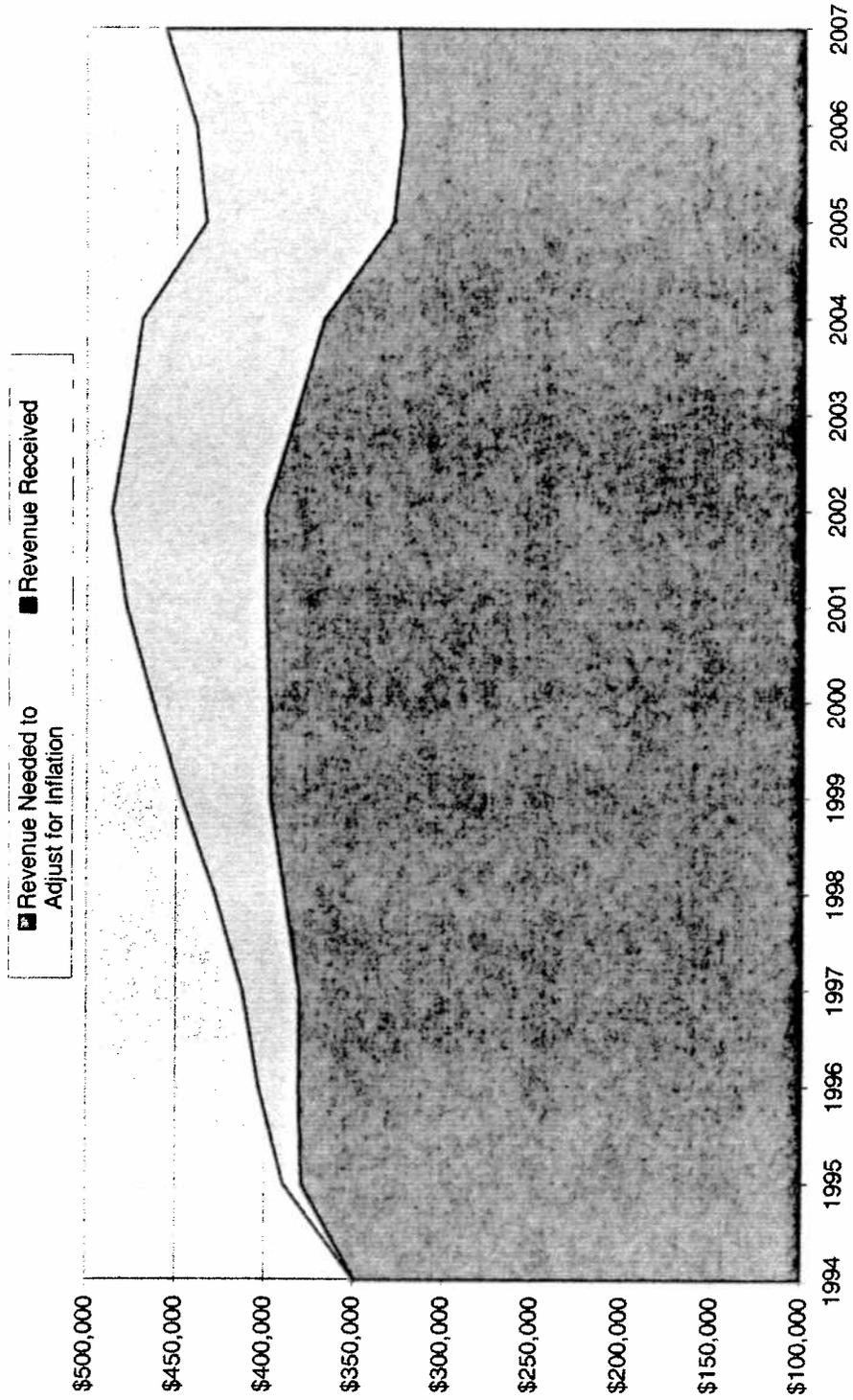
NF/SNF	Worked	Worked	Worked – not total received
IJ (2 day)	201 .....	171.	Still meeting 2 day requirement
Others	1131 (65 day ave)	1242 (26 day ave)	Average was lowered by NIJH or 10 day required investigation complaints being worked within 10 days starting Oct. 1, 2007. Those are no longer worked in 10 days. Average will go back up.

AL, RC	Worked	Worked	Worked – not total received
IJ	(26) 5.5 days	(22) 4.8 days	The 2008 average, due to loss of 2 surveyors will rise significantly.
Others	(147) 305.6 days	(153) 240.3 days	Again, progress made is now reversing and the Average will rise significantly over the next few months.

Backlog of Complaints is 220 Number and severity is expected to increase

Long Term Care currently has 28 vacancies. LTC has never had the FTE needed to get all work performed to meet time line requirements. LTC is focusing on NH surveys, with Re-certification and Immediate Jeopardy being the highest priority. ICF/MR surveys are also a focus. Initial surveys for new providers are only performed as resources allowed. They have no priority at this time.

### *Specialized Nursing Facility License Fees Revenue Received vs Revenue Needed to Adjust for Inflation*



Survey, Inspection and Licensure Processing Mandates

	Statute				Rule					
	Initial	Annual	Complaint	Revisit	Other	Initial	Annual	Complaint	Revisit	Other
RCF	w/in 120 days	3 x annually & w/in 120 days of biennial lic renewal	None	None	Issue reports w/in 10 days	None	None	-J: w/in 2 days -Harm: 10 days -Ongoing w/no harm: 25 days -Primary: 30 days	None	q 6mo. for Conditional
ADC	None	Yes & when necessary	None	None	None	None	None	-J: w/in 2 days -Harm: 10 days -Ongoing w/no harm: 25 days -Primary: 30 days	None	None
NF	w/in 180 days	12mo avg w/ 15.9mo max	Timely investig.	None	Issue reports w/in 10 days	Same	Same	-J: w/in 2 days -Harm: 10 days -Ongoing w/no harm: 25 days -Primary: 30 days	None	Issue reports/notice w/in 10 days
ICF/MR	w/in 180 days	- State is 12mo. avg w/ 15.9mo. Max. -Fed. reg. is 12mo. max. for cert.	Timely investig.	None	Issue reports w/in 10 days	Same	Same	-J: w/in 2 days -Harm: 10 days -Ongoing w/no harm: 25 days -Primary: 30 days	None	Issue reports/notice w/in 10 days
ALC	None	None	None	None	None	w/in 180 days	12mo avg 15.9mo max	-Issue notices in 10 days -approve or disapprove lic or changes to lic. w/in 30 days	None	None



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September 9, 2008

**HAND DELIVERED**

Ms. Kay Hulin  
Secretary to the Board  
Oklahoma Department of Health  
1000 N.E. 10th Street, Room 209  
Oklahoma City, OK 73117-1299

Mr. Hank Hartsell  
Deputy Commissioner of Protective Health Services  
Oklahoma Department of Health  
1000 N.E. 10th Street, Room 209  
Oklahoma City, OK 73117-1299

**Re: Submission of Proposed Revision to Regulation 310:675-3-5.1**

Dear Ms. Hulin and Deputy Commissioner Hartsell:

We have been working with Tom Cross, Esq. and Mary Womack, Esq. on a proposed change to Regulation 310:675-3-5.1 (the "**Regulation**") that will address issues concerning disclosures required by the Oklahoma Department of Health (the "**Department**") with respect to license applications for long term care facilities that are owned by large, non-publicly traded corporations, such as private equity funds.

After numerous discussions and meetings with Mr. Cross and Ms. Womack, we have developed the attached Proposed Revision to the Regulation. Essentially, we tried to change the Regulation as little as possible to ameliorate the concerns that we identified while still providing full disclosure to assure financial viability and sufficient background of the applicant and its affiliated persons and entities that are in a position to control the operations of a long term care facility. This approach promotes the Department's interest in protecting the health, welfare and safety of residents and assuring the accountability of government financial resources while avoiding the need for information from and about an endless chain of passive investors with interests of

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Ms. Kay Hulin  
Mr. Hank Hartsell  
September 9, 2008  
Page 2

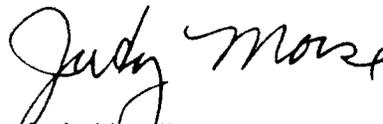
less than 5% who have no influence in or control over the operations of such long term care facility.

In discussing this with Ms. Womack, and in Eric Fisher's conversation with Ms. Hulin, it is our understanding that the Board and the Department desire to submit this Proposed Revision to the Long Term Care Advisory Board for review and comment. As such, we are submitting copies of this Proposed Revision to both of you to ensure that this information will be placed in the packet for the Long Term Care Advisory Board for their review and comment. The enclosures include (1) the Proposed Revision in black lined format showing the changes against the existing Regulation, (2) the Proposed Revision in a clean copy format, and (3) a document entitled Background and Key Points Relating to Proposed Revision of Regulation 310:675-3-5.1 which explains the reasons for the Proposed Revision.

It is also our understanding, that if the Long Term Care Advisory Board, like the Department, has no issues with this Proposed Revision, there should be ample time for this Proposed Revision to be routed through and approved in the next legislative session. This is very important to our clients and we stand ready to cooperate in any way possible to assist in meeting that timetable. If either of you or any Member of the Long Term Care Advisory Board has questions about this Proposed Revision, we would be more than willing to meet in person to answer such questions or provide further information.

Thank you for your consideration and assistance.

Very truly yours,



Judy Hamilton Morse

Enclosures

cc: Tom Cross, Esq.  
Mary D. Womack, Esq.  
Patricia McCormick, Esq.  
Carol Loepere, Esq.  
Eric S. Fisher, Esq.  
w/ Enclosures

## SUBCHAPTER 3. LICENSES

### Section

- 310:675-3-1. License required [REVOKED]
- 310:675-3-1.1. Application for licensure
- 310:675-3-2. Application for licensure/relicensure [REVOKED]
- 310:675-3-2.1. Deadlines for filing
- 310:675-3-3. Probationary and conditional licenses [REVOKED]
- 310:675-3-3.1. Where to file
- 310:675-3-4. Denial of license
- 310:675-3-4.1. Forms
- 310:675-3-5. Suspension/revocation of license
- 310:675-3-5.1. Description of forms
- 310:675-3-6. Transfer of ownership [REVOKED]
- 310:675-3-7. Certificate of approval [REVOKED]
- 310:675-3-8. Notice of change

### **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 ~~or licensee~~ 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, dieticians, nutritionists, food service staff, qualified mental retardation professionals, 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.

(g) An initial or renewal application for a license shall include a certification by the applicant that, at the time of the filing of the application:

(1) The applicant and any person or entity disclosed pursuant to 310:675-3-1.1(e) are current in their payment of all state and federal income, employment and unemployment taxes;

(2) The applicant and any person or entity disclosed pursuant to 310:675-3-1.1(e) have filed all required returns for such taxes;

(3) Whether any state tax warrants or federal tax liens have been filed against the applicant, the facility or any person or entity disclosed pursuant to 310:675-3-1.1(e); and

(4) Whether any state attachments or federal levies have been made and are currently pending to collect delinquent state or federal income, employment or unemployment taxes owed by the applicant, the facility, or any person or entity disclosed pursuant to 310:675-3-1.1(e).

(h) An applicant or any person or entity disclosed pursuant to 310:675-3-1.1(e) is current with its federal and state taxes if at the time of the submission of its initial or renewal application it has filed all tax returns that are due for state and federal income taxes, Form 941 federal employment taxes, Form 940 federal unemployment taxes, and all state employment and unemployment taxes and has paid all such taxes, interest, and penalties in full.

**[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 7-12-2004; Amended at 23 Ok Reg 3167, eff 7-26-2006(emergency); Amended at 24 Ok Reg 2043, eff 6-25-2007]**

### **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 7-11-2003]

### **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 7-11-2003]

#### **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).

[Source: Revoked at 9 Ok Reg 3163, eff 7-1-92 (emergency); Revoked at 10 Ok Reg 1639, eff 6-1-93; Added at 21 Ok Reg 2805, eff 7-12-2004]

### **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/or 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 7-11-2003; Amended at 21 Ok Reg 2805, eff 7-12-2004; Amended at 23 Ok Reg 3167, eff 7-26-2006(emergency); Amended at 24 Ok Reg 2043, eff 6-25-2007]

### **310:675-3-5. Suspension/revocation of license**

(a) The period for an extension granted pursuant to 63 O.S. Supp. 2002 Section 1-1906.1(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; Added at 20 Ok Reg 2399, eff 7-11-2003; Amended at 21 Ok Reg 2805, eff 7-12-2004]

### **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/or Manager for a Nursing or Specialized Facility (Form 953-B) requires: the names and types of legal entities for the owner, lessee and/or 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 each owner, lessee and/or manager that is one of the following as applicable:
  - (A) All shareholders and owning 5% or more of a corporate entity and all officers of a corporate entity;
  - (B) All partners of a general ~~or limited~~ partnership;
  - (C) All general partners and all limited partners that own 5% or more of a limited partnership;
  - (D) All managers and all members that own 5% or more of a limited liability company;
  - ~~(D) The~~ (E) All trustees and all beneficiaries of that hold a 5% or more beneficial interest in a trust;
  - ~~(E) All persons or entities that own an interest of a joint venture;~~

~~(F) All persons or entities that own ana 5% or more interest of an association 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~~

~~(H) Each shareholder that owns, at the time of application, 5% or more of the outstanding stock of any corporation that is publicly traded and is required to file annual reports with the Securities and Exchange Commissioner;~~

~~(I) Any other person holding at least a five percent (5%) interest in the entity which owns, operates, or manages the facility; and~~

~~(J) The owners of any shareholder, partner, member or other person or entity disclosed in (A) through (G) of this paragraph that is in turn an entity described in (A) through (G) of this paragraph. (I) Any other person holding at least a five percent (5%) interest in any entity which owns, operates, or manages the facility.~~

~~(J) 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 a publicly held company, the applicant shall not be required to submit a disclosure statement, but shall submit the most recent annual and quarterly reports required by the Securities and Exchange Commission.~~

~~(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 pursuant to 310:675-3-1.1(e) for the applicant; 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.

(7) The Certification of Tax Liens and Timely Payment of Taxes (Form 953-G) requires: certification of compliance with OAC 310:3-1-1(g).

(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; any change in disclosure of persons or entities pursuant 310:675-3-1.1(e); and any change in compliance status with the tax certification requirements specified in 310:675-3-1.1(g).

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93; Added at 20 Ok Reg 2399, eff 7-11-2003; Amended at 21 Ok Reg 2805, eff 7-12-2004; Amended at 22 Ok Reg 2454, eff 7-11-2005; Amended at 23 Ok Reg 3167, eff 7-26-2006(emergency); Amended at 24 Ok Reg 2043, eff 6-25-2007]

**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

(6) Compliance status with the tax filing and payment requirements certified pursuant to 310:675-3-1.1(g).

(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 7-11-2003; Amended at 21 Ok Reg 2805, eff 7-12-2004; Amended at 22 Ok Reg 2454, eff 7-11-2005; Amended at 23 Ok Reg 3167, eff 7-26-2006(emergency); Amended t 24 Ok Reg 2043, eff 6-25-2007]

**BACKGROUND AND KEY POINTS RELATING TO  
PROPOSED REVISION OF REGULATION 310:675-3-5.1**

**A. Statutory Framework for Licensure:**

1. The Nursing Home Care Act at 63 O.S. § 1-1903(A) provides that: "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."
2. Some key definitions in the statute are as follows:
  - "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. 63 O.S. § 1-1902(16).
  - "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. 63 O.S. § 1-1902(13).
3. The purpose of the Oklahoma statutes on licensure is to ensure that the entity operating a long term care facility is responsible and suitable by virtue of financial capacity, business experience, a record compliance and lack of revocation of licensure. 63 O.S. § 1-1904(E). The statutes are designed to protect the health, welfare and safety of residents and assure accountability for reimbursed care at licensed long term care facilities. 63 O.S. § 1-1904(A).
4. The plain language of the statute indicates that the required disclosure should be at the level of the direct owner of a long term care facility and the persons or entities having an interest in the direct owner and any individuals who are in control of the direct owner, operator and/or manager and therefore able to direct decisions affecting the care of residents and operation of the facility in compliance with the law and regulations. See generally, 63 O.S. § 1-1904(C) and (D).
5. In addition to specific disclosures for officers of corporations and individuals who are the owner, operator and/or manager, the statutes on licensure require disclosure of persons and/or entities holding a 5% interest in the ownership, operation or management of a long term care facility. 63 O.S. § 1-1904(D)(1)(d).
  - The 5% ownership disclosure provided by the statute on licensure is the same as the required disclosure in the Medicare rules (42 C.F.R. § 420.200 et seq), and reflects the intent of disclosure of

persons or entities with the ability to control or influence the provision of services at the facility.

6. As discussed below, the statutes do not specifically envision all types of entities that are involved in the ownership, operation and/or management of a long term care facility today. However, the statutes authorize the Department of Health to adopt regulations to meet the goals and objectives of the statutes.

**B. Current Regulatory Framework on Licensure:**

1. The regulations currently promulgated by the Department provide at 310:-3-1.1(a) that "No person or entity shall operate a facility without first obtaining a license." Subparagraph (c) of that same regulation states that "the facility owner shall be the applicant for the license, unless a receiver has been appointed."
2. The regulations also set forth the disclosure requirements to be included in a license application at 310:675-3-5.1. Section 310:675-3-5.1(a)(2) and (3) describe what must be included in the Disclosure Statement:

(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 and officers of a corporate entity;
- (B) All partners of a general or limited partnership;
- (C) All managers and members of a limited liability company;
- (D) The trustees and beneficiaries of a trust;
- (E) All persons or entities that own an interest of a joint venture;
- (F) All persons or entities that own an interest of an association;
- (G) The owners of any other type of legal entity;
- (H) Each shareholder that owns, at the time of application, 5% or more of the outstanding stock of any corporation that is publicly traded and is required to file annual reports with the Securities and Exchange Commissioner;
- (I) Any other person holding at least a five percent (5%) interest in the entity which owns, operates, or manages the facility; and

(J) The owners of any shareholder, partner, member or other person or entity disclosed in (A) through (G) of this paragraph that is in turn an entity described in (A) through (G) of this paragraph. The disclosure shall be made at each level of the organization. (Emphasis Supplied).

**C. The Need for Revision to Regulation 310:675-3-5.1**

1. In the current economic environment, there are complex organizations other than publicly traded corporations that raise private equity funding from multiple passive investors in order to have sufficient capital to properly operate and maintain long term care facilities.
  - With the forecasted increase in elderly persons in the population in the coming years, Oklahoma needs regulations that are practical and that encourage business investment in long term care facilities in the State while simultaneously preserving the required disclosure needed for protection of residents of long term care facilities.
  - Even if disclosure of all passive investors with less than a 5% investment interest was feasible, many of the organizations that raise private equity investment for purposes of capitalizing long term care facilities consider information concerning remote passive investors with less than a 5% direct or indirect interest in the owner, operator and/or manager of a facility to be confidential and proprietary and would be reluctant to invest in facilities in Oklahoma if disclosure at this level were required.
  - In addition, the information about such remote investors is often subject to confidentiality agreements.
  - As a matter of law, limited partners, regardless of the amount of their economic investment are only passive investors and have no ability to exercise any control in the long term care facilities.
  - An investor owning less than 5% in a public corporation need not be disclosed under the regulations as currently written and there is no real practical difference between such a shareholder and other types of limited partners or investment interests that have passive, non-controlling direct or indirect interests of less than 5%.
2. The current regulations were not written with the contemplation of complex privately held organizations with remote passive investors which in reality have interests that are the equivalent of a shareholder in a publicly traded corporation.
3. As presently written, except for publicly traded corporations, the regulations are being interpreted as having no limitation to a 5% direct or indirect interest in an

entity that is an owner, operator or manager, nor does it have any limitation for passive non-controlling investors such as limited partners or shareholders in corporations that are not publicly traded.

4. Further, because the current regulations require disclosure through every level of the organization (including interests in any amount in all affiliates in the chain of ownership) with no limitation, the current regulations create an endless chain of ever changing disclosure of non-controlling passive investor interests that is not feasible nor is it required to protect the welfare of residents of long term care facilities or to comply with the spirit and letter of the law.
5. The Certificate of Need regulations do not require the same level of disclosure as the current licensure regulations. The licensure regulations should be consistent with the Certificate of Need regulations.
6. The Medicare rules have a limitation of a 5% direct or indirect interest for disclosure required for participation in the Medicare programs which demonstrates that this is a reasonable limitation. 42 C.F.R. § 420.201.
7. The provisions of the licensure statutes governing the grounds for denial of a license are also consistent with the premise that the information that should be required is disclosure about those persons and entities with the ability to control or influence the provision of services. 63 O.S. § 1-1906(C).
  - For example, a conviction of a felony that would have a bearing on the operation of a nursing home is grounds for denial of a license.
  - Another example is a finding of insufficient financial or other resources that would result in inadequate patient care.
  - These concerns can easily be satisfied if the regulations limited disclosure to those with a 5% direct or indirect interest in the owner, operator and/or manager.
8. The proposed revision of the regulations on licensure is consistent with the analysis of the Oklahoma Supreme Court in the *Fanning v. Brown*, 2004 OK 7, 85 P.3d 841 where the Oklahoma Supreme Court rejected an argument that shareholders of a corporation that owned a facility were "owners" as defined in the Nursing Home Care Act because they stand to profit or lose as a result of the financial success or failure of the facility. The key reasons stated by the Court for its decision were:
  - Shareholders are not responsible for providing services to the residents of the facility.

- Incidental profit or loss to a shareholder should not result in shareholders being treated as the owner of a facility when they would otherwise be protected from the consequences of that status under the business form they have chosen.
- An interpretation treating shareholders as "owners" is contrary to legislative intent.

**D. The Proposed Revision to Regulation 310:675-3-5.1**

1. The proposed revisions to the regulation make limited changes to the disclosure required by the current regulations. See the redlined copy of the proposed revision which is attached.
  - Essentially the proposed revision only requires disclosure relating to a passive investor with a direct or indirect interest of 5% or more in the operating entity. Disclosure relating to passive investors with less than a 5% direct or indirect interest would not be required.
  - The proposed revision also provides direction for how to determine the 5% interest in cases of indirect ownership through affiliates of the applicant for licensure. This portion of the proposed revision uses the methodology provided in the Medicare regulations and will provide clarity and consistency in approach.
  - The proposed revisions do not require disclosure of small passive investment interests of persons or entities that have no control over the finances or operations of the applicant for licensure and are therefore consistent with the spirit and letter of the Oklahoma statutes on licensure and provide the needed protection of residents of Oklahoma long term care facilities while encouraging needed investment by new types of entities in Oklahoma.
2. The proposed revisions do not change the requirement of disclosure of controlling interests in the applicant for licensure or those with management control over the applicant. For example:
  - All officers of a corporate entity and all shareholders with interests of 5% or more in a corporation must be disclosed.
  - All general partners of a general or limited partnership that is an applicant for license must still be disclosed and limited partners holding 5% or more in a limited partnership that is the applicant must be disclosed.

- All managers of a limited liability company that is the applicant and any member that owns a 5% or more interest must be disclosed.
  - Similarly, disclosure is required for interests of 5% or more in joint ventures or other associations.
3. The proposed revisions provide that an applicant that is a publicly traded entity that is required to file periodic reports under the Securities and Exchange Act of 1934 or a subsidiary of such a publicly traded entity may submit the most recent annual and quarterly reports required by the SEC instead of the disclosure statement.
- This requirement will provide the same information required by the Disclosure Statement and simplify providing that information for publicly traded companies and subsidiaries that they form and wholly own to operate a facility.
  - This provides the necessary disclosure for the health and safety of residents of facilities while simultaneously providing a business environment conducive to attracting publicly traded companies to do business in the State of Oklahoma.

**Oklahoma State Department of Health**  
**Response to Proposed Amendments to Chapter 675 Subchapter 3**

**SUBCHAPTER 3. LICENSES**

Section

310:675-3-1.1. Application for licensure  
310:675-3-4.1. Forms  
310:675-3-5.1. Description of forms  
310:675-3-8. Notice of change

**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 or licensee~~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, dieticians, nutritionists, food service staff, qualified mental retardation professionals, and activities, social services, maintenance and housekeeping personnel.<sup>1</sup>
- (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.

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<sup>1</sup> The removes a confusing reference, the section applies to applicants for license whether an initial license applicant or current licensee.

(g) An initial or renewal application for a license shall include a certification by the applicant that, at the time of the filing of the application:

(1) The applicant and any person or entity disclosed pursuant to 310:675-3-1.1(e) are current in their payment of all state and federal income, employment and unemployment taxes;

(2) The applicant and any person or entity disclosed pursuant to 310:675-3-1.1(e) have filed all required returns for such taxes;

(3) Whether any state tax warrants or federal tax liens have been filed against the applicant, the facility or any person or entity disclosed pursuant to 310:675-3-1.1(e); and

(4) Whether any state attachments or federal levies have been made and are currently pending to collect delinquent state or federal income, employment or unemployment taxes owed by the applicant, the facility, or any person or entity disclosed pursuant to 310:675-3-1.1(e).

(h) An applicant or any person or entity disclosed pursuant to 310:675-3-1.1(e) is current with its federal and state taxes if at the time of the submission of its initial or renewal application it has filed all tax returns that are due for state and federal income taxes, Form 941 federal employment taxes, Form 940 federal unemployment taxes, and all state employment and unemployment taxes and has paid all such taxes, interest, and penalties in full.

### **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/or Manager, with Detail Attachment and Affirmation Attachment; the Staffing Projection and Professional Certification; and the Certification of Tax Liens and Timely Payment of Taxes.<sup>2</sup>

(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.

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<sup>2</sup> This would represent a change to a form title and is not supported elsewhere. The *Disclosure Statement* is applicable to owners, lessees, and managers. The proposed changes otherwise offer valuable language to limit the depth in number of parties required to disclose for limited shareholders owning less than 5% interest in an entity, whether owner, lessee or manager.

**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/or Manager for a Nursing or Specialized Facility (Form 953-B) requires: the names and types of legal entities for the owner, lessee and/or 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.<sup>3</sup>

(3) The Detail Attachment (Form 953-C) supplements the Disclosure Statement (Form 953-B) and requires the names and addresses for each owner, lessee and/or manager that is one of the following as applicable:<sup>4</sup>

(A) All shareholders and owning 5% or more of a corporate entity and all officers of a corporate entity;

(B) All partners of a general ~~or limited~~ partnership;

(C) All general partners and all limited partners that own 5% or more of a limited partnership;

(D) All managers and all members that own 5% or more of a limited liability company;<sup>5</sup>

~~(D) The~~ (E) All trustees and all beneficiaries of that hold a 5% or more beneficial interest in a trust;<sup>6</sup>

~~(E) All persons or entities that own an interest of a joint venture;~~

<sup>3</sup> See footnote 2.

<sup>4</sup> This language is confusing and is better omitted. Omission does not void the effect of the later amendments in this paragraph. This list applies to those with an ownership interest in the owner, lessee, and manager and is not exclusive to owners, lessees, or managers.

<sup>5</sup> The following is preferred for clarity that managers must be disclosed:

(D) All members that own 5% or more of a limited liability company and all managers of a limited liability company;

<sup>6</sup> As in the previous footnote, the following is preferred for clarity that trustees must be disclosed:

(E) All beneficiaries of that hold a 5% or more beneficial interest in a trust and all trustees of the trust;

~~(F) All persons or entities that own an a 5% or more interest of an association 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) Each shareholder that owns, at the time of application, 5% or more of the outstanding stock of any corporation that is publicly traded and is required to file annual reports with the Securities and Exchange Commissioner;~~

~~(J) Any other person holding at least a five percent (5%) interest in the entity which owns, operates, or manages the facility; and~~

~~(K) The owners of any shareholder, partner, member or other person or entity disclosed in (A) through (G) of this paragraph that is in turn an entity described in (A) through (G) of this paragraph. (L) Any other person holding at least a five percent (5%) interest in any entity which owns, operates, or manages the facility.~~

~~(M) 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 a publicly held company, the applicant shall not be required to submit a disclosure statement, but shall submit the most recent annual and quarterly reports required by the Securities and Exchange Commission.~~

~~(N) 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 (L) 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.~~

~~(O) For purposes of subsection (N), 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 pursuant to 310:675-3-1.1(e) for

<sup>7</sup> The Department will engage in further discussion to explore the implication of this provision. Of concern is the volume of material included in such filings and the ability to discern the relevant portions of the filings to the disclosure requirements as well as confusion regarding the applicable filings under the Securities Act of 1933, the Securities and Exchange Act of 1934, and Securities and Exchange Commission Rules.

the applicant; and an affirmation from each of the above concerning their age, character and health.<sup>8</sup>

(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.

(7) The Certification of Tax Liens and Timely Payment of Taxes (Form 953-G) requires: certification of compliance with OAC 310:3-1-1(g).

(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; any change in disclosure of persons or entities pursuant 310:675-3-1.1(e); and any change in compliance status with the tax certification requirements specified in 310:675-3-1.1(g).

### **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<sup>9</sup>

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<sup>8</sup> This is a clarifying change.

<sup>9</sup> This is a clarifying change.

- (6) Compliance status with the tax filing and payment requirements certified pursuant to 310:675-3-1.1(g).
- (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.

Report submitted to the:  
Oklahoma Health Care Quality Improvement Advisory Committee  
and  
The Subcommittee/Work Group on Long Term Care  
September 16, 2008  
by  
Peter Winn, M.D., CMD,  
Co-chair, Best Practices Medical Directors Subcommittee, LTCFA Board, OSDH

A. Background information

1. Creation of the "Best Practices Medical Directors Subcommittee" of the Long Term Care Facility Advisory Board, OSDH. (Minutes of meetings of February 20, and June 11, 2008 distributed).
2. Commonwealth Fund State Scorecard, 2007 (OK 50<sup>th</sup>)  
Performance indicators related to nursing facility care:
  - ACCESS (none)
  - QUALITY \*
    - # 17. high risk nursing home residents with pressure ulcers 16.4% (2004) (48<sup>th</sup>)
    - # 18. nursing home residents who were physically restrained 12.7% (2004) (48<sup>th</sup>)
  - POTENTIALLY AVOIDABLE USE OF HOSPITAL and COSTS OF CARE\*
    - # 23. long-stay nursing home residents with a hospital admission 21.5% (2000) (45<sup>th</sup>)
    - # 24. NH residents with readmission within 3 months 15.4% (2000) (43<sup>rd</sup>)
  - HEALTHY LIVES (none)
3. Other concerns related to nursing facilities:
  - over use of psychotropic medications.
4. Quality measures/Quality Indicators for nursing facilities in Oklahoma

Performance indicator	2004 CWF	2003, Q3	2007, Q 4
(# 17 ) % high risk residents with Pressure ulcers	16.4	15.9	15.0 (12.0)
(# 18 ) % physical restraint use	12.7	11.6	8.5 (4.9)

(Percent in parentheses is US national average)

5. Potentially "Achievable Benchmarks of Care" (aka ABC).
  - Quality Partners of Rhode Island. (QIO)

## B. Ongoing initiatives in Oklahoma

1. Oklahoma Foundation for Medical Quality (OFMQ) CMS contract for 9<sup>th</sup> Scope of Work (SOW):  
focused interventions in:
  - Nursing facilities with HR residents with PUs (20% or higher) no = 91
  - Nursing facilities with physical restraints use (11% or higher) no = 130
  - 3 "special focused facilities" (SFF).
2. Oklahoma Pressure Ulcer Coalition (sponsored through the OHA).
  - hospital acquired pressure ulcer as a "never event" (effective Oct 1, 2008).
3. OSDH LTC services division provider training programs (ALFs, NF, other).

## C. Regulatory oversight (State Operation Manual/SOM). - F tags, Licensure tags.

F tag 329: inappropriate drug use: requirement for "gradual dose reductions" (GDR).

F tag 501: medical directors roles and responsibilities (2)

- oversight of implementation of resident policies and procedures
- co-ordination of medical services

## D. Recent developments

1. change in Minimum Data Set (MDS) coding for pressure ulcers
2. new terminology for staging pressure ulcers: "suspected deep tissue injury", stages 1 through 4, and "unstageable".
3. hospital acquired pressure ulcer as a never event.

## E. Summary Comments

1. Need to look at most recent (obtainable) performance indicators for Oklahoma.
2. Remember that one needs to carefully determine what an achievable benchmark is for a QM/QI.
3. Be cognizant that as all states improve (hopefully), there will always be states that are ranked in the lower quartile.
4. Need to implement/support (ongoing) initiatives through provider, professional and quality improvement organizations, the OSDH nursing facility survey/provider training programs, and payor (OHCA, CMS).
5. Respond to legislators concerns (ie, Representative Randy McDaniel's call for a better rating system for care facilities).
6. "What do we do next?" Dr. Gordon Deckert, OSMA Council on Public and Mental Health (9/10/2008).

## F. Action Items

## **Quality Improvement Subcommittee**

### **MISSION STATEMENT FOR LARGE ADVISORY COMMITTEE**

To provide focus and direction to improve quality of health care services through the combined, motivated, and coordinated efforts of many partners in the health care system.

### **PURPOSE OF SUBCOMMITTEE**

To advise the Advisory Committee based on the specialized considerations of quality improvement among health care system (Long Term Care, Medical Facilities and Home Health, or Outpatient Services) to include the selection of actionable goals and measures that providers can affect.

### **TASKS**

1. Identify four or five actionable items, that providers have the capability to affect.
2. Make recommendations for improvement taking into consideration at least the following:
  - Provider Education
  - Accountability Measures
  - Consumer Engagement
  - Incentives

### **MEMBERSHIP**

To include members from the Advisory committee, and others invited as appropriate by the chair.

### **CHAIR**

The Chair will be a member of the Advisory committee, or a member of the OSDH staff.

**Oklahoma Health Care Quality Improvement Advisory Committee  
Long Term Care Subcommittee**

***aka The Best Practices Medical Directors Subcommittee***

**Task 1.** The primary issues/performance indicators that need to be addressed are:

- high use of physical restraints
- high number of HR residents with PUs
- high percent of long stay residents with hospital admission in 1 year
- high readmission rate of NH residents to the hospital within 3 month
- overuse of psychotropic medication.

Secondary performance indicators (AHRQ)

- long stay residents
- short stay residents

**Task 2.** Make recommendations for improvement taking into account the following:

- provider education related to quality measures/quality indicators
- provider accountability for performance
- engage consumers on quality improvement (measures)
- promote/establish payer incentives for quality improvement

**Commissioner Goals**

- decrease Oklahoma's national ranking to < 40<sup>th</sup>
- improve Oklahoma's regional ranking to the 1<sup>st</sup>

**Meeting #3  
September 17, 2008**

**ACTION ITEMS**

1. Action Item:

Committee members requested that Nancy Atkinson, with the OSDH, be contacted in order to obtain a copy of a presentation she had put together on Oklahoma Quality Measures (QMs) and Quality Indicators (QIs) (and have her present this to the LTC subcommittee)

2. Action Item:

Committee members stressed the need for the OSDH and the OFMQ to provide the most recent QM/QI data on a regular basis to the subcommittee (at least quarterly).

3. Action Item:

Mary Brinkley will be in contact with Representative McDaniel's office and report back to us. (On his call for a better rating system for health care facilities)

4. Action Item:

Study staff turnover rates (if) related to QMs/QIs performance.

5. Action Item:

Dr Bratzler commented that he is having the OFMQ look into this rather than just state data (re: geographical variations in QMs/QIs)

6. Action Item:

Have some of those facilities report to the subcommittee on their successful programs/initiatives (ie best performers in pressure ulcer prevention and no restraint use)

7. Action Item:

Dr Bratzler said OFMQ can obtain data on the rates of admission and readmission (to hospitals from nursing facilities)

1                   **Department Approval of Activities Director Course**

2                                   **Draft Rule**

3                                   **October 8, 2008**

4  
5   **310:675-13-8. Activities personnel**

6   (a) The facility shall have sufficient, trained activities  
7   program staff, on duty, to meet the ~~residents~~resident's needs.  
8   There shall be at least twenty hours per week of designated  
9   activity staff.

10   (b) The activities director shall be qualified by training, or  
11   experience, under one of the following:

12       (1)       An associate degree or a baccalaureate from an  
13       accredited university or college in art, music, physical  
14       education, recreational therapy, education, or similar  
15       program.

16       (2)       A licensed occupational therapist or an occupational  
17       therapy assistant.

18       (3)       Successful completion of a Department approved training  
19       course.

20       (4)       One year experience in a recreational activity or long  
21       term care environment, and is enrolled within 180 days of  
22       employment, in a Department approved course for activities  
23       directors.

24   (c) Department approval of activities director course. Any  
25   person or entity seeking to conduct an approved activities  
26   director-qualifying course pursuant to 310:675-13-8(b)(3)

27 (pertaining to successful completion of a department approved  
28 course) shall make application to the Department.

29 (1) **Application Content.** Applications shall include the  
30 following information:

31 (A) Name and address of the individual or entity applying  
32 to sponsor the course;

33 (B) Contact person and his or her address, telephone  
34 number and fax number;

35 (C) Course outlines, which list the summarized topics  
36 covered in the course and the time allotted for each topic  
37 and upon request a copy of any course materials;

38 (D) Information as to how the proposed course meets the  
39 course content standard provided in Section 310:675-13-  
40 8(c)(9);

41 (E) A sample certificate of completion;

42 (F) Procedures for monitoring attendance; and

43 (G) Procedures for evaluating successful course  
44 completion.

45 (2) **Application Review.** The Department shall complete review  
46 of the application within thirty calendar days. If the  
47 Department finds the application has not addressed all  
48 requirements in 310:675-13-8(c)(1) (relating to application  
49 content) written notice shall be provided detailing the

50 requirements not met and providing opportunity for amendment  
51 to the application.

52 (3) **Program affiliation.** Training shall be provided through a  
53 program sponsored or approved by a nationally affiliated  
54 association of providers subject to this chapter, regionally  
55 accredited institution of higher learning, Oklahoma career  
56 technology center, or nationally recognized professional  
57 accrediting body for activity professionals.

58 (4) **Loss of approval.** The Department may, upon notice and  
59 right to hearing, withhold or withdraw approval of any course  
60 for violation of or non-compliance with any provision of this  
61 section.

62 (5) **Advertisement.** No person or entity sponsoring or  
63 conducting a course shall advertise that it is endorsed,  
64 recommended, or accredited by the Department. Nor shall any  
65 person or entity sponsoring or conducting a course advertise  
66 or advise program participants that completion of the program  
67 grants a certification. Such person or entity may indicate  
68 that the Department has approved the course to qualify for  
69 employment as an activities director.

70 (6) **Failure to prepare.** The Department may, upon notice and  
71 right to hearing, decline to renew, or revoke the approval of,  
72 any previously approved course upon a showing or demonstration  
73 that the course, instructor or entity has substantially failed

74 to adequately prepare its attendees or participants as  
75 activity directors.

76 (7) **Instructor requirements.** Instructors shall have a degree  
77 or substantial recent experience in the subject matter being  
78 taught, or other educational, teaching, or professional  
79 qualifications determined by the course provider.

80 (8) **Course content.** The course shall address the following  
81 content:

82 (A) The guidance and regulations for activities as  
83 detailed in the Centers for Medicare and Medicaid Services,  
84 State Operations Manual, Appendix PP - Guidance to  
85 Surveyors for Long Term Care Facilities and the Code of  
86 Federal Regulations at CFR § 483.15(f);

87 (B) Oklahoma regulation for activity services as specified  
88 at OAC 310:675-9-10.1;

89 (C) Resident rights as detailed in state and federal  
90 statute and regulation;

91 (D) State and federal statute and regulation for resident  
92 protection from abuse, neglect and misappropriation;

93 (E) Working with volunteers and the community to enhance  
94 activity options;

95 (F) Specialized programming for Alzheimer's and related  
96 dementias;

97 (G) Role play or actual experience in leading group and  
98 one-on-one activities programming;

99 (H) Issues in aging; and,

100 (I) Infection Control.

101 (J) Where course content is delivered through Internet or  
102 other self-directed media, course content shall include not  
103 less than twelve (12) hours of role play or actual  
104 experience in leading group and one-on-one activities  
105 programming.

106 (9) **Duration.** The approved course will consist of not less  
107 than twenty-four (24) hours of instruction. A course taught in  
108 combination with social services director training may share  
109 eight (8) hours of programming.

110 (10) **Certificate.** Participants shall be issued a certificate  
111 of attendance indicating the name of the sponsoring entity;  
112 participant name; course name; course dates; printed name and  
113 signature of official representing the sponsoring entity.

114 (11) **Course approval expires.** Course approval shall be for a  
115 period of three years from the date of approval issuance. In  
116 the interest of updated curriculum, reflecting the latest best  
117 practice, a new application, and curriculum review are  
118 required triennially. Currently approved training programs  
119 shall apply under this section within twelve months of the  
120 effective date of this rule.

121 (12) **Continuing education.** This section creates no obligation  
122 for continuing education beyond requirements specified  
123 otherwise in this Chapter. The Department will not approve  
124 continuing education or update courses for activity directors.

125 (13) **Records retention.** The course sponsor shall maintain  
126 course records for at least five (5) years. The Department may  
127 order an examination of the records for good cause shown.

128 (14) **Fee.** A non-refundable application fee of \$100 shall be  
129 included with each application for course approval.

**Department Approval of Social Services Director Course****Draft Rule****October 8, 2008****310:675-13-9. Social services personnel**

(a) The facility shall provide sufficient, trained social services staff to meet the ~~residents~~resident's needs. There shall be at least thirty minutes per resident a week of designated social service staff based on the daily census. The facility shall have at least twenty 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.

28 (1) **Application Content.** Applications shall include the  
29 following information:

30 (A) Name and address of the individual or entity applying  
31 to sponsor the course;

32 (B) Contact person and his or her address, telephone  
33 number and fax number;

34 (C) Course outlines, which list the summarized topics  
35 covered in the course and the time allotted for each topic  
36 and upon request a copy of any course materials;

37 (D) Information as to how the proposed course meets the  
38 course content standard provided in Section 310:675-13-  
39 (c)(9);

40 (E) A sample certificate of completion;

41 (F) Procedures for monitoring attendance; and

42 (G) Procedures for evaluating successful course  
43 completion.

44 (2) **Application Review.** The Department shall complete review  
45 of the application within thirty calendar days. If the  
46 Department finds the application has not addressed all  
47 requirements in 310:675-13-9(c)(1) (relating to application  
48 content) written notice shall be provided detailing the  
49 requirements not met and providing opportunity for amendment  
50 to the application.

51 (3) **Program affiliation.** Training shall be provided through a  
52 program sponsored or approved by a nationally affiliated  
53 association of providers subject to this chapter, regionally  
54 accredited institution of higher learning, Oklahoma career  
55 technology center, or nationally recognized professional  
56 accrediting body for activity professionals.

57 (4) **Loss of approval.** The Department may, upon notice and  
58 right to hearing, withhold or withdraw approval of any course  
59 for violation of or non-compliance with any provision of this  
60 section.

61 (5) **Advertisement.** No person or entity sponsoring or  
62 conducting a course shall advertise that it is endorsed,  
63 recommended, or accredited by the Department. Nor shall any  
64 person or entity sponsoring or conducting a course advertise  
65 or advise program participants that completion of the program  
66 grants a certification. Such person or entity may indicate  
67 that the Department has approved the course to qualify for  
68 employment as a social services director.

69 (6) **Failure to prepare.** The Department may, upon notice and  
70 right to hearing, decline to renew, or revoke the approval of,  
71 any previously approved course upon a showing or demonstration  
72 that the course, instructor or entity has substantially failed  
73 to adequately prepare its attendees or participants as  
74 activity directors.

75 (7) **Instructor requirements.** Instructors shall have a degree  
76 or substantial recent experience in the subject matter being  
77 taught, or other educational, teaching, or professional  
78 qualifications determined by the course provider.

79 (8) **Course content.** The course shall address the following  
80 content:

81 (A) The guidance and regulations for social services as  
82 detailed in the Centers for Medicare and Medicaid Services,  
83 State Operations Manual, Appendix PP - Guidance to  
84 Surveyors for Long Term Care Facilities and the Code of  
85 Federal Regulations at CFR § 483.15(g);

86 (B) Oklahoma regulation for social services as specified  
87 at OAC 310:675-9-11.1;

88 (C) Resident rights as detailed in state and federal  
89 statute and regulation;

90 (D) State and federal statute and regulation for resident  
91 protection from abuse, neglect and misappropriation;

92 (E) Alzheimer's and social services;

93 (F) Issues in Aging; and

94 (E) Ombudsman services.

95 (9) **Duration.** The approved course will consist of not less  
96 than twenty-four (24) hours of instruction. A course taught in  
97 combination with activity director training may share eight  
98 (8) hours of programming.

99       (10) **Certificate.** Participants shall be issued a certificate  
100       of attendance indicating the name of the sponsoring entity;  
101       participant name; course name; course dates; printed name and  
102       signature of official representing the sponsoring entity.

103       (11) **Course approval expires.** Course approval shall be for a  
104       period of three years from the date of approval issuance. In  
105       the interest of updated curriculum, reflecting the latest best  
106       practice, a new application, and curriculum review are  
107       required triennially. Currently approved training programs  
108       shall apply under this section within twelve months of the  
109       effective date of this rule.

110       (12) **Continuing education.** This section creates no obligation  
111       for continuing education beyond requirements specified  
112       otherwise in this Chapter. The Department will not approve  
113       continuing education or update courses.

114       (13) **Records retention.** The course sponsor shall maintain  
115       course records for at least five (5) years. The Department may  
116       order an examination of the records for good cause shown.

117       (14) **Fee.** A non-refundable application fee of \$100 shall be  
118       included with each application for course approval.

119

**Temporary Protocol for Handling of Incidents/Complaints**  
**Alleging Criminal Acts**

Federal Regulations, Chapter 675 of state regulation and state statutes (Title 63- Nursing Home Care Act and Title 43 A- Protective Services for Vulnerable Adults Act) require reporting of allegations of abuse, neglect and exploitation. Reports are required to be made to the administrator, the OSDH and either the local law enforcement, the Department of Human Services county office or the sheriff's office in the county where the abuse is alleged.

1. OSDH receives incidents reported by facilities and complaints from all sources alleging abuse, neglect, misappropriation and injuries of unknown origin. These may include allegations of criminal acts.
2. OSDH staff reviews reported incidents for compliance with state and federal regulation including protective and corrective measures (to protect residents during facility investigation, and to prevent recurrence of incident).
3. OSDH staff confirms facility compliance with mandatory reporting requirements of abuse, neglect and exploitation related to reporting licensed personnel to their respective licensing Boards.
4. OSDH staff confirms or initiates the call to local law enforcement when there is an allegation of a criminal act.
5. Allegations of abuse, neglect or exploitation including allegations of a criminal act are referred to the appropriate agencies:
  - a. Allegations of a criminal act or criminal intent (including misappropriation of resident funds) are referred to the Oklahoma Office of Attorney General;
  - b. Allegations of CNA/CMA or non technical services worker abuse are referred to the OSDH legal division;
  - c. Allegations concerning abuse, neglect and/or exploitation of a resident in an unlicensed facility and complaints outside the jurisdiction of OSDH are referred to the Adult Protective Services program of DHS.
6. OSDH staff will begin to mark allegations of a criminal act for tracking and follow up.



## **Criminal Acts in Oklahoma Long Term Care Facilities**

### ***Reporting policy of criminal acts in long-term care facilities to law enforcement and other agencies***

1. In the event that any person witnesses and / or suspects a criminal act in a long-term care facility that person must immediately report the witnessed and / or suspected criminal act to the local municipal police department or sheriff's office.
2. Criminal acts under this policy include murder, rape, sexual assault, sexual battery, physical assault, theft, care taker abuse, and care taker neglect.
3. After notifying the local municipal police department or sheriff's office, the person who witnesses and / or suspects a criminal act must then report the act to the following in this order: local emergency medical services if required or requested by the victim, Attorney General's Office, Oklahoma State Department of Health, victim's legal representatives, victim's family members, and the facility's management.
4. When a criminal act is witnessed and / or suspected the crime scene must be preserved. The victim is to remain in the position where they are discovered, unless emergency medical care is required. The victim is not to be bathed, cleaned, clothing changed or washed, linens changed or washed, trash removed, or any other changes made to the suspected crime scene until law enforcement officials arrive and give authorization to take any of these actions.
5. In the event of witnessed and / or suspected rape, sexual assault, or sexual battery the victim will be evaluated by a Sexual Assault Nurse Examiner.
6. The victim's records and any electronic recording of the witnessed and / or suspected crime will be made available to law enforcement officials.

Presented to  
The Oklahoma Department of Health  
Long-Term Care Facilities Advisory Board  
October 8, 2008  
By Wes Bledsoe, Citizens' Advocate & Founder of A Perfect Cause



**Considerations to Safeguard Long Term Care Residents, Staff, and Visitors**

1. Require Long Term Care Facility Staff to Immediately Report Criminal Acts to Law Enforcement, Preserve Crime Scenes, and Conduct SANE Evaluations in Cases of Suspected Rape and / or Sexual Assault:
  - a. Oklahoma Statute Title 43A – Section 10-104 – *Needs Revision*
  - b. Oklahoma Statute Title 63 – Article 19 – Section 1-1939 – *Needs Revision*
  - c. Oklahoma Statute Title 10 – Chapter 71 – Section 7104 – *Example*
  - d. Proposed interim policy
2. Video Monitoring and Recording in:
  - a. Common Areas - Mandatory
  - b. Residents' Rooms, without Repercussion(s) - At the Discretion of the Resident and / or Resident's Legal Representative(s)
3. Criminal Background Checks for All:
  - a. Residents
  - b. Staff – Including National Background Checks
4. Require Notification by DHS When Placing Residents Who Pose a Risk
5. Expand Types of Offenders in Secure Long-Term Care Facility(s)
6. Track Offenses & Assailants
7. Develop Consensual Sex Policies
8. Require Testing, Evaluation, & Notification Prior to Prescribing Psychotropic Drugs



**Oklahoma Statutes Citationized**

**Title 43A. Mental Health**

**Chapter 1 - Mental Health Law of 1986**

**Protective Services for the Elderly and for Incapacitated Adults Act**

**Section 10-104 - Report of a Possible Abused Person - Contents - False Report**

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A. Any person having reasonable cause to believe that a vulnerable adult is suffering from abuse, neglect, or exploitation shall make a report as soon as the person is aware of the situation to:

1. The Department of Human Services; or
2. The municipal police department or sheriff's office in the county in which the suspected abuse, neglect, or exploitation occurred.

E. Any person who knowingly and willfully fails to promptly report any abuse, neglect, or exploitation as required by the provisions of subsection A of this section, upon conviction, shall be guilty of a misdemeanor punishable by imprisonment in the county jail for a term not exceeding one (1) year or by a fine of not more than One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

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**Oklahoma Statutes Citationized**

**Title 63. Public Health and Safety**

**Chapter 1 - Oklahoma Public Health Code**

**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.**

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1. The facility shall be responsible for reporting the following serious incidents to the Department within twenty-four (24) hours:

d. situations arising where criminal intent is suspected. Such situations shall also be reported to local law enforcement, and

e. resident abuse, neglect and misappropriation of the property of a resident.

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**Oklahoma Statutes Citationized**

**Title 10. Children**

**Chapter 71 - Oklahoma Child Abuse Reporting and Prevention Act**

**Section 7104 - Reporting Criminally Inflicted Injuries**

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Any physician, surgeon, resident, intern, physician's assistant, registered nurse, or any other health care professional examining, attending, or treating the victim of what appears to be criminally injurious conduct, including, but not limited to, child physical or sexual abuse, as defined by the Oklahoma Crime Victims Compensation Act, shall report orally or by telephone the matter promptly to the nearest law enforcement agency in the county wherein the criminally injurious conduct occurred, or if the location where the conduct occurred is unknown, the report shall be made to the law enforcement agency nearest to the location where the injury is treated.

However, criminally injurious conduct which appears to be or is reported by the victim to be domestic abuse, as defined in Section 60.1 of Title 22 of the Oklahoma Statutes, domestic abuse by strangulation, domestic abuse resulting in great bodily harm, or domestic abuse in the presence of a minor child, as defined in Section 644 of Title 21 of the Oklahoma Statutes, shall be reported according to the standards for reporting as set forth in the Domestic Abuse Reporting Act and Sections 3 and 4 of this act.



**U.S. Department of Justice  
Office of Justice Programs  
Bureau of Justice Assistance**

Sex Offender Management and Reentry  
Cosponsored by the Center for Sex Offender  
Management (CSOM)  
and the  
Oklahoma Department of Corrections

Midwest City, Oklahoma  
February 21-22, 2006

**Sex Offenders: Who are They? Who are  
Their Victims?**

By David D'Amora  
Feb. 21, 2006  
10:30 am - 11:15 am

(Slide #2)

**What is Sexual Abuse?**

Sexually abusive behavior is defined as...  
Any sexual interaction between person(s) of any  
age that is perpetrated:

- 1) Against the victim's will
- 2) Without consent, or
- 3) In an aggressive, exploitative,  
manipulative, or threatening manner

(Source: G. Ryan, 1997)

(Slide # 3)

**Consent**

- **Understanding what is proposed**
- Knowledge of societal standards for what is proposed
- Awareness of potential consequences and alternatives
- Assumption that the agreement or disagreement will be respected equally
- Voluntary decision
- **Mental competence**

David D'Amora,  
Director of Special Services  
The Center for the Treatment of Problem Sexual  
Behavior

Director of Continuous Quality Improvement for  
the Connection, Inc.  
Middletown, CT

**WARNING SIGNS OF SEXUAL ABUSE**

It is important that those who are involved with  
elders are able to recognize signs of sexual  
abuse, to aid in detection and treatment of  
victims.

**Physical signs include:**

- ✓ Bruising on inner thighs
- ✓ Genital or anal bleeding
- ✓ Sexually transmitted diseases
- ✓ Difficulty walking or standing
- ✓ Pain and/or itching in the genital area
- ✓ Exacerbation of existing illness

**Emotional signs include:**

- ✓ Scared or timid behavior
- ✓ Depressed, withdrawn behavior
- ✓ Sudden changes in personality
- ✓ Odd, misplaced comments about sex or sexual behavior
- ✓ Fear of certain people or of physical characteristics



# Oklahoma State Department of Health Nurse Aide Registry

Lisa McAlister, BSN, RN  
Director, Nurse Aide Registry

## Statistics

Prepared for

**Long Term Care Advisory Board**  
**Wednesday, October 8, 2008**

**For Questions Regarding:**  
**Nurse Aide Registry, Call (405) 271-4085**  
**Or Toll-Free 1-800-695-2157**

**Oklahoma State Department of Health - Nurse Aide Registry**  
**Number of Individuals on the Nurse Aide Registry as of October 3, 2008**  
89,188

**Total Nurse Aide Certifications on the Registry as of October 3, 2008**

Date	Adult Day Care	Certified Medication Aide	Home Health Aide	Developmentally Disabled Direct Care Aide	Long Term Care Aide	Residential Care Aide	CMA GM	CMA IA	CMA R	CMA G	Total Certifications & Registrations
10/03/08	194	15,295	32,496	8,322	79,043	1,011	335	282	1,639	1,620	140,237*

Total Registered Feeding Assistants - 559 - Nontechnical Service Worker - 3

**Initial Nurse Aide Certifications by Quarter FY 2008**

Per Quarter	Adult Day Care	Certified Medication Aide	Home Health Aide	Developmentally Disabled Direct Care Aide	Long Term Care Aide	Residential Care Aide	CMA GM	CMA IA	CMA R	CMA G	Total Certifications & Registrations
1 <sup>st</sup>	7	226	621	110	1,587	7	32	30	239	239	3,159*
2 <sup>nd</sup>	0	275	560	102	1,401	15	15	15	96	96	2,610*
3 <sup>rd</sup>	0	229	598	75	1,445	13	1	2	2	2	2,499*
4 <sup>th</sup>	1	323	1,070	131	2,246	14	2	2	32	27	3,848*
Registered Feeding Assistants:	First Quarter	61	Second Quarter	35	Third Quarter	36	Fourth Quarter	28	TOTAL: 160		

**Initial Nurse Aide Certifications for FY 2007**

Annual	Adult Day Care	Certified Medication Aide	Home Health Aide	Developmentally Disabled Direct Care Aide	Long Term Care Aide	Residential Care Aide	CMA GM	CMA IA	CMA RG	Total Certifications & Registrations
FY 2007	12	973	2,865	470	6,819	51	181	166	742	12,573*

Total Registered Feeding Assistants - 294

**Initial Nurse Aide Certifications for FY 2006**

Annual	Adult Day Care	Certified Medication Aide	Home Health Aide	Developmentally Disabled Direct Care Aide	Long Term Care Aide	Residential Care Aide	CMA RG	Total Certifications & Registrations
FY 2006	35	1,330	2,995	549	6,641	70	111	11,750*

Total Registered Feeding Assistants - 19

Long Term Care Facility Advisory Board **Oklahoma State Department of Health - Nurse Aide Registry**  
 Regular Meeting

Certifications for Fiscal Years 2005 through 2001

Certifications for FY 2005

Annual	Adult Day Care	Certified Medication Aide	Home Health Aide	Developmentally Disabled Direct Care Aide	Long Term Care Aide	Residential Care Aide	Total Certifications
FY 2005	13	1,446	3,272	614	6,748	38	12,131*

Certifications for FY 2004

Annual	Adult Day Care	Certified Medication Aide	Home Health Aide	Developmentally Disabled Direct Care Aide	Long Term Care Aide	Residential Care Aide	Total Certifications
FY 2004	8	1,398	3,385	661	6,997	15	12,464*

Certifications for FY 2003

Annual	Adult Day Care	Certified Medication Aide	Home Health Aide	Developmentally Disabled Direct Care Aide	Long Term Care Aide	Residential Care Aide	Total Certifications
FY 2003	13	1,428	3,123	647	7,478	52	12,741*

Certifications for FY 2002

Annual	Adult Day Care	Certified Medication Aide	Home Health Aide	Developmentally Disabled Direct Care Aide	Long Term Care Aide	Residential Care Aide	Total Certifications
FY 2002	22	1,378	2,076	692	6,900	36	11,104*

Certifications for FY 2001

Annual	Adult Day Care	Certified Medication Aide	Home Health Aide	Developmentally Disabled Direct Care Aide	Long Term Care Aide	Residential Care Aide	Total Certifications
FY 2001	6	1,054	1,523	561	6,088	26	9,258*

\*Total Nurse Aide certifications added to the registry by the following:

1. Trained and Tested or Re-Tested
2. Reciprocity from Another State
3. Added to Registry by Waiver
4. Deemed to Test Without Training