



Oklahoma State Department of Health
Creating a State of Health

LONG TERM CARE FACILITY ADVISORY BOARD
AD HOC RULE REVIEW COMMITTEE
THURSDAY, APRIL 16, 2009 - 12:30 p.m.

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ODH Form 718, *Notification of Nurse Aide/Nontechnical Service Worker Abuse, Neglect, Mistreatment or Misappropriation of Property* Form 2

DOCUMENTS AVAILABLE FOR REFERENCE

Advisory Council on Pain Management Recommendations, April 1, 2005

National Center for Assisted Living, *Assisted Living State Regulatory Review - 2009*

LONG TERM CARE FACILITY ADVISORY BOARD
AD HOC RULE REVIEW COMMITTEE
THURSDAY, MARCH 5, 2009 ROOM 1102 - 9:15 A.M.

MINUTES

Dewey Sherbon, Committee Chair

Mr. Sherbon called the meeting to order at 9:16 a.m. The Committee was formed at the January 7, 2009, LTCFAB (Long Term Care Facility Advisory Board) meeting in response to James Joslin's request for help to revise rules to eliminate redundancies and increase efficiency for providers and the Department.

Attendees

Committee Members: Joyce Clark, Achievis Sr. Living; Dewey Sherbon, LTCFAB; Judy Unruh, BVRC (Baptist Village Retirement Center); Diane Hambric, LTCFAB; Donna Bowers, LTCFAB; Rebecca Moore, OAHCP (Oklahoma Association of Health Care Providers); Marietta Lynch, OAHCP; Janine Handler, ORALA (Oklahoma Residential and Assisted Living Association); Mary Brinkley, OKAHS (Oklahoma Association for Homes & Services for the Aging); Wendell Short, LTCFAB Chair; Bill Weaver, Adult Day Health Care.

Committee Members Absent: Kay Parsons, LTCFAB; Penny Ridenour, OKALA (Oklahoma Assisted Living Association); Andrea Pogue, Pontotoc Technology Center; Wes Bledsoe, A Perfect Cause.

OSDH Staff: James Joslin, Chief, HRDS (Health Resources Development Service); Leslie Roberts, HRDS; Walter Jacques, Director of Quality Assurance/QIES (Quality Improvement and Evaluation Service); Sean Tomlinson, Administrator, PHS (Protective Health Services); Dr. Henry Hartsell, PHS Deputy Commissioner; Jim Buck, LTC (Long Term Care) Assistant Chief; Patty Scott, Coordinator, LTC; Dorya Huser, LTC Chief; Eleanor Kurtz, Director of LTC Complaints and Enforcement; Lisa McAlister, Director of NAR (Nurse Aide Registry).

Guests: Brett Cole; Lyndie McKinney, ORALA; Karen Elliott, LTC Ombudsman.

1. Objectives - Review Of Rules, Statutes And Regulations

After introductions, Mr. Joslin discussed the tight finances we all are facing and that the Department has mandates as well as the providers. We (Department and providers) need to look for ways to save money. Mr. Joslin suggested looking at items such as removing redundant regulations and decreasing submission of documents from providers. He referenced the handout that Dr. Hartsell presented to the BOH (Board of Health) recently outlining Department mandates.

2. Compliance With Inspection Standards

Dr. Henry Hartsell, Dorya Huser, James Joslin and Jim Buck

Dr. Hartsell informed the Committee that PHS (Protective Health Services) has had a 10% reduction in workforce or a loss of 20-25 staff out of ~220, resulting in longer processing times and staff stretched to the maximum. Dr. Hartsell also mentioned that technology support is also an issue. He expressed the need to look at mandates the Department must meet, in addition to survey requirements and office staff time. There are hundreds of mandates on the state for health and safety requirements. The Department will develop a plan to accomplish the mandates, noting there is more than just cost involved. Dr. Hartsell pointed out item #6 on page 9 of the 'Memorandum' that the Department will " *Collaborate with advisory boards to develop*

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effective alternative methods for inspections, reviews and evaluations, to be completed by December 31, 2009;". There were no questions regarding the memorandum.

It was noted the Federal government originally came up with a Budget Analysis Tool and the Department has modified it to serve state purpose. Sean Tomlinson explained the functionality of the BAT (Budget Analysis Tool) handout. Page 1 of the BAT provided example of the number of state surveys and survey hours equates to the number of FTEs. Page 2 of the BAT showed the fiscal year totals of page 1. Page 3 provided example of budget list of positions. Mr. Tomlinson added the staff salaries reflected does not include benefits. Mr. Tomlinson noted that on the last page there were no indirect costs figured. Indirect costs include items such as lighting, building, legal, accounting, etc. Dr. Hartsell added uncontrollable costs of retirements, mileage reimbursement costs, and unfilled FTEs also have an effect.

The Committee, Department, and guests provided many great ideas and responses.

- Grant money for computers
- Automated licensure renewal online
- Get all facilities to submit via computer
- Comparison of survey hours for licensure only facilities
- Review computer processes
- Education/hands-on training
- Applications online-time efficient vs. mailing back and forth regarding missing information/documents
- Licensure fee increases
- Change fee structures
- Surveyor vacancies not included in state budget - not enough revenue
- Cut unnecessary steps
- Base assisted living center reviews on survey history (e.g., survey every 2-3 years for 0-2 deficiencies, survey annually for 6+ deficiencies)
- Cutting dual inspections - need to work together (like one fire marshal inspection instead of one from each: city, county, and state)

Mr. Joslin explained the licensure fee report that he compiled from other state input comparing states' licensure fees by facility type. Questions were asked and suggestions made.

- Flat fee for applications, then a per bed fee
- Check other states' experience for assisted living and other state licensed facilities' survey hours and costs (comparison data are already available for Medicare inspections)
- What degree of state appropriated dollars are provided to support programs
- Create projections or scenarios showing expenditures/fees
- Need to think outside of the box - self survey - self assessments
- QA (Quality Assurance) activity - self evaluation - QI (Quality Improvement)
- Facilities should be doing self assessments between Department on-site visits; enable some audit and enforcement for falsified reports
- Look for examples of self assessments
- How can the Department cut costs
- Increase providers' desire/ability to comply by making information available, for example via Internet
- What can providers do to expedite surveys

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- A lot of time wasted chasing paperwork on surveys
 - Facilities can have staffing, QA, infection control books ready for surveyor(s) to review
 - Post a checklist for facilities to reference on Department website
 - The Department could share inspection forms with facilities - reduce misunderstandings because the Department and facilities use same forms for quality assurance and inspection activities
- Nursing facilities are willing to 'dicker' on fees
- Conduct or contract for "process analysis" on the Department licensure and inspection functions
- Separating Federal and licensure surveys could possibly increase Federal funding
- Develop crosswalk between state licensure and federal certification requirements for nursing facilities
- State appropriations and fee totals in other states
- How many anonymous complaints are validated (%) - how much money spent
- No change in residential care home fees 'in forever' - seem incredibly low
- Adjust requirements and protocols so that investigating complaints has the highest priority
- Count complaint investigations as surveys
- Survey process needs to be a pro-active process
- Consider accreditation as an alternative

3. Suggested Rule Revisions

Marietta Lynch, Oklahoma Association Of Health Care Providers

Ms. Lynch suggested crossover review of Federal and licensure requirements and remove the licensure rules that are required by Federal. Ms. Lynch briefed attendees on suggested rule revisions and rationale for changes handout.

- 675-9-9.1(a)(10)(A)
 - Paper compliance issue for both [Department and providers]
 - Develop policy and implement rather than submit for approval - can be checked on survey like other policies
- 675-13-5(c)(2) and (3)
 - DON (Director of Nursing) hours are too restrictive - need flexibility to work any shift
 - Make parallel to the federal regulations
- 675-13-5(f)(5) - change of this rule would require change in other areas of rule
 - Allow CMAs 2 years to acquire 16 hours of CEUs
 - Renew CNA and CMA at the same time and possibly combine certification cards
- 675-13-5(i)(6), (7), and (8)
 - Pain management is costly - change to one time per year versus every six months
 - Other topics are just as important that need to be covered
 - Annual in-service requirements should meeting the intent of the regulation
 - CEUs - training needs
 - Computerized training versus standard in-service - flexibility
 - ◇ Mr. Sherbon requested Ms. Lynch to pull together a motion for the next meeting

Penny Ridenour, OKALA Executive Director

Ms. Ridenour presented suggestions OKALA would like considered.

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- Lengthening assisted living survey intervals and/or with deficiencies of a low number or importance.
- Change assisted living incident reporting requirements
- Construct a third party survey system as in Texas - include monetary penalty
 - Concern expressed regarding provider accreditation, criticism-facility pays consultant, not able to enforce
 - National Accreditation not utilized in ADC (Adult Day Care) - current state surveys are better

4. General Discussion

The attendees discussed topics throughout the meeting.

Mr. Sherbon requested proposed rule changes be presented at the next meeting. The next meeting was announced for Thursday, April 16, 2009, from 12:30 pm - 3:30 pm.

**LONG TERM CARE FACILITY ADVISORY BOARD
AD HOC RULE REVIEW COMMITTEE**

**AD HOC PROPOSALS FROM THE
THURSDAY, MARCH 5, 2009 MEETING**

Technology

- Grant money for computers
- Automated licensure renewal online
- Get all facilities to submit via computer
- Review computer processes
- Applications online-time efficient vs. mailing back and forth regarding missing information/documents

Audit and Comparison of Survey Hours/Survey Process

- Comparison of survey hours for licensure only facilities
- Cut unnecessary steps
- Check other states' experience for assisted living and other state licensed facilities' survey hours and costs (comparison data are already available for Medicare inspections)
- Conduct or contract for "process analysis" on the Department licensure and inspection functions

Education and Information

- Education/hands-on training of providers
- Increase providers' desire/ability to comply by making information available, for example via Internet
- What can providers do to expedite surveys
- A lot of time wasted chasing paperwork on surveys
 - Facilities can have staffing, QA, infection control books ready for surveyor(s) to review
 - Post a checklist for facilities to reference on Department website
 - The Department could share inspection forms with facilities - reduce misunderstandings because the Department and facilities use same forms for quality assurance and inspection activities
- Allow computerized training in facilities versus standard in-service – flexibility

Fees/Funding

- Licensure fee increases
- Change fee structures
- Flat fee for applications, then a per bed fee
- What degree of state appropriated dollars are provided to support programs
- Create projections or scenarios showing expenditures/fees
- Separating Federal and licensure surveys could possibly increase Federal funding
- Develop crosswalk between state licensure and federal certification requirements for nursing facilities
- State appropriations and fee totals in other states
- No change in residential care home fees 'in forever' – seem incredibly low
- Surveyor vacancies not included in state budget – not enough revenue

Survey Frequency / Mandates

- Base assisted living center reviews on survey history (e.g., survey every 2-3 years for 0-2 deficiencies, survey annually for 6+ deficiencies)
- Cutting dual inspections – need to work together (like one fire marshal inspection instead of one from each: city, county, and state)
- How many anonymous complaints are validated (%) – how much money spent
- Adjust requirements and protocols so that investigating complaints has the highest priority
- Count complaint investigations as surveys
- Lengthening assisted living survey intervals and/or base frequency on # of deficiencies and/or importance.

Self-Assessment/Accreditation

- QA (Quality Assurance) activity – self evaluation – QI (Quality Improvement)
- Facilities should be doing self assessments between Department on-site visits; enable some audit and enforcement for falsified reports
- Look for examples of self assessments
- Consider accreditation as an alternative
- Construct a third party survey system as in Texas – include monetary penalty
 - Concern expressed regarding provider accreditation, criticism-facility pays consultant, not able to enforce
 - National Accreditation not utilized in ADC (Adult Day Care) – current state surveys are better

Other

- Change assisted living incident reporting requirements

Incident Reporting in Assisted Living

The requirements for incident reporting in Assisted Living Centers are defined at sub-chapter 19 of the Assisted Living Rules and are included at the [end of this document](#). The Department provides an incident report form for use by facilities but the form is not required. Click the hyperlink to view [Incident Report Form ODH283](#) or view the email attachment. Within subchapter 19 are requirements to report allegations and occurrences of resident abuse, neglect, or misappropriation of resident's property by a nurse aide to the Nurse Aide Registry by submitting a completed "Notification of Nurse Aide Abuse, Neglect, Mistreatment or Misappropriation of Property" form ([ODH Form 718](#)). Click the hyperlink to view the form or view the email attachment.

Assisted living industry representatives expressed that the incident reporting requirements are burdensome. The Department will await submission of specific requirements to be addressed and proposals for amendments. A review of the concerns identified will be conducted at that time.

Discussion of Proposed Rule Changes

➤ **675-9-9.1(a)(10)(A)**

(10) Powdered over-the-counter medication for topical use may be kept in the resident's room for administration by a nurse aide if:

(A) The facility submits its policies and procedures for safe and appropriate storage and application of the powder to the Department and receives written approval from the Department prior to implementation; and

[Industry Rational]

- Paper compliance issue for both [Department and providers]
- Develop policy and implement rather than submit for approval – can be checked on survey like other policies

➤ **675-13-5(c)(2) and (3)**

(c) Director of nursing

.....
*(2) The director of nursing shall be **on duty on the day shift** and be responsible for all resident care including, but not limited to, the physical, mental, and psycho-social needs. The director of nursing or designee shall be available by telephone when needed by facility staff.*

*(3) When necessary, the director of nursing **may work other than the day shift but** for no more than three shifts a week. This exception shall not exceed three consecutive weeks in a three month period.*

[Industry Rational]

- DON (Director of Nursing) hours are too restrictive – need flexibility to work any shift
- Make parallel to the federal regulations

[Research]

OAHCP expressed that the rule specifying the DON work on the day shift was too restrictive. It was suggested the rule should parallel the federal regulation. The federal regulation follows:

42 CFR Sec. 483.30 Nursing services.

The facility must have sufficient nursing staff to provide nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care.

(a) Sufficient staff.

(1) The facility must provide services by sufficient numbers of each of the following types of personnel on a 24-hour basis to provide nursing care to all residents in accordance with resident care plans:

(i) Except when waived under paragraph (c) of this section, licensed nurses; and

(ii) Other nursing personnel.

(2) Except when waived under paragraph (c) of this section, the facility must designate a licensed nurse to serve as a charge nurse on each tour of duty.

(b) Registered nurse.

(1) Except when waived under paragraph (c) or (d) of this section, the facility must use the services of a registered nurse for at least 8 consecutive hours a day, 7 days a week.

(2) Except when waived under paragraph (c) or (d) of this section, the facility must designate a registered nurse to serve as the director of nursing on a full time basis.

(3) The director of nursing may serve as a charge nurse only when the facility has an average daily occupancy of 60 or fewer residents.

➤ [675-13-5\(f\)\(5\)](#)

.....
(5) A certified medication aide shall complete **eight hours of continuing education** a year that is approved by the Department.

[Industry Rational]

- Change of this rule would require change in other areas of rule
- Allow CMAs 2 years to acquire 16 hours of CEUs
- Renew CNA and CMA at the same time and possibly combine certification cards

[Research]

Literature review on efficacy of web based training and accounting is pending.

➤ [675-13-5\(i\)\(6\), \(7\), and \(8\)](#)

(i) *Inservice.* The facility shall provide all direct care staff with two hours of inservice training specific to their job assignment per month. This training shall include, at least, the following:

.....
(6) Each certified nurse aide shall be provided training in pain screening at the time of orientation and at least once every six months thereafter.

(7) Each licensed practical nurse shall be provided training in pain screening and pain management at the time of orientation and at least once every six months thereafter.

(8) Each registered nurse shall be provided training in pain assessment and pain management at the time of orientation and at least once every six months thereafter.

[Industry Rational]

- Pain management is costly – change to one time per year versus every six months
- Other topics are just as important that need to be covered
- Annual in-service requirements should meet the intent of the regulation

[Research]

OAHCPC expressed that the rules for pain management inservice were too costly and should be changed to one time per year versus every six months; that other topics were as important that need to be covered; and an annual in-service requirement should meet the intent of the regulation.

The adopted regulation implemented recommendations of the [Oklahoma Pain Management Advisory Task Force](#) (An attachment to the email distributing this document.). The full task force report is an attachment to the email. The task force recommended adoption of the following rule amendment:

675-13-5(i)(6), (7), and (8)

(i) **Inservice.** The facility shall provide all direct care staff with two hours of inservice training specific to their job assignment per month. This training shall include, at least, the following:

.....
(5) Each staff person shall be provided training in pain recognition at the time of orientation and at least once a year thereafter.

(6) Each licensed practical nurse shall be provided training in pain screening and pain management at the time of orientation and at least once every six months thereafter.

(7) Each registered nurse shall be provided training in pain assessment and pain management at the time of orientation and at least once every six months thereafter.

The adopted rule language modified the above recommendation of the Advisory Council on Pain Management to include a requirement for the training of certified nurse aides in pain screening every six months.

Rules for Incident Reporting in Assisted Living Centers

310:663-19-1. Incident reports

(a) **Timeline for reporting.** All reports to the Department shall be made via facsimile or by telephone within one (1) Department business day of the reportable incident's discovery. A follow-up report of the incident shall be submitted via facsimile or mail to the Department within five (5) Department business days after the incident. The final report shall be filed with the Department when the full investigation is complete, not to exceed ten (10) Department business days after the incident. Notifications to the Nurse Aide Registry using the ODH Form 718 must be made within one (1) Department business day of the reportable incident's discovery.

(b) **Incidents requiring report.** Each continuum of care facility and assisted living center shall prepare a written incident report for the following incidents:

- (1) allegations and incidents of resident abuse;
- (2) allegations and incidents of resident neglect;
- (3) allegations and incidents of misappropriation of resident's property;
- (4) accidental fires and fires not planned or supervised by facility staff, occurring on the licensed real estate;
- (5) storm damage resulting in relocation of a resident from a currently assigned room;
- (6) deaths by unusual occurrence, including accidental deaths or deaths other than by natural causes;
- (7) residents missing from the assisted living center upon determination by the assisted living center that the resident is missing;
- (8) utility failure for more than 4 hours;
- (9) incidents occurring at the assisted living center, on the assisted living center grounds or during assisted living center sponsored events, that result in fractures, head injury or require treatment at a hospital;
- (10) reportable diseases and injuries as specified by the Department in OAC 310:515 (relating to communicable disease and injury reporting); and,
- (11) situations arising where a criminal act is suspected. Such situations shall also be reported to local law enforcement.

(c) **Incidents involving another provider.** Each continuum of care facility and assisted living center shall promptly refer incidents involving another provider, including a hospice or home health agency, to the certification or licensure agency having jurisdiction over the provider.

(d) **Reports to the Department.** Each assisted living center shall report to the Department those incidents specified in 310:663-19-1(b). An assisted living

center may use the Department's Long Term Care Incident Report Form.

(e) **Licensing boards.** Each assisted living center shall report allegations and incidents of resident abuse, neglect, or misappropriation of resident's property by licensed personnel to the appropriate licensing board within five (5) business days.

(f) **Notification of nurse aide registry.** Each continuum of care facility and assisted living center shall report allegations and occurrences of resident abuse, neglect, or misappropriation of resident's property by a nurse aide to the Nurse Aide Registry by submitting a completed "Notification of Nurse Aide Abuse, Neglect, Mistreatment or Misappropriation of Property" form (ODH Form 718), which requires the following:

- (1) facility/center name, address and telephone;
- (2) facility type;
- (3) date;
- (4) reporting party name or administrator name;
- (5) employee name and address;
- (6) employee certification number;
- (7) employee social security number;
- (8) employee telephone number;
- (9) termination action and date (if applicable);
- (10) other contact person name and address; and
- (11) the details of the allegation or occurrence of abuse, neglect, or misappropriation of resident property.

(g) **Content of incident report.**

- (1) *The preliminary report shall at the minimum include:*
 - (A) who, what, when, and where; and
 - (B) measures taken to protect the resident(s) during the investigation.
- (2) *The follow-up report shall at the minimum include:*
 - (A) preliminary information;
 - (B) the extent of the injury or damage if any; and
 - (C) preliminary findings of the investigation.
- (3) *The final report shall, at the minimum, include preliminary and follow-up information and:*
 - (A) a summary of investigative actions;
 - (B) investigative findings and conclusions based on findings;
 - (C) corrective measures to prevent future occurrences; and
 - (D) if items are omitted, why the items are omitted and when they will be provided.

Marietta Lynch
Oklahoma Association of Health Care Providers

Proposals for Modifications to Rules

1. I make a motion that the language at 675-9-9.1(a)(10)A be revised as follows:

(A) The facility develops policy and procedures for safe and appropriate storage and application of the powder; and

2. I make a motion that the language at 675-13-5(c)(1)(2) and (3) be revised as follows:

(1) A licensed nurse shall be designated as the director of nursing on a full time basis.

(2) The director of nursing shall be responsible for resident care including, but not limited to, the physical, mental, and psycho-social needs. The director of nursing or designee shall be available by telephone when needed by facility staff.

(3) Replaced with, "The director of nursing may serve as a charge nurse only when the facility has an average daily occupancy of 60 or fewer residents".

3. I make a motion that the language at 675-13-5 (f)(5) be revised as follows:

(1) A certified medication aide shall complete sixteen ours of continuing education every two years that is approved by the Department.

NOTE: *If this is approved there is other language - especially in chapter 677 that will require revision.*

4. I make a motion that the language at 675-13-5 (i) (6) (7) (8) be revised as follows:

(6) Each certified nurse aide shall be provided training in pain screening at the time of orientation and at least once every year thereafter.

(7) Each licensed practical nurse shall be provided training in pain screening and pain management at the time of orientation and at least once ever year thereafter.

(8) Each registered nurse shall be provided training in pain assessment and pain management at the time of orientation and at least once ever year thereafter.

From: Diane Hambric [diane@gold-medallion.com]

Sent: Friday, March 20, 2009 11:04 AM

To: 'Dewey Sherbon'

Subject: RE: LTCFAB - Ad Hoc Committee - Rules and Regs Review; Meeting Notice

Dewey- I will address this to you and you can do with it as you see fit.

Here are some suggestions and ideas that I think would be of valuable in the aforementioned discussion.

In order to save money for the survey process in assisted living, survey AL's based on prior survey results. An example would be-

0-5 deficiencies	every three years
6-10 deficiencies	every two years
11 and more	annually.

In the periods of time in between surveys for those with fewer deficiencies, a health department "inspector" would visit the property periodically, perhaps 2 times a year, and do a walk through with the administrator. This was the policy of the department many years ago, and quarterly, I had a visit with an inspector who would walk with me to each department and visit about what was going on, and make casual observations of the property. To me, this was invaluable. I learned, without any repercussions, what I could do in my kitchen, or housekeeping or medication room to be more compliant and be a better provider. The visits were brief- maybe 2 hours at the very most, and I learned and grew from the experience each time the inspector visited. I truly missed the opportunity to grow as a professional, with the department's help without fear of punitive action. I understand that to employ a few of these inspector positions in the department may add to the budget, but if properly organized, you would still be saving significant dollars with cutting back the AL surveys. And developing better care of elders, better administrators and better surveys as a result.

This same situation could be applied not only to assisted living, but to adult day care, residential care and even nursing homes.

Reward those with fewer deficiencies and be more proactive with those who have fewer. And save money at the same time.

Find the necessary dollars, perhaps with grants, to streamline computers and add necessary software in order to operate the most efficiently as possible. Spending frustrating time waiting on outdated hardware to react can be very frustrating and time consuming.

Provide to providers on line access to reporting functions. Reduces paper, is easier to track and saves a few million trees.

Revisit benefits packages to health department employees. Although this may not be really a happy thought, as with private businesses everywhere, a realistic look at what is possible to afford is a necessary evil. If benefits are too rich, it can sink a successful operation.

Increase costs for licenses for residential care and adult day care.

Rewrite Residential Care language which requires ALL employees to have CPR/First aid, no matter what position they have at your company. Write it to be similar to AL rules that require all direct care staff to have CPR/First aid. This will help eliminate huge expenses for this training to individuals who have little, if any, contact with the elders.

I agree with all of Marietta Lynch's suggested changes to redundant, or unnecessary nursing home rules.

I agree with Penny Ridenour's # 1, #2, recommendations.

Dewey, I hope this reflects a few new ideas that may save everyone some money.

Thanks-

Diane

Inspection/Investigation Frequency Requirements

This document includes the Oklahoma laws, rules and internal practices that set frequency or interval requirements for inspections and investigations in adult day care centers, assisted living centers, and residential care homes. Time frames are shown in highlighted text.

Adult Day Care Laws and Rules

Statute-Based Requirements

§63-1-875. Inspection by State Department of Health

The State Department of Health shall at least annually and whenever it deems necessary inspect each adult day care center to determine compliance with the Adult Day Care Act and rules and regulations promulgated thereto.

.....
Added by Laws 1989, c. 192, § 6, eff. Nov. 1, 1989.

Rule-Based Requirements

310:605-5-3. Inspections

(a) The Department shall at least annually, and whenever it deems necessary, inspect each adult day care center to determine compliance with the Adult Day Care Act and rules and regulations promulgated thereto.

.....
[Source: Added at 8 Ok Reg 2983, eff 5-28-91 (emergency); Added at 9 Ok Reg 1989, eff 6-11-92]

Internal Practices

None

Assisted Living Center Laws and Rules

Statute-Based Requirements

None

Rule-Based Requirements

310:663-25-1. Periodic inspections

(a) The Department shall inspect each continuum of care facility or assisted living center through an unannounced inspection at least once each fifteen (15) months, with a statewide average of twelve (12) months for all continuum of care facilities and assisted living centers.

(b) Prior to the termination of an initial license, the Department shall fully and completely inspect the assisted living center or continuum of care facility and, if it meets the applicable requirements for licensure, shall issue a license. If the Department finds that the continuum of care facility or assisted living center does not meet the requirements, the initial license may be extended once for a period not to exceed one hundred twenty (120) days from the expiration date of the initial license.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

310:663-25-2. Investigations

The Department whenever it deems necessary shall inspect, survey and evaluate each continuum of care facility or assisted living center to determine compliance with applicable licensure requirements.

[Source: Added at 15 Ok Reg 2605, eff 6-25-98]

Internal Practices

Assisted living complaints are triaged and investigated at same intervals as nursing facilities.

Residential Care Homes Laws and Rules

Statute-Based Requirements

§1-824. Probationary license--Duration--Conditions for issuance--Termination--Issuance or denial of regular license

If an applicant for licensure under the Residential Care Act has not been previously licensed, or if a home is not in operation at the time application is made, the State Department of Health shall issue a probationary license. A probationary license shall be valid for one hundred twenty (120) days unless sooner suspended or revoked pursuant to the provisions of the Residential Care Act.

1. Prior to the issuance of a probationary license, the Department shall:
 - a. ascertain whether the applicant is qualified to be licensed pursuant to the provisions of Section 1-822 of this title, and
 - b. inspect the home and inform the applicant of any conditions which require correction prior to the issuance of a license. If the home is a new home, the Department shall also inform the applicant of any condition which requires correction prior to the acceptance of residents into the home. If the home is an existing home whose ownership is being transferred, the probationary license issued to the transferee, in addition to any corrections required as a result of the inspection, shall be subject to any plan of correction submitted by the previous owner and approved by the Department.
2. Within thirty (30) days prior to the termination of a probationary license, the Department shall completely inspect the home and, if the home meets the applicable rules for licensure, shall issue a license pursuant to the provisions of the Residential Care Act and rules promulgated pursuant thereto. If at the end of an extension of the probationary license, the home is not in substantial compliance with the provisions of the Residential Care Act and the rules promulgated pursuant thereto, the license shall be denied and the Department shall take such action as necessary and as authorized pursuant to the provisions of the Residential Care Act for the protection of the health, safety, and welfare of the residents of the home.

§1-827. Effective date of nonrenewal, suspension or revocation of license--Hearing--New application--New license

.....
C. A new application of the applicant or licensee whose license was not renewed, suspended, or revoked may be considered after ninety (90) days upon receipt of satisfactory evidence that the conditions upon which such nonrenewal, suspension, or revocation was based have been corrected. A new license may be granted after a full and complete inspection or investigation and the applicant or licensee and the home are in substantial compliance with the provisions of the Residential Care Act and the rules promulgated thereto by the State Board of Health.

§1-829. Inspections and investigations--Reports

.....
B. 1. The Department shall at least three times a year and whenever it deems necessary inspect, survey, and evaluate each home to determine compliance with applicable licensure rules.

.....
E. The Department shall make at least one annual report on each home in the state. The report shall include all conditions and practices not in compliance with the provisions of the Residential Care Act or rules promulgated pursuant thereto within the last year and, if a violation is corrected, or is subject to an approved plan of correction. The Department shall send a copy of the report to any person upon receiving a written request. The Department may charge a reasonable fee to cover the cost of copying and mailing the report.

Rule-Based Requirements

310:680-3-2. Licenses

(a) **Regular license.** The license shall be issued for a twenty-four (24) month period expiring two years from date of issue. A license may be issued upon receipt of completed application, payment of license fee, and verification by the Department that the home complies with the Residential Care Standards and Regulation for Licensure, and the Residential Care Act.

(b) **Probationary license.** If the applicant has not been previously licensed, or if the home is not in operation at the time application is made, the Department shall issue a probationary license. A probationary license shall be valid for one hundred twenty (120) days unless sooner suspended or revoked by the Department.

(c) Prior to issuance of a probationary license, the Department shall:

- (1) Ascertain whether or not the applicant is qualified to be licensed.
- (2) Inspect the home and inform the applicant of any condition which requires correction prior to issuance of a license. If the home is a new home, the Department shall also inform the applicant of any conditions which require correction prior to acceptance of residents into the home.

.....
(d) Conditional license

- (1) The Department may issue a conditional license to any residential care home in which it finds that a violation exists. The issuance of a conditional license shall revoke any license held by the residential care home.
- (2) Prior to the issuance of a conditional license, the Department shall review and approve a written plan of correction. The Department shall specify the violations which prevent full licensure and shall establish a time schedule for correction of the violation. Written notice of the decision to issue a conditional license shall be sent to the residential care home, together with the proposed plan of correction. The notice shall inform the home of the right to an informal conference prior to issuance of the conditional license, and its right to a full hearing.
- (3) A conditional license shall be issued for a period specified by the Department, but in no event for more than one (1) year.
- (4) The Department shall periodically, but not less than semiannually, inspect any home operating under a conditional license. If the Department finds substantial failure by the residential care home to follow the plan of correction, the conditional license may be revoked.

.....
310:680-3-4. Inspections

- (a) Each residential care home shall be periodically inspected by a duly appointed representative of the Department.
- (b) The Department shall at least three times a year and whenever it deems necessary inspect, survey, and evaluate each home to determine compliance with applicable licensure and certification requirements and standards. The annual inspection shall occur within one hundred twenty (120) days prior to license renewal.

.....
310:680-3-9. Complaints
.....

(b) **Complaints to the Department.** The following requirements apply to complaints filed with the Department.

.....

(4) The Department shall receive and triage complaints at a central call center. The complaints shall be classified and investigated according to the following priorities:

(A) A complaint alleging a situation in which the home's noncompliance with state requirements relating to residential care homes has caused or is likely to cause serious injury, harm, impairment or death to a resident shall be classified as immediate jeopardy and shall be investigated by the Department within two (2) working days;

(B) A complaint alleging minimal harm or more than minimal harm to a resident but less than an immediate jeopardy situation shall be classified as actual harm and shall be investigated by the Department within ten (10) working days; and

(C) A complaint alleging other than immediate jeopardy or actual harm to a resident but that represents a repeated or ongoing violation shall be classified as a continuing complaint and investigated within twenty-five (25) days; and

(D) A complaint alleging other than immediate jeopardy or actual harm to a resident and that is not a continuing complaint shall be classified as a primary complaint and shall be investigated within thirty (30) days.

(5) In addition to scheduling investigations as provided in paragraph (4) of this subsection, the Department shall take necessary immediate action to remedy a situation that alleges a violation of the Residential Care Act or any rules promulgated under authority of the Act if that situation represents a serious threat to the health, safety and welfare of a resident.

.....

Residential Care Homes

Internal Practices

None

<u>Program</u>	<u>FY09 Lic. Beds or Capacity</u>	<u>Current Fee</u>	<u>FY 08 Fees Collected</u>	<u>Total Expenses</u>	<u>Expenses Per Bed or Capacity</u>
<i>Scenario 1 Yearly Insp</i>					
Assisted Living*	7,533	\$10/bed	\$91,869	\$704,157	\$93/bed
Adult Day Care	1,994	\$75/facility	\$3,300	\$124,334	\$62/bed
Res Care	2,692	\$50/facility	\$2,450	\$316,403	\$118/bed
Nursing Facilities	28,309	\$10/bed	\$338,098	\$3,559,332	\$119/bed
Total			\$435,717	\$4,704,226	
<i>Scenario 2 Biennial Insp</i>					
Assisted Living		\$10/bed	\$91,869	\$409,836	\$54/bed
Adult Day Care		\$75/facility	\$3,300	\$84,894	\$43/bed
Res Care		\$50/facility	\$2,450	\$216,427	\$80/bed
Nursing Facilities		\$10/bed	\$338,098	\$2,188,885	\$77/bed
Total			\$435,717	\$2,900,042	
<i>Scenario 3 Triennial Insp</i>					
Assisted Living		\$10/bed	\$91,869	\$298,734	\$40/bed
Adult Day Care		\$75/facility	\$3,300	\$58,253	\$29/bed
Res Care		\$50/facility	\$2,450	\$182,881	\$68/bed
Nursing Facilities		\$10/bed	\$338,098	\$1,678,302	\$59/bed
Total			\$435,717	\$2,218,170	

* ALC Beds Licensed in FY08

ALC Beds =	6,892
ALC Beds in Coc =	641
Total ALC Beds =	<u>7,533</u>

**STATE SURVEY AGENCY
BUDGET/EXPENDITURE REPORT**

AGENCY: OKLAHOMA	REGION/STATE CODE: 06/37	BUDGET PERIOD: FY 2009 From: 7/1/08 To: 6/30/09	FY QUARTER ENDING:
----------------------------	------------------------------------	---	---------------------------

- | | |
|---|---|
| (1) <input type="checkbox"/> TITLE XVIII STATE BUDGET REQUEST | (6) <input type="checkbox"/> TITLE XIX STATE FFP ESTIMATED BUDGET |
| (2) <input type="checkbox"/> TITLE XVIII RO BUDGET APPROVAL | (7) <input type="checkbox"/> TITLE XIX RO APPROVED FFP ESTIMATED BUDGET |
| (3) <input type="checkbox"/> TITLE XVIII STATE QUARTERLY EXPENDITURES | (8) <input type="checkbox"/> TITLE XIX STATE QUARTERLY EXPENDITURES |
| (4) <input type="checkbox"/> TITLE XVIII RO APPROVED QUARTERLY EXPENDITURES | (9) <input type="checkbox"/> TITLE XIX RO APPROVED QUARTERLY EXPEND. |
| (5) <input type="checkbox"/> TITLE XVIII CUMULATIVE EXPENDITURES | (10) <input type="checkbox"/> SUPPLEMENTAL (CHECK APPROPRIATE BLOCK(S)) |
| | (11) <input checked="" type="checkbox"/> OTHER (EXPLAIN) |

COST CENTERS	TITLE XVIII				TITLE XIX			TOTAL LTC
	N/LTC S-Y (A)	N/LTC (B)	LTC S-Y (C)	LTC (D)	LTC S-Y (E)	FFP (F)	STATE (G)	COL. D, F, & G (H)
SALARIES								
1a. Surveyor	0.00	0.00	\$0	0.00	\$0	\$2,745,521	\$2,745,521	
1b. Non-Surv. Prof	0.00	0.00	\$0	0.00	\$0	\$0	\$0	
2. Clerical	0.00	0.00	\$0	0.00	\$0	\$0	\$0	
3. Total Salaries	0.00	0.00	\$0	0.00	\$0	\$2,745,521	\$2,745,521	
OTHER DIRECT COSTS		0%		47%	53%		100%	
4. Rate %		49.00%		49.00%	49.00%	49.00%		
5. Ret/Fringe Benefits		\$0		\$0	\$0	\$1,345,305	\$1,345,305	
6. Travel		\$0		\$0	\$0	\$255,000	\$255,000	
7. Communications		\$0		\$0	\$0	\$24,000	\$24,000	
8. Supplies		\$0		\$0	\$0	\$26,500	\$26,500	
9. Office Space		\$0		\$0	\$0	\$0	\$0	
10. Equipment Purchases		\$0		\$0	\$0	\$76,500	\$76,500	
11. Training		\$0		\$0	\$0	\$26,000	\$26,000	
12. Consultants		\$0		\$0	\$0	\$0	\$0	
13. Subcontracts		\$0		\$0	\$0	\$0	\$0	
14. Miscellaneous		\$0		\$0	\$0	\$205,400	\$205,400	
A. NAR/NATCEP			0.00	\$0			\$0	
B. Motor Pool		\$0		\$0	\$0	\$80,200	\$80,200	
C. IT Costs		\$0		\$0	\$0	\$115,200	\$115,200	
D. Misc Other		\$0		\$0	\$0	\$10,000	\$10,000	
15. Total Other Direct Costs		\$0		\$0	\$0	\$1,958,705	\$1,958,705	
16. TOTAL DIRECT COSTS		\$0		\$0	\$0	\$4,704,226	\$4,704,226	
17. INDIRECT COSTS		\$0		\$0	\$0	\$0	\$0	
18. Rate %		27.70%		27.70%	27.70%	0.00%		
19. TOTAL COSTS		\$0		\$0	\$0	\$4,704,226	\$4,704,226	
20. UNLIQUIDATED OBLIG.								

\$0

SIGNATURE: _____ **TITLE:** _____ **DATE:** _____



Protective
Health Services
Oklahoma State
Department of Health

Long Term Care
1000 Northeast Tenth Street
Oklahoma City, OK 73117
Phone (405) 271-6868

INCIDENT REPORT FORM: Initial Combined Initial and Final Follow up Info. Final
Please check only one box above.

Please complete Parts A & B for 24-hour notifications. Include Part C for 5 day and final reports. All incident reports/notifications may be submitted to fax number **(405) 271-4172** or toll free fax **1-866-239-7553**.

Part A

Facility ID _____ Name of Facility _____
Address _____
Street _____ City _____ State _____ Zip _____

Incident Date _____ **Incident Location** _____

Resident(s)/Client(s)

Involved

Incident Type (For allegations against nurse-aides or nontechnical services workers, please include ODH Form 718)

- | | |
|--|---|
| <input type="checkbox"/> Certain Injuries (OAC 310:675-7-5.1(i)) | <input type="checkbox"/> Storm Damage |
| <input type="checkbox"/> Utility Failure (more than 4 hours) | <input type="checkbox"/> Fire |
| <input type="checkbox"/> Misappropriation of Resident Property | <input type="checkbox"/> Allegations of Neglect |
| <input type="checkbox"/> Allegations of Abuse/Mistreatment | <input type="checkbox"/> Injury of Unknown Source |
| <input type="checkbox"/> Death Other than by Natural Causes | <input type="checkbox"/> Missing Resident |
| <input type="checkbox"/> Communicable Disease (If you are reporting a communicable disease, please also call the Acute Disease Service at (405) 271-4060. | <input type="checkbox"/> Physical Harm* |
| <input type="checkbox"/> Suspected Criminal Act* | |

*If Physical Harm and Suspected Criminal Act, indicate Local Law Enforcement Agency contacted in the 'Notifications Made' box at the right.

Notifications Made (Check all that apply)

- Physician
- Family
- Resident's legal representative
- DHS: Adult Protective Services
- Local Law Enforcement

Agency Name: _____

Date: _____ Time: _____

- Appropriate licensing board
- Nurse Aide Registry
- Attorney General
- Other _____

Part B

Description of Incident. Please include injuries sustained as well as measures taken to protect the resident(s) during investigation. **Attach additional pages as needed.**

Please include relevant resident history (i.e. cognitive status, fall risk assessment, relevant care plan instructions prior to this incident, etc.)

Part C

For 5 day and final reports, please include a summary of the investigation (include investigative actions, findings and causative factors) and corrective measures implemented to prevent recurrence. **Attach additional pages as needed.**

Failure to document credible protective/preventative measures at the time of initial reporting and/or failure to provide evidence of a thorough investigation with corrective measures on the final report may require the OSDH to perform an onsite visit to determine if acceptable measures are being taken to protect residents.

Reporting Party

Assisted Living Incident Report

Please accept the following as a report of an incident in an assisted living facility. This is not an initial or final report.

Part A

Name of Facility _____

Address _____
Street City State Zip

Incident Date _____ Incident Time _____ a.m. / p.m.

Incident Location _____

Resident(s)/Client(s) Involved _____

Incident Type (For allegations against nurse-aides, please include ODH Form 718)

- _____ Allegations/ Incidents of Abuse/Mistreatment
- _____ Allegations/ Incidents of Neglect
- _____ Allegations/ Incidents of Misappropriation of Resident Property
- _____ Fires on licensed real estate
- _____ Storm Damage that result in relocation of resident from a currently assigned room
- _____ Deaths by unusual occurrence, including accidental deaths or deaths other than natural causes
- _____ Residents missing after search of a facility after the determination that the resident is missing
- _____ Utility failure for more than four hours
- _____ Incidents occurring at the facility, on facility grounds, or during facility sponsored events, that result in fractures, head injury, or require treatment in a hospital***
- _____ Reportable diseases
- _____ Criminal Act is suspected

*This is a Suggested Draft Based on
New Regulations*

***Treatment means "Administration or application of remedies to a patient or for a disease or an injury; medicinal or surgical management; therapy. It does not refer to x-rays or other diagnostic tests

Brief description (The investigation and validation of the following has begun as of the date of this report, but is not complete)

Measures Taken to Protect the Resident (s) During the Investigation

Reporting Person (Print Name) _____ Signature _____

Title _____ Date _____

Fax to: **Oklahoma State Department of Health** (405) 271-4172 or (866) 239 7553
Date faxed _____ Time faxed _____ a.m. / p.m.



Protective Health Services
Oklahoma State Department of Health

Long Term Care
1000 NE 10th Street
Oklahoma City, OK 73117-1299
Telephone: (405) 271-6868
FAX: (405) 271-4172
Toll Free: 1-866-239-7553

Notification of Nurse Aide/Nontechnical Service Worker Abuse, Neglect, Mistreatment or Misappropriation of Property

Check One: Nurse Aide Nontechnical Services Worker

Print or type all information

This form should accompany the initial incident report form when the nurse aide or nontechnical service worker has been named.

Facility ID _____

Date _____

Name of Facility _____

Address _____
Street or P.O. Box City County Zip

Administrator or Reporting Party _____ Telephone (____) _____ - _____

Employee Name _____

Street or P.O. Box City County Zip

SSN Certification Number Telephone (____) _____ - _____

Was employee suspended? () Yes () No If yes, enter employee suspension date. _____

Was employee terminated? () Yes () No If yes, enter employee termination date. _____

Other Contact Person _____ Telephone (____) _____ - _____

Address _____
Street or P.O. Box City County Zip

ALLEGATIONS/ FACTS OF ABUSE, NEGLECT OR MISAPPROPRIATION OF RESIDENT PROPERTY:
(Attach any additional sheets or reports, if necessary)

For Office Use Only

Referral: Y or N To: _____