



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

### **Regular Meeting**

**October 8, 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, Chair, called the meeting to order at 1:38 p.m. Wednesday, October 8, 2008. The 2008 Long-Term Care (LTC) Facility Advisory Board meeting notices were filed and posted with the Secretary of State's and Oklahoma State Department of Health (OSDH) website on November 15, 2007. The October 8, 2008 meeting agenda was posted October 6, 2008 on the OSDH website and at OSDH building's front entrance.

#### **2) Roll Call**

Gayle Freeman called roll with following members present: Wendell Short, Chair; Kay Parsons, Vice Chair; Margaret Wallace, Secretary-Treasurer; Jane Carlson; Theo Crawley; Esther Houser; H.F. Timmons; Dewey Sherbon; Diane Hambric; Mich Magness; JoAnne Sellars; Jane Mershon; Dawn Mendenhall and Dr. Peter Winn.

The following members absent: Ginny Bond; Donna Bowers; Gayla Campbell; Tracy DeForest; Chris Kincaid; Cassell Lawson; Clara Haas; and Dr. Jean Root

Currently, there are five vacancies on the Board.

Identified OSDH staff present were: Henry F. Hartsell Jr., Ph.D., Deputy Commissioner; James Joslin, Chief of HRDS; Eleanor Kurtz, LTC; Sue Davis, LTC; Mary Fleming, LTC; Nancy Atkinson, PHS; Mary Womack, OSDH; Darlene Simmons, OSDH; Jennifer McKinnon, LTC; Leslie Elliott, PHS; Patty Scott, LTC; Gayle Freeman, LTC.

Identified guests present were: Lynn Taylor, Autry Technology Center; Rebecca Moore, OAHCP; Mary Brinkley, OKAHSa; Lanesha Stokley, UCO Nursing; Susan Aldi, UCO Nursing; Ned Gray, Career Tech; Wes Bledsoe, A Perfect Cause; Greg Frogge, McAfee and Taft; Judy Wilson, OHCA; Charlotte Wilshire, UCO Nursing; Janine McCullough, APS; Barbara Kidder, APS; Oralene Sherbon; Tom Hoetger, General Medicine Physicians; R.J. Curnutt; Kathleen Curnutt; Scott Rowland, Okla. County D.A.; Don Brown, A.G.; Eddie Davenport, A.G.; Carolyn Stark, OHCA; Deana Rook, A Perfect Cause; Jack Crow; Terry Boudillon, A Perfect Cause; Peter J. Rudy, KTOK; Ann Osborne, Francis Tuttle; Sarah

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<http://www.sos.state.ok.us/meetings/agencymects.asp?intAgency=316>

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Cioli, Francis Tuttle; Shannon Liew, YWCA; Stephanie Merritt, T.C.C.; Nancy Smart, Tulsa Tech; Marty Kurert, SCG; Penny Ridenour, OKALA; and Andrea Pogue, Career Tech. Marietta Lynch, OAHCP

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

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

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

*After brief discussion, Jane Mershon made a motion to approve the July 9, 2008 regular meeting minutes. Seconded by, Cassell Lawson. Motion carried.*

Aye: 12 Abstain: 2 Nay: 0 Absent: 8

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 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 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	<b>Dr. Jean Root</b>	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Theo Crawley (Exp)	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	JoAnne Sellars	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
<b>Tracy DeForest</b>	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Dewey Sherbon	<input type="checkbox"/> Aye <input checked="" type="checkbox"/> Abstain <input type="checkbox"/> Nay
<b>Clara Haas</b>	<input 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 checked="" 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
<b>Chris Kincaid (Exp)</b>	<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
<b>Cassell Lawson</b>	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay		
Mich Magness	<input type="checkbox"/> Aye <input checked="" type="checkbox"/> Abstain <input type="checkbox"/> Nay		Shading = Absent

**4) Criminal Acts in Long Term Care Facilities**

Dr. Hartsell, Deputy Commission, PHS, thanked the Board for placing this item on the agenda. He discussed the statute and law regarding the reporting of criminal acts both in Long Term Care facilities and by OSDH. Dr. Hartsell explained that the discussion of reporting criminal acts in Long Term Care Facilities was a follow-up to the State Board of Health meeting held on September 11, 2008. The Board of Health agreed that the Long Term Care Facility Advisory Board would be the appropriate quorum to initiate discussion on this topic. The Long Term Care Facility Advisory Board has broad responsibilities to review services provided in Long Term Care facilities and make recommendations regarding the development and/or improvement of services. Dr. Hartsell explained that under statute, the Long Term Care Facility Advisory Board is charged, or at least has the authority to, make annual reports, including recommendations on changes in policy, laws and rules. The reports are made to the Governor, Board of Health, the Commissioner of Health, Speaker of the House and the President Pro Tempore of the Senate. Dr. Hartsell discussed the first draft of the Temporary Protocol for the Handling of Incidents/Complaints Alleging Criminal Acts prepared by the OSDH Long Term Care staff. Dr Hartsell explained as long as the Protocol was internal it did not have to be part of regulation.

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Mr. Wes Bledsoe, founder of "A Perfect Cause" and Citizen Advocate, addressed the Board. He thanked them for their time and for the opportunity to work with them in protecting and safeguarding loved ones in Long Term Care Facilities. Mr. Scott Rowland, from the Oklahoma County District Attorney's office, Mr. Don Brown, representing the Attorney General's Office, Mr. Jack Crow, Oklahoma Citizen and other members and guests provided information, input and asked questions of the Board. Wendell Short, asked Kay Parsons to chair an Ad Hoc committee on Reporting Criminal Acts. The committee was asked to review the language in the rule regarding criminal acts, the rule itself on reporting criminal acts in Long Term Care and to clean up any confusion on reporting criminal acts in Long Term Care. The following members of the Long Term Care Facility Advisory Board volunteered to be on the Committee, Theo Crawley, Dawn Ann Mendenhall, Diane Hambric, Esther Houser, and Wendell Short. Others who asked to be included in the Ad Hoc meeting were, Wes Bledsoe; "A Perfect Cause", Shannon Liew: YWCA, (S.A.N.E). and Barbara Kidder; OKDHS-APP. Handouts pertaining to the reporting of Criminal Acts were provided by OSDH and Wes Bledsoe.

#### **5) Funding and Workload for Long Term Care Surveys**

Dr. Hartsell expressed his appreciation for the opportunity to speak regarding the current budget and workload issues. He explained the information presented to the Long Term Care Facility Advisory Board was also presented to the Board of Health at the September 11, 2008 meeting. Dr. Hartsell provided a handout; information included in the handout identified funding sources and costs for Fiscal Years 2008 and 2009 for Long Term Care Survey and other divisions under Protective Health Services. The budget shortfall for FY 2009 on Long Term Care was explained to include inspection frequencies for all facility types.

- Inspections of Assisted Living centers occur once every two years (rule requires annual inspections). Inspections of Residential Care Homes occur at a rate of once every four years (law requires biennial inspections, and visits 3 times a year).
- Seventy-five percent of complaints are held until the next routine survey, except for Immediate Jeopardy (IJs) incidents
- No routine inspections for Adult Day Care are being conducted at this time.

Current average for long-term care surveys of nursing facilities average is at 12.6-months, up from 12.3 a year ago. Dr. Hartsell reviewed the budget picture and explained that after being short over one million dollars last year and taking money from other programs this fiscal year there is still a shortage \$100,000 to support our current staff. Dr. Hartsell indicated that the legislature and CMS are being asked for funds to meet the needs of the Department to satisfy workload requirements. James Joslin provided additional information through handouts that detailed Protective Health Services responses to the current fiscal shortfall under consideration: becoming more efficient, reducing services provided and increasing revenues.

#### **6) Ownership Disclosure in License Applications**

James Joslin presented information on a proposed rule change to Chapter 675, subchapter 3, concerning ownership disclosure in nursing home acquisition. Mr. Joslin explained that there is a rule in licensing that when an individual applies for a license they disclose the various owners, lessees and managers of a facility. Representatives of Crow & Dunlevy law firm, on behalf of Manorcare, submitted a petition for a rule amendment. The amendments address the extent to which shareholders must be identified. In some instances, with publicly traded corporations there are several levels of shareholders. Who has authority

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and who are the decision makers is what is being looked for in the disclosure process. The proposed rule changes and the Department's comments regarding the amendments were provided in the handout.

At this point in the meeting, a quorum was lost. Feedback from the Long Term Care Facility Advisory Board on this topic will be carried over to the Long Term Care Facility Advisory Board meeting scheduled January 2009.

**7) Update-"Best Practices Medical Directors Subcommittee"**

Dr. Peter Winn provided an update from the third meeting of the "Best Practices Medical Directors Subcommittee". Dr. Winn provided handouts to the Advisory Board and guests. He explained information contained in each of the handouts and emphasized the continuing direction of the Sub-Committee. The action items from the September 17, 2008 meeting were reviewed along with the information regarding the tasks of The Oklahoma Health Care Quality Improvement Advisory Committee Long Term Care Subcommittee (aka The Best Practices Medical Directors Subcommittee.)

**8) Activities and Social Directors Training Ad Hoc Committee**

James Joslin thanked Margaret Wallace for her chairmanship and for the great job she did leading this committee, and thanked everyone who participated in the ad hoc committee. The progress of the Ad Hoc committee on the Activities and Social Directors Training program was reviewed and a handout of the draft rules was presented. A quorum was not available and approval of the proposed rules by the Long Term Care Facility Advisory Board will be brought forward for consideration at the January 2009 meeting.

**9) Board of Nursing Meeting**

Wendell Short advised the Long Term Care Facility Advisory Board that he, along with Dewey Sherbon attended a Board of Nursing meeting, and listened to several presenters. Currently the Board of Nursing is in the process of evaluating what will be done concerning the continuing education units for licensed Oklahoma nurses. Mr. Sherbon and Mr. Short presented the information as discussed in the Long Term Care Advisory Board meeting in July of this year. The Board of Nursing did not indicate a timeline or plan for implementing a CEU program.

**10) Nominations and Election of 2009 Officers**

Diane Hambric advised the Board that she had contacted via email and telephone, the members of the nominating committee regarding the nominations for the 2009 election of Long Term Care Facility Advisory Board officers. The nominating committee members were Kay Parson, Jane Mershon, Clara Haas, and Esther Houser. By unanimous consent, the committee chooses to re-elect existing officers: Margaret Wallace, Secretary, Kay Parsons, Vice-Chair and Wendell Short as Chair. The committee recommended these Board members continue in the same position for the 08-09 sessions. Ms. Hambric made the recommendation from the nominating committee and Jane Carlson seconded the motion

Motion: Nomination of 2009 Officers    Chair: Wendell Short    Vice Chair: Kay Parsons  
Secretary-Treasure: Margaret Wallace

Motion Made By: Diane Hambric Seconded: Jane Carlson Motion Carried: Yes  
Aye: 14 Abstain: 0 Nay: 0 Absent 9

Ginny Bond	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Mich Magness	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Donna Bowers	<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
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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 type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay		

### **11) Announcement of the 2009 Regular Meeting Schedule**

Wendell Short announced the 2009 Long Term Care Facility Advisory Board regular meeting schedule: The meetings will be held at 1:30 p.m. in 1102 of the OSDH on Jan 7<sup>th</sup>, April 8<sup>th</sup>, July 8<sup>th</sup> and Oct. 7<sup>th</sup>.

### **12) Update from Long Term Care-OSDH**

- Mary Fleming, Director of Long Term Care Survey, addressed updates from Long Term Care. Five Long-Term Care provider-training seminars were held this year.
- Two, two-day sessions for nursing facilities,
- One, two-day session for ICF/MR facilities, (these are providers for the developmentally disabled)
- Two-one day sessions for assisted living providers.

The Alzheimer's Association brought in psychologists and specialists from the schools for the developmentally disabled to speak. For the last training session of the year, David Troxell, nationally and internationally known writer and co-publisher of, "The Best Friends Approach to Alzheimer and Dementia Care" will speak. Long Term Care has focused on Alzheimer care in provider trainings this year and Ms. Fleming encouraged everyone who is interested in Alzheimer care to attend the upcoming training with Mr. Troxell. Administrators, who attend this training, will receive six hours towards their CEUs. The dates are Oct. 23 and 24<sup>th</sup> at the Moore-Norman Technology Center on South Pennsylvania. Ms. Fleming advised that the Long Term Care staff is in the beginning processes of reviewing provider-training topics for 2009. Ms. Fleming explained the Survey Evaluation form that goes out with every 2567 survey report. Some of the information requested is in regards to the surveyor's knowledge, the respect shown to staff and others, dialogue with facility, etc, and that the survey results will go directly to Dorya Huser.

### **13) No New Business**

*Not reasonably anticipated 24 hours in advance of meeting*

### **14) No Public Comment**

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Public comments and discussion were heard throughout the meeting.

**15) Adjournment**

The meeting adjourned at 4:38 p.m.

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**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH  
CHAPTER 675. NURSING AND SPECIALIZED FACILITIES**

**SUBCHAPTER 3. LICENSES**

**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, dietitians, 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.

~~(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:<sup>2</sup>~~

~~(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~~

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

<sup>2</sup> This subsection is struck because it is in conflict with the statutory language at 63 O.S. 1-1930.1 which requires notification of such events within twenty-four hours versus with initial or renewal application. The Department conducts a lien review as part of the application review. Failure to disclose the filing of a tax lien or the non-payment of taxes is a violation of the law at 63 O.S. § 1-1930.1.

~~(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.~~<sup>3</sup>

**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.<sup>4</sup>

(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).

**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

<sup>3</sup> This language supports the prior struck paragraph (OAC 310:675-3-1.1(g) (relating to filing a certification of tax compliance) and as such is no longer necessary.

<sup>4</sup> This corrects a scrivener's error.

1 zoning statement for new facilities; and an oath affirming the truth,  
2 correctness and completeness of the information provided.

3 (2) The Disclosure Statement of Owner, Lessee and Manager for a Nursing  
4 or Specialized Facility (Form 953-B) requires: the names and types of  
5 legal entities for the owner, lessee and manager; name, address and tax  
6 identification number for any person or entity disclosed pursuant to  
7 310:675-3-1.1(e); and an oath affirming the truth, correctness and  
8 completeness of the information provided.

9 (3) The Detail Attachment (Form 953-C) supplements the Disclosure  
10 Statement (Form 953-B) and requires the names and addresses for the  
11 following as applicable:<sup>5</sup>

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

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

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

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

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

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

22 (F) All persons or entities that own ~~ana~~ 5% or more interest of ~~an~~  
23 association in a joint venture;

24 (G) All persons or entities that own a 5% or more interest in an  
25 association;

26 (H) The owners holding a 5% or more interest of any other type of  
27 legal entity; and

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

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

34 ~~(J) The owners of any shareholder, partner, member or other person or~~  
35 ~~entity disclosed in (A) through (G) of this paragraph that is in turn~~  
36 ~~an entity described in (A) through (G) of this paragraph.~~

37 (I) Any other person holding at least a five percent (5%) interest in  
38 any entity which owns, operates, or manages the facility.

39 (J) As a substitute to submitting a Disclosure Statement and Detail  
40 Attachment, if the owner, lessee and/or manager is an entity that is  
41 publicly traded and is required to file periodic reports under the  
42 Securities and Exchange Act of 1934, or is a wholly owned subsidiary  
43 of such a publicly held company, the applicant may submit the  
44 applicable portions of the most recent annual and quarterly reports  
45 required by the Securities and Exchange Commission (SEC). The  
46 applicant shall include an index reflecting where each item of  
47 information required to be disclosed pursuant to the Disclosure  
48 Statement and Detail Attachment may be located in the SEC filings.  
49 Submission of the complete SEC filing is not required. Only those

<sup>5</sup> The following amendments address an industry representatives' petition to the Department for this change to address disclosures where there are multiple and diluted ownership interests and to clarify the language.

1 portions applicable to the Disclosure Statement and Detail Attachment  
2 are to be submitted.

3 (K) The required disclosure shall also be made by all persons or  
4 entities with an ownership interest in any entity required to be  
5 disclosed in paragraphs (A) through (I) of this section that is equal  
6 to a 5% or more indirect ownership interest in the owner, lessee  
7 and/or manager. The disclosure shall be made at each level of the  
8 organization to the extent required by this subsection.

9 (L) For purposes of subsection (K), the percentage of indirect  
10 ownership interest in the owner, lessee and/or manager is determined  
11 by multiplying the percentages of ownership in each entity. For  
12 example, if A owns 10 % of the stock in a corporation that owns 80 %  
13 of the applicant for license, A's interest equates to an 8 % indirect  
14 ownership interest in the applicant and must be reported. Conversely,  
15 if B owns 80 percent of the stock of a corporation that owns a 5%  
16 interest of the stock of the applicant, B's interest equates to a 4%  
17 indirect ownership interest in the applicant and need not be reported.

18 (4) The Affirmation Attachment (Form 953-D) supplements the Disclosure  
19 Statement (Form 953-B) and requires the following: the names and  
20 addresses of individuals, members, officers and/or registered agents for  
21 the applicant and those required to be disclosed pursuant to 310:675-3-  
22 1.1(e); and an affirmation from each of the above concerning their age,  
23 character and health.<sup>6</sup>

24 (5) The Staffing Projection and Professional Certification for a Nursing  
25 or Specialized Facility (Form 953-E) requires: a projected staffing  
26 pattern; and a certification from the director of nursing, the physician  
27 on call for medical emergencies, and the pharmacist providing  
28 consultation and emergency pharmacy services.

29 (6) The Periodic Report for Suspended License (Form 953-F) requires: the  
30 name and address of the facility; the applicant's name and address,  
31 contact person and address; report of progress in reopening the facility;  
32 request for extension based on extenuating circumstances; and an oath  
33 affirming the truth, correctness and completeness of the information  
34 provided.

35 ~~(7) The Certification of Tax Liens and Timely Payment of Taxes (Form 953-~~  
36 ~~G) requires: certification of compliance with OAC 310.3-1-1(g).<sup>7</sup>~~

37 (b) The Notice of Change requests information on the name and address of the  
38 facility; the administrator; the number and type of beds; the applicant;  
39 confirmation of changes in the owner, lessee or manager; and any change in  
40 disclosure of persons or entities pursuant 310:675-3-1.1(e); ~~and any change~~  
41 ~~in compliance status with the tax certification requirements specified in~~  
42 ~~310:675-3-1.1(g).~~<sup>8</sup>

#### 44 **310:675-3-8. Notice of change**

45 (a) If changes occur so that information previously submitted in a  
46 facility's license application is no longer correct, the facility shall

<sup>6</sup> This change is a clarifying change.

<sup>7</sup> This form is removed consistent with the struck language at 310:675-3-1.1(g) (relating to filing a certification of tax compliance).

<sup>8</sup> This language is removed consistent with the struck language at 310:675-3-1.1(g) (relating to filing a certification of tax compliance).

1 notify the Department. Notice is required of changes to the following  
 2 information:

- 3 (1) Facility identification including facility business name, mailing
- 4 address, telephone number or facsimile number;
- 5 (2) Changes in licensed bed capacity, including proposed increases;
- 6 (3) The administrator;
- 7 (4) Owner, lessee or manager disclosure or detail information that does
- 8 not otherwise necessitate an initial license;
- 9 (5) Disclosure of persons or entities required to be disclosed pursuant
- 10 310:675-3-1.1(e); and<sup>9</sup>
- 11 ~~(6) Compliance status with the tax filing and payment requirements~~
- 12 ~~certified pursuant to 310:675-3-1.1(g).~~<sup>10</sup>

13 (b) The facility shall file the Notice of Change form with the Department on  
 14 or before the effective date of the change, with the following exceptions.

- 15 (1) When a change is unexpected or beyond the control of the facility,
- 16 the facility shall provide notice to the Department within five (5)
- 17 working days after the change.
- 18 (2) For an increase in licensed bed capacity, the facility shall file the
- 19 notice of change prior to the requested license amendment date. The
- 20 notice of change shall be accompanied by the \$10 per-bed license fee
- 21 pursuant to 63 O.S. Section 1-1905(A), prorated by the number of beds to
- 22 be added and the proportion of time remaining on the license until
- 23 expiration. Prior to occupying additional beds, the facility shall obtain
- 24 an amended license from the Department.

25 (c) Following receipt of information that an applicant or any person or  
 26 entity disclosed pursuant 310:675-3-1.1(e) is not in compliance with the tax  
 27 filing, payment or disclosure requirements of 310:675-3-1.1. or 63 O.S.  
 28 Section 1-1930.1, the Department may require an applicant or licensee to  
 29 submit proof that the applicant or person or entity disclosed pursuant to  
 30 310:675-3-1.1(e) is in compliance with state or federal taxes. Such proof  
 31 may include a letter from the taxing agency, a file-stamped copy of a  
 32 return, a receipt for a tax payment, or a tax transcript or account.

33  
 34  
 35 **SUBCHAPTER 7. ADMINISTRATION**

36  
 37 **310:675-7-4. Resident transfers or discharge**

38 (a) **Reasons for transfer or discharge.** Involuntary transfer or discharge  
 39 of a resident may be initiated by a facility only for one or more of the  
 40 following:

- 41 (1) Medical reasons, including needs that the facility is unable to
- 42 meet, as documented by the attending physician, in consultation with
- 43 the medical director if the medical director and attending physician
- 44 are not the same person.
- 45 (2) The resident's safety, or for the safety of other residents, as
- 46 documented by the clinical record. The facility shall show through
- 47 medical records that:

---

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

<sup>10</sup> This language is removed consistent with the struck language at 310:675-3-1.1(g) (relating to filing a certification of tax compliance).

1 (A) the resident has had a comprehensive assessment by an  
 2 interdisciplinary team and alternative measures have been  
 3 attempted unsuccessfully; or

4 (B) the resident is a danger to himself, herself or other resident  
 5 as documented by the medical record and the facility is not  
 6 capable of managing that resident.

7 (3) The non-payment of charges for the resident's care as documented  
 8 by the facility's business records for services for more than 30  
 9 days.

10 (b) **Procedures.** Procedures for involuntary transfer or discharge by the  
 11 facility are as follows:

12 (1) Written notice shall be provided at least ~~ten-thirty~~ (30) <sup>11</sup>days  
 13 in advance of the transfer or discharge date to the resident,  
 14 resident's legal representative, person responsible for payment of  
 15 charges for the resident's care, if different from any of the  
 16 foregoing, and the Department.

17 (2) The ten day requirement shall not apply when an emergency  
 18 transfer is mandated by the resident's health care needs and is in  
 19 accordance with the attending physician's written orders and medical  
 20 justification; or the transfer or discharge is necessary for the  
 21 physical safety of other residents as documented in the clinical  
 22 record. The facility shall not use a discharge to a hospital as a  
 23 reason for failing to re-admit a resident after release from the  
 24 hospital to the first available bed in a semi-private room. Such  
 25 action shall be considered to be an involuntary discharge subject to  
 26 all the requirements of this section, unless the discharge was  
 27 required by the Department.

28 (3) The written notice shall include:

29 (A) A full explanation of the reasons for the transfer or  
 30 discharge;

31 (B) The date of the notice;

32 (C) The date notice was given to the resident and the resident's  
 33 representative;

34 (D) The date by which the resident must leave the facility; and

35 (E) Information that the resident's representative or person  
 36 responsible for payment of the resident's care who is aggrieved by  
 37 the facility's decision, may file within ten (10) days of notice a  
 38 written request for a hearing with the Department by sending a  
 39 letter to the Hearing Clerk, Oklahoma State Department of Health,  
 40 1000 NE Tenth Street, Oklahoma City, OK 73117.

41 (4) Failure of the facility to give the notice as substantially  
 42 specified above shall result in an order without hearing from the  
 43 Department denying the right of the facility to discharge the  
 44 resident.

45 (5) If a written request for a hearing is properly filed by an  
 46 eligible aggrieved party, the Department shall convene a hearing  
 47 within ten working days of receipt of the request. The request may be  
 48 in the form of a letter or a formal request for hearing from the  
 49 resident or resident's representative. In the event that the resident

---

<sup>11</sup> The language amends the rule to be consistent with federal regulation at 42 CFR 483.12(a)(5) which requires a thirty (30) day notice.

1 is unable to write, a verbal request made to the hearing clerk shall  
2 be sufficient. The Department shall reduce the verbal request to  
3 writing and send a copy to the resident. The request should state the  
4 reason for the discharge and attach a copy of the letter from the  
5 facility.

6 (6) During the pendency of the hearing, the facility shall not  
7 discharge the resident unless the discharge was required by the  
8 Department or is an emergency situation. If the resident relocates  
9 from the facility but wants to be readmitted, the Department may  
10 proceed with the hearing and the facility shall be required to  
11 readmit the resident to the first available bed in a semi-private  
12 room if the discharge is found not to meet the requirements of the  
13 Nursing Home Care Act and OAC 310:675.

14 (7) The Department shall provide the Administrative Law Judge and the  
15 space for the hearing. The parties, including the resident and the  
16 facility, may be represented by counsel or may represent themselves.

17 (8) The hearing shall be conducted at the Oklahoma State Department  
18 of Health building unless there is a request for the hearing to be  
19 held at the facility or at another place. Providing the hearing room  
20 in such a case shall be the responsibility of the parties. The  
21 Department shall maintain a record on the case as it does for any  
22 other individual proceeding.

23 (9) The hearing shall be conducted in accordance with the  
24 Department's procedures, Chapter 2 of this Title. The Administrative  
25 Law Judge's order shall include findings of fact, conclusions of law  
26 and an order as to whether or not the transfer or discharge was  
27 according to law. If a facility receives federal funds for services,  
28 it shall also comply with the certification standards. The more  
29 restrictive rule toward the facility shall be applied.

30 (10) If the Administrative Law Judge finds that the discharge was not  
31 according to law, the Department shall review, investigate and issue  
32 deficiencies as appropriate.

33 (11) If the discharge is according to law, the order shall give the  
34 facility the right to discharge the resident.

35 (12) The scope of the hearing may include:

- 36 (A) Inadequate notice;  
37 (B) Discharge based on reason not stated in the law;  
38 (C) Sufficiency of the evidence to support the involuntary  
39 discharge; or  
40 (D) The finding of emergency.

41 (13) The Administrative Law Judge shall render a written decision  
42 within ten working days of the close of the record.

43 (14) If the Administrative Law Judge sustains the facility, the  
44 facility may proceed with the discharge. If the Administrative Law  
45 Judge finds in favor of the resident, the facility shall withdraw its  
46 notice of intent to transfer or discharge the resident. The decision  
47 of the Administrative Law Judge shall be final and binding on all  
48 parties unless appealed under the Administrative Procedures Act.

49 **(c) Room relocation**

50 (1) If a facility wants to relocate a resident from one room to  
51 another, the facility shall give the resident at least forty-eight

1 hours written notice. The notice shall include the cost of  
2 transferring the resident's telephone, if applicable.

3 (2) If the resident or the resident's representative agrees in  
4 writing to the relocation, the relocation may take place in less than  
5 forty-eight hours.

6 (3) No hearing is required if the resident requests or agrees to  
7 relocation from one room to another.  
8

9 **310:675-7-12.1. Incident reports**

10 (a) **Incident defined.** An incident is any accident or unusual  
11 occurrence where there is apparent injury, where injury may have  
12 occurred, including but not limited to, head injuries, medication,  
13 treatment errors or events subject to the reporting requirements in  
14 310:675-7-5.1 (relating to reportable incidents).

15 (b) **Incident records.** Each facility shall maintain an incident report  
16 record and shall have incident report forms available.

17 (c) **Incident report format.** Incident reports shall be on a printed  
18 incident report form. The form used shall be Long Term Care's Incident  
19 Report Form, ODH Form 283. The Incident Report Form requires: the  
20 facility name, address and identification number; the date, location  
21 and type of incident; parties notified in response to the incident;  
22 description of the incident; the relevant resident history; summary of  
23 the investigation; and name of person completing the report.<sup>12</sup>

24 (d) ~~**Incident reports signaturesreport preparation.**~~ ~~The charge nurse,~~  
25 ~~at the time of the incident, shall prepare and sign the report. At~~  
26 ~~the time of the incident, the administrator, or the person designated~~  
27 ~~by the facility with authority to exercise normal management~~  
28 ~~responsibilities in the administrator absence, shall be notified of~~  
29 ~~the incident and prepare the report. The report shall include the~~  
30 ~~names of the persons witnessing the incident and their signatures~~  
31 ~~where applicable.~~<sup>13</sup>

32 (e) **Incident reporting: scope.** The incident report shall cover all  
33 unusual occurrences within the facility, or on the premises, affecting  
34 residents, and incidents within the facility or on the premises  
35 affecting visitors or employees.

36 (f) Incident records on file. A copy of each incident report shall be  
37 on file in the facility.

38 (g) **Incident in clinical record.** The resident's clinical record shall  
39 describe the incident and indicate the findings on evaluation of the  
40 resident for injury.

41 (h) **Incidents: reviewers.** All incident reports shall be reviewed by  
42 the director of nursing and the administrator and shall include  
43 corrective action taken where health and safety are affected.  
44

45 **310:675-7-20. Financial solvency and reports**

46 (a) The facility shall maintain financial solvency sufficient to  
47 ensure its operation as evidenced by ~~maintaining financial resources~~  
48 ~~adequate to operate the facility for at least a period of forty five~~

<sup>12</sup> This change defines the form to be used for incident reports.

<sup>13</sup> This change reflects facility practice where a charge nurse may not be assigned and allows for electronic submission without signature.

1 ~~(45) days and by~~ the timely payment of obligations including but not  
2 limited to:<sup>14</sup>

- 3 (1) Employee payrolls;
- 4 (2) Amounts owed to consultants, medical directors, vendors,
- 5 suppliers, and utility service providers;
- 6 (3) Taxes and provider fees; and
- 7 (4) Leases, rents and mortgages.

8 (b) The owner shall report to the Department the occurrence of  
9 financial events as required in 63 O.S. Section 1-1930.1.

10 (1) The owner shall:

- 11 (A) File a written report within 24 hours of the reportable
- 12 event; or
- 13 (B) Make an oral report by telephone within 24 hours of the
- 14 reportable event, and file written confirmation within five days
- 15 of the reportable event.

16 (2) Notice of a judgment against the facility or any of the assets  
17 of the facility or the licensee shall be required from the date the  
18 judgment becomes final.

19 (3) The owner shall include information in the written notification  
20 to accurately identify the event, including but not limited to:

- 21 (A) The date of each action or event;
- 22 (B) The name of each person involved in the event, including
- 23 each legal entity, governmental agency, financial institution or
- 24 trustee, and each employee whose regular payroll check has not
- 25 been honored;
- 26 (C) The amount of each judgement, lien, payroll, or tax payment
- 27 related to the event; and
- 28 (D) The style of the case and index or docket numbers as
- 29 applicable.

30 ~~(E)~~ Bankruptcy or appointment of trustee by the bankruptcy  
31 court.

32 ~~(4) Financial resources needed to operate the facility for a~~  
33 ~~period of at least 45 days [63:1 1930.1(A)(4)] are determined~~  
34 ~~by:~~

35 ~~(A) Projected facility revenues shall be based upon the~~  
36 ~~current number of occupied beds in the facility, multiplied~~  
37 ~~by the current daily Medicaid reimbursement rate, multiplied~~  
38 ~~by forty five (45) days [63:1 1930.1(A)(4)].~~

39 ~~(B) Projected revenue may be decreased based on known or~~  
40 ~~reasonably anticipated declines in numbers of occupied beds~~  
41 ~~or in the daily Medicaid reimbursement rate.~~

42 ~~(C) The provisions of 63:1 1930.1(B)(4) shall not be~~  
43 ~~interpreted to require a facility to maintain unencumbered~~  
44 ~~liquid assets in the amount equivalent to current occupied~~  
45 ~~beds at the daily Medicaid reimbursement rate for 45 days.~~  
46 ~~The purpose of 63:1 1930.1(B)(4) is to provide the~~  
47 ~~Department with advance notice when the owner becomes aware~~

<sup>14</sup> The struck language was derived from language in statute at 63 O.S. §1-1930.1(B) that was struck in House Bill 1442, c. 429, § 1, effective June 6, 2003. The Department is authorized to prescribe minimum financial solvency standards to ensure the operation of facilities at 63 O.S. § 1-1925(7).

1 ~~that the financial condition of a facility is likely to~~  
2 ~~jeopardize current operations within 45 days.~~<sup>15</sup>  
3 (5) Notification provided by the owner pursuant to 63:1-  
4 1930.1 does not relieve the owner of the obligation to provide  
5 ninety (90) days' notice prior to voluntarily closing a  
6 facility or closing any part of a facility, or prior to  
7 closing any part of a facility if closing such part will  
8 require the transfer or discharge of more than ten percent  
9 (10%) of the residents [63:1-1930].  
10  
11

12 **SUBCHAPTER 11. INTERMEDIATE CARE FACILITIES FOR**  
13 **THE MENTALLY RETARDED (16 BEDS AND LESS (ICF/MR-16))**  
14

15 **310:675-11-1. Scope**

16 This Subchapter is applicable to small facilities serving the  
17 mentally retarded which provide residential accommodations and  
18 transitional living training to aid residents in adapting to live in  
19 the general society. Resident accommodations are limited to not more  
20 than 16 residents, plus any required "live-in" staff. Facilities  
21 qualifying under this subsection shall be exempt from other  
22 subsections of this Chapter, except for the definitions provided in  
23 310:675-1-2 and as may be specifically referenced in this subsection.  
24 In addition to these requirements, all facilities must meet the  
25 provisions of the Nursing Home Care Act.<sup>16</sup>  
26

27 **310:675-11-5. Physical plant**

28 (a) ICF/MR-16 facilities shall be of one hour (minimum) fire resistant  
29 construction as approved by the Department and the State Fire Marshal,  
30 or shall be fully protected by an automatic sprinkler system approved  
31 by the Department and the State Fire Marshal. In addition, ICF/MR-16  
32 facilities shall comply with the requirements of Chapter 21, "Life  
33 Safety Code; NFPA 101, 1985", applicable to residential board and care  
34 occupancies for small facilities. The text and commentary provided in  
35 the "Life Safety Code Handbook, Third Edition: based on the "Life  
36 Safety Code: NFPA 101, 1985", shall be the official interpretation for  
37 the Code.

38 (b) Prior to issuance of license, the essential operation functions of  
39 the physical plant shall be submitted to licensing agency for review  
40 and approval. This submittal shall be in such detail as will depict  
41 compliance with applicable codes, including emergency evacuation and  
42 day to day living accommodations. This submittal shall be accompanied  
43 by the applicant's written certification declaring the classification  
44 (prompt, slow, impractical) shown for "evacuation capabilities"  
45 Chapter 21, LSC 1985 Edition. The certified evacuation classification  
46 shall not change without written approval of State Fire Marshal and  
47 Licensing Agency. The Department shall receive, prior to each required  
48 survey, a written declaration by a physician or nurse or qualified

<sup>15</sup> See the prior footnote. The reference to 63 O.S. § 1-1930.1 (A)(4) is a scrivener's error, which should refer to 63 O.S. § 1-1930.1(B)(4) which was stricken in 2003.

<sup>16</sup> Language to apply the definitions in the Chapter to this subchapter was omitted in the original rule.

1 mental retardation professional, stating that each resident qualifies  
2 for the evacuation classification, as previously submitted and  
3 approved.

4 (c) Each facility must have a license. Any facility licensed under  
5 this part shall consist of contiguous construction.

6 (1) **Resident rooms.** The following requirements shall be provided:

7 (A) Capacity shall be a maximum of four (4) residents.

8 (B) Minimum area shall be 80 square feet per occupant in multi-  
9 bed rooms and 100 square feet in single bed rooms.

10 (C) Each resident shall have a minimum of three square feet of  
11 closet or locker space which shall contain at least a clothes rod  
12 and one adjustable shelf.

13 (2) **Service areas.** The following shall be provided:

14 (A) Toilet and bathing facilities shall be provided in an  
15 arrangement similar to general domestic residential facilities,  
16 except that bathrooms combining toilet, lavatory, tub and/or  
17 shower shall be no less than 60 square feet in size.

18 (B) Bathing and toilet facilities shall be provided on a ratio of  
19 one facility for each five residents.

20 (C) Resident staff offices shall be provided at the facility in  
21 sufficient size and number to permit the safe storage and  
22 handling of prescription medications used by the individual  
23 residents, space for private counseling of residents, space for  
24 the business affairs of the ICF-MR-16 to be conducted in private,  
25 and space for the maintenance of records pertaining to resident  
26 care.

27 (D) Linen and supply areas shall be provided in a manner which  
28 permits the separation of the clean and soiled materials. Clean  
29 linen and supplies shall be stored separately from the area in  
30 which the soiled materials are collected.

31 (E) Meal service space shall be provided as follows:

32 (i) Kitchen. Space for conventional food preparation and  
33 baking with sufficient storage for maintaining at least a four  
34 day supply of all foods required for a general diet, including  
35 cold storage.

36 (ii) Dining. There shall be 15 square feet per person  
37 allocated to permit residents and on-duty staff to dine at the  
38 same time.

39 (iii) Warewashing shall be in accordance with the requirements  
40 of the care facilities as stated in Chapter ~~255~~ 257 (relating  
41 to Food Service Establishments) of ~~the~~ this Title.<sup>17</sup>

42 (F) Housekeeping materials and supplies shall be maintained in a  
43 designated area which is apart from the food service and sleeping  
44 areas.

45 (3) **Recreation, lounge and public areas.** Each ICF/MR-16 shall  
46 provide interior lounge and recreation space at a rate of no less  
47 than 20 square feet per bed. If public visitation areas are  
48 included, the lounge and recreation space shall be no less than 25  
49 square feet per bed. Outside recreation lounge areas shall be

---

<sup>17</sup> Updates the rule to the current rules for Food Service Establishments.

1 provided. These areas shall have sufficient lighting to permit  
2 utilization after sundown.

3 (4) **Natural lighting and ventilation of rooms.** All habitable and  
4 occupiable rooms or spaces shall contain windows, skylights,  
5 monitors, glazed doors, transoms, glass block panels or other light  
6 transmitting media opening to the sky or on a public street, yard or  
7 court. The light transmitting properties and the area of the devices  
8 used shall be adequate to meet the minimum day lighting and  
9 ventilating requirements specified herein.

10 (5) **Window size.** Windows and exterior doors may be used as a natural  
11 means of light and ventilation, and when so used their aggregate  
12 glass area shall amount to not less than eight percent of the floor  
13 area served, and with not less than one half of this required area  
14 available for unobstructed ventilation.

15  
16 **310:675-11-8. Administration**

17 All sections of Subchapter ~~11-7~~ of this Chapter shall be applicable  
18 to the ICF/MR-16 facilities and operations.<sup>18</sup>

19  
20 **310:675-11-9. Resident care services**

21 In accordance with the needs of the residents, ~~Subsections 9-1~~  
22 ~~through 9-22.6B~~ Subchapter 9 of this Chapter shall be applicable to  
23 the ICF/MR-16.<sup>19</sup>

24  
25  
26 **SUBCHAPTER 13. STAFF REQUIREMENTS**

27  
28 **310:675-13-8. Activities personnel**

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

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

34 (1) An associate degree or a baccalaureate from an accredited  
35 university or college in art, music, physical education,  
36 recreational therapy, education, or similar program.

37 (2) A licensed occupational therapist or an occupational therapy  
38 assistant.

39 (3) Successful completion of a Department approved training  
40 course.

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

44 (c) Department approval of activities director course.<sup>20</sup> Any person or  
45 entity seeking to conduct an approved activities director-qualifying  
46 course pursuant to 310:675-13-8(b)(3) (pertaining to successful

<sup>18</sup> This corrects a scrivener's error referencing the wrong chapter.

<sup>19</sup> Updates the reference to address additions to subchapter 9 regarding influenza and pneumococcal vaccinations at 310:675-9-31.

<sup>20</sup> This language creates criteria the Department may apply to approving an activities director course.

1 completion of a department approved course) shall make application to  
2 the Department.

3 (1) **Application Content.** Applications shall include the following  
4 information:

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

7 (B) Contact person and his or her address, telephone number and  
8 fax number;

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

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

14 (E) A sample certificate of completion;

15 (F) Procedures for monitoring attendance; and

16 (G) Procedures for evaluating successful course completion.

17 (2) **Application Review.** The Department shall complete review of  
18 the application within thirty calendar days. If the Department finds  
19 the application has not addressed all requirements in 310:675-13-  
20 8(c)(1) (relating to application content) written notice shall be  
21 provided detailing the requirements not met and providing  
22 opportunity for amendment to the application.

23 (3) **Program affiliation.** Training shall be provided through a  
24 program sponsored or approved by a nationally affiliated association  
25 of providers subject to this chapter, regionally accredited  
26 institution of higher learning, Oklahoma career technology center,  
27 or nationally recognized professional accrediting body for activity  
28 professionals.

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

32 (5) **Advertisement.** No person or entity sponsoring or conducting a  
33 course shall advertise that it is endorsed, recommended, or  
34 accredited by the Department. Nor shall any person or entity  
35 sponsoring or conducting a course advertise or advise program  
36 participants that completion of the program grants a certification.  
37 Such person or entity may indicate that the Department has approved  
38 the course to qualify for employment as an activities director.

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

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

48 (8) **Course content.** The course shall address the following  
49 content:

50 (A) The guidance and regulations for activities as detailed in  
51 the Centers for Medicare and Medicaid Services, State Operations  
52 Manual, Appendix PP - Guidance to Surveyors for Long Term Care

1 Facilities and the Code of Federal Regulations at CFR §  
2 483.15(f);

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

5 (C) Resident rights as detailed in state and federal statute  
6 and regulation;

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

9 (E) Working with volunteers and the community to enhance  
10 activity options;

11 (F) Specialized programming for Alzheimer's and related  
12 dementias;

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

15 (H) Issues in aging; and,

16 (I) Infection Control.

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

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

25 (10) **Certificate.** Participants shall be issued a certificate of  
26 attendance indicating the name of the sponsoring entity; participant  
27 name; course name; course dates; printed name and signature of  
28 official representing the sponsoring entity.

29 (11) **Course approval expires.** Course approval shall be for a period  
30 of three years from the date of approval issuance. In the interest  
31 of updated curriculum, reflecting the latest best practice, a new  
32 application, and curriculum review are required triennially.  
33 Currently approved training programs shall apply under this section  
34 within twelve months of the effective date of this rule.

35 (12) **Continuing education.** This section creates no obligation for  
36 continuing education beyond requirements specified otherwise in this  
37 Chapter. The Department will not approve continuing education or  
38 update courses for activity directors.

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

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

44  
45 **310:675-13-9. Social services personnel**

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

1 (b) The social services director shall be qualified by training, or  
2 experience, under one of the following:

3 (1) A baccalaureate, from an accredited college or university, in  
4 social work or in a human services field including, but not limited  
5 to, sociology, special education, rehabilitation, counseling or  
6 psychology.

7 (2) Successful completion of the Department approved training  
8 course.

9 (3) One year experience in social work or long term care  
10 environment, and is enrolled within 180 days of employment, in a  
11 course approved by the Department.

12 (c) Department approval of social services director course.<sup>21</sup> Any  
13 person or entity seeking to conduct an approved social services  
14 director-qualifying course pursuant to 310:675-13-9(b)(2) (pertaining  
15 to successful completion of a department approved course) shall make  
16 application to the Department.

17 (1) Application Content. Applications shall include the following  
18 information:

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

21 (B) Contact person and his or her address, telephone number and  
22 fax number;

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

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

28 (E) A sample certificate of completion;

29 (F) Procedures for monitoring attendance; and

30 (G) Procedures for evaluating successful course completion.

31 (2) Application Review. The Department shall complete review of  
32 the application within thirty calendar days. If the Department finds  
33 the application has not addressed all requirements in 310:675-13-  
34 9(c)(1) (relating to application content) written notice shall be  
35 provided detailing the requirements not met and providing  
36 opportunity for amendment to the application.

37 (3) Program affiliation. Training shall be provided through a  
38 program sponsored or approved by a nationally affiliated association  
39 of providers subject to this chapter, regionally accredited  
40 institution of higher learning, Oklahoma career technology center,  
41 or nationally recognized professional accrediting body for activity  
42 professionals.

43 (4) Loss of approval. The Department may, upon notice and right to  
44 hearing, withhold or withdraw approval of any course for violation  
45 of or non-compliance with any provision of this section.

46 (5) Advertisement. No person or entity sponsoring or conducting a  
47 course shall advertise that it is endorsed, recommended, or  
48 accredited by the Department. Nor shall any person or entity  
49 sponsoring or conducting a course advertise or advise program  
50 participants that completion of the program grants a certification.

<sup>21</sup> This language creates criteria the Department may apply to approving a social services director course.

1 Such person or entity may indicate that the Department has approved  
2 the course to qualify for employment as a social services director.

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

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

12 (8) **Course content.** The course shall address the following  
13 content:

14 (A) The guidance and regulations for social services as  
15 detailed in the Centers for Medicare and Medicaid Services, State  
16 Operations Manual, Appendix PP - Guidance to Surveyors for Long  
17 Term Care Facilities and the Code of Federal Regulations at CFR §  
18 483.15(g);

19 (B) Oklahoma regulation for social services as specified at OAC  
20 310:675-9-11.1;

21 (C) Resident rights as detailed in state and federal statute  
22 and regulation;

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

25 (E) Alzheimer's and social services;

26 (F) Issues in Aging; and

27 (E) Ombudsman services.

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

32 (10) **Certificate.** Participants shall be issued a certificate of  
33 attendance indicating the name of the sponsoring entity; participant  
34 name; course name; course dates; printed name and signature of  
35 official representing the sponsoring entity.

36 (11) **Course approval expires.** Course approval shall be for a period  
37 of three years from the date of approval issuance. In the interest  
38 of updated curriculum, reflecting the latest best practice, a new  
39 application, and curriculum review are required triennially.  
40 Currently approved training programs shall apply under this section  
41 within twelve months of the effective date of this rule.

42 (12) **Continuing education.** This section creates no obligation for  
43 continuing education beyond requirements specified otherwise in this  
44 Chapter. The Department will not approve continuing education or  
45 update courses.

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

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

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

3  
4                   **SUBCHAPTER 1. GENERAL PROVISIONS**

5  
6                   **310:677-1-3. Applicability**

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

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

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

27           (1) Individual's full name and personal identifying  
28 information;

29           (2) Telephone number and address to include street, city,  
30 state, and zip code;

31           (3) Copy of official transcript documenting classroom and  
32 clinical training equal to or greater than the classroom and  
33 clinical training as prescribed in 310:677-9-4, 310:677-11-4,  
34 310:677-13-4, 310:677-15-3, 310:677-17-3 and 310:677-19-3; and

35           (4) Type of nurse aide training to be excepted.

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

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

44           (A) Individual's full name and personal identifying  
45 information;

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

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

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

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

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

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

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

23 (A) Individual's full name;

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

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

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

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

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

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

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

1 (1) Deeming Application, ~~\$10.00~~fifteen dollar (\$15.00) fee  
 2 applicable to each of the following deeming applications  
 3 except (A) of this paragraph;

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

6 (B) Home Health Aide Deemed to Developmentally Disabled  
 7 Direct Care Aide (ODH Form 836);

8 (C) Home Health Aide Deemed to residential Care Aide  
 9 (ODH Form 837);

10 (D) Home Health Aide Deemed to Adult Day Care Aide (ODH  
 11 Form 838);

12 (E) Long Term Care Aide Deemed to Developmentally  
 13 Disabled Direct Care Aide (ODH Form 830);

14 (F) Long Term Care Aide Deemed to residential Care Aide,  
 15 (ODH Form 831);

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

18 (H) Developmentally Disabled Direct Care Aide Deemed to  
 19 Residential Care Aide (ODH Form 834); and

20 (I) Developmentally Disabled Direct Care Aide Deemed to  
 21 Adult Day Care Aide (ODH Form 835);

22 (2) Home Health Aide Reciprocity Application (ODH Form 735),  
 23 \$15.00 fee;<sup>1</sup>

24 (3) Training Exception Application (ODH Form 832), or Foreign  
 25 Graduate Training Exception Application (ODH Form 843),  
 26 \$15.00 fee; or

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

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

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

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

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

---

<sup>1</sup> This change is to clarify that a fee does not apply to a long term care aide reciprocity application.

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

3 (4) A Certified Nurse Aide Retest Application (ODH Form 841)  
4 submitted by a home health aide, developmentally disabled  
5 direct care aide, residential care aide, or adult day care  
6 aide shall be accompanied by a ~~\$10.00~~fifteen dollar (\$15.00)  
7 nonrefundable fee.

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

10 ~~(j)~~(h) An individual may request a duplicate or amended  
11 certification card by submitting a Duplicate or Amended Nurse  
12 Aide Card Application (ODH Form 738) with a nonrefundable  
13 ~~\$5.00~~ten dollar (\$10.00) fee. A fee shall not be charged on an  
14 application requesting a duplicate or amended long term care  
15 aide certification card.

16  
17 **310:677-1-6. Temporary emergency waiver**

18 (a) **Purpose.** This section implements temporary emergency  
19 waivers authorized in 63:1-1950.3(A)(2) for nursing facilities,  
20 specialized facilities, continuum of care facilities, assisted  
21 living centers, adult day care centers, and residential care  
22 homes.

23 (b) **Eligibility for waiver.** A facility, center or home is  
24 eligible to receive a waiver if it:

25 (1) Makes diligent efforts to recruit and retain certified  
26 nurse aides, to be evidenced by one or more of the following:

- 27 (A) Employment advertisements;  
28 (B) Competitive salaries;  
29 (C) Retention incentives; or  
30 (D) Recruitment incentives; and

31 (2) Has not been cited with a deficiency or violation that:

32 (A) Was identified by the department during an  
33 investigation or inspection conducted on or after the  
34 effective date of this section; and

35 (B) Relates to one or more of the following areas of  
36 noncompliance:

37 (i) Failure to develop and implement policies and  
38 procedures that prohibit mistreatment, neglect, abuse and  
39 misappropriation of property;

40 (ii) Failure to implement infection control procedures;

41 (iii) Failure to ensure that staff observe resident  
42 rights and responsibilities;

43 (iv) Failure to comply with criminal history background  
44 checks in 63:1-1950.1;

45 (v) Failure of a nurse aide to perform proficiently on  
46 nursing or personal care services;

47 (vi) Incompetence of a nurse aide; or

1 (vii) Failure to conduct performance appraisals or  
2 training as required for nurse aides; and

3 (C) Is associated with one or both of the following  
4 aggravating circumstances:

5 (i) The deficiency or violation has not been corrected  
6 within required time frames; and/or

7 (ii) The deficiency or violation is based on activity or  
8 inactivity of an uncertified nurse aide that caused a  
9 resident serious injury, harm, impairment or death.

10 (c) **Process.** This subsection specifies the process to obtain a  
11 waiver.

12 (1) A facility, center or home shall submit a written request  
13 on an application form made available by the Department. The  
14 form shall require:

15 (A) Identifying information for the facility;

16 (B) Documentation that the facility complies with the  
17 eligibility requirements specified in OAC 310:677-1-6(b);

18 (C) Numbers of certified nurse aides, uncertified nurse  
19 aides, and other direct care staff persons projected to be  
20 employed by the facility during the effectiveness of the  
21 waiver;

22 (D) A narrative describing the reasons why the facility is  
23 unable to meet the staffing requirements of 63:1-1950.3,  
24 the means by which uncertified nurse aides shall be trained  
25 and evaluated during the waiver, and the anticipated  
26 duration of the waiver, not to exceed six months; and

27 (E) An attestation of the truth of the information  
28 provided in the application.

29 (2) If the Department finds that an application is  
30 incomplete, the Department shall advise the applicant in  
31 writing and offer an opportunity to submit additional or  
32 clarifying information.

33 (3) Within thirty days after receipt of a completed request  
34 for a waiver, the Department shall approve or disapprove the  
35 request and send written notice of the decision to the  
36 facility, center or home.

37 (4) The Department shall provide notice to the Office of the  
38 Oklahoma Long Term Care Ombudsman established under section  
39 307(a)(12) of the Older Americans Act of 1965 of the  
40 Department's action on each waiver application.

41 (5) The facility, center or home shall notify residents,  
42 clients or participants (or, where appropriate, the guardian  
43 or legal representative) and members of their immediate  
44 families of the Department's action on the waiver application.  
45 A copy of the notice shall be posted in an easily accessible  
46 and conspicuous place in the facility, center or home.

1 (6) An applicant who disagrees with the Department's  
2 disapproval of the waiver application may file a written  
3 petition requesting review by an administrative law judge in an  
4 individual proceeding under the Oklahoma Administrative  
5 Procedures Act.

6 (7) A non-refundable fee of one hundred dollars (\$100) shall be  
7 included with the initial application for waiver.

8 (8) A non-refundable fee of seventy-five dollars (\$75) shall be  
9 included with an application for subsequent waiver under paragraph  
10 (d)(3) of this section.

11 (d) **Conditions for obtaining waiver.** The following additional  
12 conditions apply.

13 (1) To remain eligible for a waiver, the facility must  
14 continue after November 1, 2004 to comply with the substantive  
15 training limitations specified in 63:1-1950.3(A)(1), (B), (C)  
16 and (D).

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

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

26 (A) Name and date of birth;

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

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

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

35  
36  
37 **SUBCHAPTER 3. NURSE AIDE TRAINING AND COMPETENCY EXAMINATION**  
38 **PROGRAM**

39  
40 **310:677-3-2. Approved programs**

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

44 (b) An entity seeking approval of a nurse aide training and/or  
45 competency examination program shall file the appropriate  
46 application form (ODH-743) and, for training programs other than

1 long term care aide, a non-refundable application fee of fifty-one  
 2 hundred dollars ~~(\$50.00)~~ (\$100.00).<sup>2</sup>

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

5  
 6  
 7 **SUBCHAPTER 5. NURSE AIDE REGISTRY**

8  
 9 **310:677-5-2. Registry operation**

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

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

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

- 15 (1) Successfully completed a nurse aide training and  
 16 competency examination;
- 17 (2) Were given a training exception to bypass training  
 18 requirements and sit for the competency examination;
- 19 (3) Had the nurse aide training and competency examination  
 20 program requirements waived; or
- 21 (4) Were placed on the Oklahoma Nurse Aide Registry via  
 22 reciprocity from another state.

23 (d) A home health aide, long term care aide, developmentally  
 24 disabled direct care aide, residential care aide, and adult day  
 25 care aide shall renew individual certification once every two (2)  
 26 years. The individual certified as a home health aide,  
 27 developmentally disabled direct care aide, residential care aide,  
 28 or adult day care aide shall file a Recertification Application  
 29 (ODH Form 717). The individual certified as a long term care aide  
 30 shall file a Recertification Application for Long Term Care Aide  
 31 (ODH Form 840). Each recertification application requires:

- 32 (1) Personal identifying and contact information for the  
 33 applicant;
- 34 (2) Documentation that the applicant has provided at least  
 35 eight (8) hours of nursing or health related services for  
 36 compensation during the preceding 24 months. On and after July  
 37 1, 2008, the documentation shall consist of one of the  
 38 following:
  - 39 (A) A statement signed by the administrator or the  
 40 administrator's representative for the licensed nursing  
 41 facility, specialized facility, residential care home, home  
 42 health or home care agency, adult day care center, assisted  
 43 living center, continuum of care facility, Oklahoma

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<sup>2</sup> In addition to raising the fee, this language affirms that a nurse aide training and certification program as applied to long term care aides, created in the Social Security Act at 42 U.S.C. 1396r and in the Code of Federal Regulations will not charge fees for entities seeking approval of their long term care aide training or competency examination program.

1 Department of Veterans Affairs nursing facility, or Oklahoma  
2 correctional facility where the applicant provided services;

3 (B) A statement signed by a physician or nurse under whose  
4 supervision the applicant provided services; or

5 (C) A check stub, IRS Form W-2 or similar proof of wages  
6 paid to the applicant by a licensed nursing facility,  
7 specialized facility, residential care home, home health or  
8 home care agency, adult day care center, assisted living  
9 center, continuum of care facility, Oklahoma Department of  
10 Veterans Affairs nursing facility, or Oklahoma correctional  
11 facility; and

12 (3) An oath of truthfulness and completeness to be signed by  
13 the applicant.

14 (e) A home health aide, developmentally disabled direct care  
15 aide, residential care aide, or adult day care aide shall pay a  
16 ~~five-ten~~ dollar ~~\$5.00-(\$10.00)~~ fee for the processing and renewal  
17 of certifications and for replacement of a wallet card for change  
18 of name or other reason.

21 **SUBCHAPTER 11. LONG TERM CARE AIDES**

22  
23 **310:677-11-4. Curriculum**

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

26 (1) At least, seventy-five (75) hours of training or the  
27 equivalent.

28 (2) At least sixteen (16) hours of training in the following  
29 areas prior to any direct contact with a resident that is  
30 documented and signed by the nurse aide trainee:

31 (A) Communication and interpersonal skills.

32 (B) Infection control.

33 (C) Safety and emergency procedures, including the Heimlich  
34 maneuver.

35 (D) Promoting a resident's independence.

36 (E) Respecting a resident's rights.

37 (3) At least sixteen (16) hours of supervised practical  
38 training that is documented and signed by the nurse aide  
39 trainee.

40 (b) The long term care aide training program shall include, but  
41 is not limited to, the subjects specified in paragraphs (b)(2)  
42 through (7) of 42 CFR 483.152(b)<sup>3</sup> ~~each of the following subject~~  
43 ~~areas:~~

44 ~~(1) Basic nursing skills.~~

<sup>3</sup> The struck language was based on the inserted citation but omitted a number of course criteria. Rather than insert the omitted criteria the rule now refers directly to the federal language for required course criteria.

- ~~1 (2) Personal care skills.~~
- ~~2 (3) Mental health and social service needs.~~
- ~~3 (4) Care of cognitively impaired residents.~~
- ~~4 (5) Basic restorative services.~~
- ~~5 (6) Resident's rights which shall include:~~
  - ~~6 (A) Providing privacy and maintenance of confidentiality.~~
  - ~~7 (B) Promoting the resident's right to make personal choices~~
  - ~~8 to accommodate individual needs.~~
  - ~~9 (C) Assisting in resolving grievances and disputes.~~
  - ~~10 (D) Maintaining care and security of the resident's personal~~
  - ~~11 possessions.~~
  - ~~12 (E) Promoting the resident's right to be free from abuse,~~
  - ~~13 neglect, mistreatment or misappropriation of property, and~~
  - ~~14 the need to report any instances to appropriate facility~~
  - ~~15 staff.~~
  - ~~16 (F) Avoiding the need for restraints in accordance with~~
  - ~~17 current professional standards.~~
- 18 (c) Pursuant to 63 O.S. 1-1951(A)(3), the long term care aide
- 19 *training program shall include a minimum of ten (10) hours of*
- 20 *training in the care of Alzheimer's patients.*<sup>4</sup>

**SUBCHAPTER 13. CERTIFIED MEDICATION AIDES**

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

26 (a) Effective August 1, 2006, the following, to be evidenced by  
27 the aide's attestation, are prerequisites for certification as a  
28 medication aide:

- 29 (1) Minimum age: 18;
- 30 (2) Minimum education: high school or general equivalency
- 31 diploma;
- 32 (3) Current Oklahoma nurse aide certification with no abuse
- 33 notations;
- 34 (4) Experience working as a certified nurse aide for six
- 35 months; and
- 36 (5) Physical and mental capability to safely perform duties.

37 (b) Application criteria and processing requirements for  
38 recertification are as follows:

- 39 (1) The certified medication aide shall submit a
- 40 Recertification Application (ODH Form 717) that requires
- 41 information to demonstrate compliance with 310:677-13-1(d).
- 42 (2) The Recertification Application (ODH Form 717) shall be
- 43 accompanied by a five ten dollar (\$5.00) (\$10.00) fee.

<sup>4</sup> This language refers training programs to new statutory requirements for training programs.

1 (3) Each recertification shall be effective for twelve months  
2 from the expiration date of the medication aide's previous  
3 certification.

4 (4) The medication aide shall be required to retest if  
5 certification has expired by more than one year. The  
6 individual may obtain approval to take a retest by filing a  
7 Certified Medication Aide Retest Application (ODH Form 842)  
8 with a ~~\$10~~fifteen dollar (\$15.00) nonrefundable fee. The aide  
9 shall retrain and test if the aide fails the retest or if  
10 certification has expired by more than three years.

11 (5) The Recertification Application (ODH Form 717) for a  
12 medication aide shall include documentation of continuing  
13 education equivalent to eight hours for every twelve months of  
14 certification, excluding the first year of certification.

15 (c) A certified medication aide who completes a Department-  
16 approved advanced training program and demonstrates competence  
17 may request a Department-issued certificate that bears an  
18 endorsement for the advanced training. When an advanced-training  
19 certificate is issued by the Department to a certified  
20 medication aide, a notation reflecting the advanced training  
21 shall be placed on the aide's record in the Nurse Aide Registry.  
22 The request shall be accompanied by the ~~\$5.00~~ten dollar (\$10.00)  
23 certification fee required in this section and proof of training  
24 and competence on an application form that requires:

25  
26 **310:677-13-12. Medication aide continuing education**

27 (a) An entity seeking approval of a certified medication aide  
28 continuing education program shall file a nonrefundable  
29 application fee of ~~twenty-five~~seventy-five dollars ~~(\$25.00)~~  
30 (\$75.00) and a Certified Medication Aide Continuing Education  
31 Form, which requires the following:

32 (b) Within 30 days after receipt of an application for a  
33 continuing education program that is not currently approved, the  
34 Department shall determine if the application is complete and  
35 consistent. If the application is incomplete or inconsistent,  
36 the Department shall advise the applicant in writing and offer  
37 an opportunity to submit additional information. Within 30 days  
38 after completeness, the Department shall approve or disapprove  
39 the application. If the action is to disapprove, the Department  
40 shall advise the applicant in writing of the specific reasons  
41 for the disapproval, and offer an opportunity to demonstrate  
42 compliance.

43 (c) Department-approved continuing education programs shall be  
44 evaluated every three years. Between evaluations, the training  
45 program shall send the Department advance notice of changes in  
46 previously approved program information.

47 (d) An approved continuing education program shall submit to

1 the Department within 30 days after the conclusion of a  
2 continuing education class the following information:  
3 (1) The title of the class and number of hours offered;  
4 (2) The name, certification number, and number of hours  
5 attended for each certified medication aide who satisfactorily  
6 completed the continuing education class.