



## LONG-TERM CARE FACILITY ADVISORY BOARD

Regular Meeting

January 9, 2019 at 1:30 in Room 1102

Oklahoma State Department of Health, 1000 NE 10<sup>th</sup> Street, Oklahoma City, OK 73117-1299

### **MINUTES**

January 9, 2019

#### **1) Call to Order**

Alan Mason, Chair, called the meeting to order at 1:31 p.m.

Introduction of new members: Don Courtney, Modina Allen, Stephen Ross, Paula Porter, Lori Peck Morton, and Steve Blunk

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

Inez Bennett called roll with the following Long Term Care Facility Advisory Board (LTCFAB) members present: Joanne Alderman; Stephen Ross; Tracy Chlouber; Dustin Cox; Modina Allen; Steve Blunk; Esther Houser; Donald Courtney; Patricia Ingram; Adam Jordan; Joanna Martin; Alan Mason; Jim McWhirter; Charles Schwartz; Dewey Sherbon; Wendell Short; Diana Sturdevant; William Whited; and Denise Wilson.

The following LTCFAB members were absent: Paula Porter; Jonathan Bushman; Lori Morton; Jacki Millspaugh; and Kay Parsons

The following guests were present: Rocky McElvany, OSDH; Michael Cook, OSDH; James Joslin, OSDH; Debbie Zamarripa, OSDH; Glenn Box, OSDH; Paula Terrel, OSDH; Vicki Kirtley, OSDH; Diane Henry, OSDH; Bob Bischoff, OSDH; Natasha Mason, OAHCP; Mary Brinkley, Leading Age OK; Chad Muller; Melissa Holland, OKALA; Alexandria Hart-Smith, OSDH; Lisa McAlister, OSDH; Beverly Clark, OSDH; Natalie Smith, OSDH; and Inez Bennett, OSDH.

Currently, there are three vacancies on the LTCFAB, which consists of 27 members.

A quorum was met with 14 members present.

Meetings are posted at:

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

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

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

**3) Review and Action to Approve/Amend October 10, 2018 Regular Meeting Minutes:**

**Agenda Item #3  
Vote 1**

**Motion:** Approval of the October 10, 2018 Regular Meeting Minutes

Motion Made by: Esther Houser                      Seconded: Joanna Martin                      Motion Carried: Yes

Aye: 15    Abstain: 4    Nay: 0    Absent: 5

**Aye: 15    Abstain: 4    Nay: 0    Absent: 5**

Joanne Alderman	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Joanna Martin	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
<b>Paula Porter</b>	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Alan Mason	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Stephen Ross	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Jim McWhirter	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
<b>Jonathan Bushman</b>	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	<b>Jacki Millsbaugh</b>	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Tracy Chlouber	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	<b>Kay Parsons</b>	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
<b>Lori Morton</b>	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Charles Schwarz	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Dustin Cox	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Dewey Sherbon	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Modina Allen	<input type="checkbox"/> Aye <input checked="" type="checkbox"/> Abstain <input type="checkbox"/> Nay	Wendell Short	<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	Diana Sturdevant	<input type="checkbox"/> Aye <input checked="" type="checkbox"/> Abstain <input type="checkbox"/> Nay
Donald Courtney	<input type="checkbox"/> Aye <input checked="" type="checkbox"/> Abstain <input type="checkbox"/> Nay	William Whited	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Patricia Ingram	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Steve Blunk	<input type="checkbox"/> Aye <input checked="" type="checkbox"/> Abstain <input type="checkbox"/> Nay
Adam Jordan	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Denise Wilson	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
			<b>Shading = Absent</b>

**4) Proposed Rulemaking Recommendations:**

James Joslin, Service Director for Health Resources Development and Assistant Deputy Commissioner for Protective Health Services gave a brief orientation of Protective Health Services (PHS) for the new board members. The responsibility of PHS is as the regulatory, licensing functions of the department. Within that service area we have a department responsible for licensing Long Term Care Facilities called Health Resource Development Service (HRDS), led by James Joslin. Mike Cook's department is responsible for inspections and certifications of the Long Term Care (LTC) facilities. LTC facilities include Residential Care Facilities (RCF), Assisted Living Centers (ALC), Adult Day Care (ADC) centers, and Nursing Homes (NH). The Long Term Care Facility Advisory Board (LTCFAB) provides experiences and feedback as policies, initiatives, and issues emerging related to those homes are examined. Additionally, Mr. Joslin's office oversees Nurse Aide Registry, Employment Screening that is done for all the staff (National Background Checks), Inspections of Jails (city and county), Minimum Data Set (MDS), and resident assessment data which is done at the time of admission, quarterly, and when there is a significant change in condition.

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The approval of the rules was put on hold due to turmoil and turnover in the agency. The terminology used in the rules is outdated. Below is a list of rules, changes that will be updated, and information provided for review. A brief summary in the agenda explains the documents provided, and separately for each chapter listed, the Initial Rule and Impact Statement have been provided. The Initial Rule and Impact Statement is a formal legal document required by rulemaking in the state of Oklahoma. The document explains the action to be taken, what the impact will be on the providers and others that may be affected by the rule. Once the Long Term Care Facility Advisory Board approves the rule changes, it goes to the Commissioner of Health to authorize the opening of a public comment period, a notice of rulemaking intent goes to the Secretary of State and the Governor, and if they approve then the LTCFAB will go forward to open a public comment period with publication of a Notice of Rulemaking Intent on or about February 15, 2019. This opens up a thirty-day public comment period for anyone to provide feedback. Once the public comment period closes, LTCFAB will meet again to make any revisions based on comments if necessary. The rules are officially submitted to the Governor & Legislature with the Commissioner of Health's approval. At that point the Governor and Legislature can act on those rules, the Legislature will act first, but if they don't the Governor has a period of days to do a general proclamation approving the rules. If that happens we would likely see the rules in affect in roughly September 2019.

Pursuant to Title 63 of the Oklahoma Statutes, at section 1-1923(D), the Advisory Board shall have the power and duty to: ... 2. Review, make recommendations regarding, and approve in its advisory capacity the system of standards developed by the Department;

Discussion and possible action on approval and/or recommendations for adoption to the Commissioner of Health for the following proposed rules:

- A. CHAPTER 625. CERTIFICATE OF NEED STANDARDS FOR ~~ICF/MR~~ ICF/IID
- B. CHAPTER 630. CERTIFICATE OF NEED STANDARDS FOR LICENSED NURSING FACILITY BEDS
- C. CHAPTER 663. CONTINUUM OF CARE AND ASSISTED LIVING
- D. CHAPTER 675. NURSING AND SPECIALIZED FACILITIES
- E. CHAPTER 677. NURSE AIDE TRAINING AND CERTIFICATION

The proposed Chapter revisions will amend numerous sections within these chapters to replace the terms "Mental Retardation", "Mentally Retarded" and "Qualified Mental Retardation Professional". This proposal replaces the aforementioned terms with "Individuals with Intellectual Disabilities", "Individuals with Developmental Disabilities", or "Qualified Intellectual Disability Professional". Pursuant to Title 25 O.S. § 40, statutes and administrative rules should avoid language that equates persons with their condition and should replace nonrespectful language by referring to persons with disabilities as persons first. Further, national organizations such as the Americans with Disabilities Act National Network, American Association on Intellectual and Developmental Disabilities and Centers for Medicare and Medicaid encourage use of more respectful language that has gained wide acceptance in recent disability laws.

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In Chapter 675, a scrivener's error omitted the removal of a reference to the old life safety code in 310:675-11-5. This section was amended in 2016 to incorporate the 2012 edition of the Life Safety Code adopted by the Centers for Medicare & Medicaid Services. The amendment to this section addresses this omission by striking the old reference and supporting language applicable to the former code.

An amendment is provided at 310:675-5-1, related to plan review, to update the incorporation by reference from the National Bureau of Standards Fire Safety Evaluation System to the National Fire Protection Association's NFPA 101A Guide on Alternative Approaches to Life Safety, 2010 Edition. This update addresses the latest standards used by architect's and the Centers for Medicare and Medicaid Services (CMS). Similar updates are provided in a number of sections within Subchapter 5, Physical Plant, to explicitly identify the applicable portions of the National Fire Protection Association (NFPA) 101: Life Safety Code, 2012 Edition that applies to design and construction requirements.

In Chapter 677, this action will amend the classification of “Developmentally Disabled Direct Care Aides” to “ICF/IID Care Aides”.

**Agenda Item #4**  
**Vote 1**

**Motion:** Accepting the rule changes for Chapter 625

Motion Made by: Adam Jordan      Seconded: Esther Houser      Motion Carried: Yes

Aye: 19    Abstain: 0    Nay: 0    Absent: 5

**Aye: 19    Abstain: 0    Nay: 0    Absent: 5**

Joanne Alderman	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Joanna Martin	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Paula Porter	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Alan Mason	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Stephen Ross	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Jim McWhirter	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Jonathan Bushman	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Jacki Millsbaugh	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Tracy Chlouber	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Kay Parsons	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Lori Morton	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Charles Schwarz	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Dustin Cox	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Dewey Sherbon	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Modina Allen	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Wendell Short	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Esther Houser	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Diana Sturdevant	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Donald Courtney	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	William Whited	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Patricia Ingram	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Steve Blunk	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Adam Jordan	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Denise Wilson	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
			<b>Shading = Absent</b>

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**Agenda Item #4  
Vote 2**

**Motion: Accepting the rule changes for Chapter 630**

Motion Made by: Donald Courtney      Seconded: Denise Wilson      Motion Carried: Yes

Aye: 19    Abstain: 0    Nay: 0    Absent: 5

***Aye: 19    Abstain: 0    Nay: 0    Absent: 5***

Joanne Alderman	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Joanna Martin	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Paula Porter	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Alan Mason	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Stephen Ross	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Jim McWhirter	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Jonathan Bushman	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Jacki Millspaugh	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Tracy Chlouber	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Kay Parsons	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Lori Morton	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Charles Schwarz	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Dustin Cox	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Dewey Sherbon	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Modina Allen	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Wendell Short	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Esther Houser	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Diana Sturdevant	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Donald Courtney	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	William Whited	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Patricia Ingram	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Steve Blunk	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Adam Jordan	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Denise Wilson	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
			<b>Shading = Absent</b>

**Agenda Item #4  
Vote 3**

**Motion: Accepting the rule changes for Chapter 663**

Motion Made by: Wendell Short      Seconded: Joanna Martin      Motion Carried: Yes

Aye: 19    Abstain: 0    Nay: 0    Absent: 5

***Aye: 19    Abstain: 0    Nay: 0    Absent: 5***

Joanne Alderman	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Joanna Martin	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Paula Porter	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Alan Mason	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Stephen Ross	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Jim McWhirter	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Jonathan Bushman	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Jacki Millspaugh	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Tracy Chlouber	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Kay Parsons	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Lori Morton	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Charles Schwarz	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Dustin Cox	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Dewey Sherbon	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Modina Allen	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Wendell Short	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Esther Houser	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Diana Sturdevant	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Donald Courtney	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	William Whited	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Patricia Ingram	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Steve Blunk	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Adam Jordan	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Denise Wilson	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay

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Shading = Absent

**Agenda Item #4  
Vote 4**

**Motion: Accepting the rule changes for Chapter 675**

Motion Made by: William Whited      Seconded: Adam Jordan      Motion Carried: Yes

Aye: 19    Abstain: 0    Nay: 0    Absent: 5

**Aye: 19    Abstain: 0    Nay: 0    Absent: 5**

Joanne Alderman	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Joanna Martin	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Paula Porter	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Alan Mason	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Stephen Ross	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Jim McWhirter	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Jonathan Bushman	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Jacki Millsbaugh	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Tracy Chlouber	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Kay Parsons	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Lori Morton	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Charles Schwarz	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
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Modina Allen	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Wendell Short	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Esther Houser	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Diana Sturdevant	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Donald Courtney	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	William Whited	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Patricia Ingram	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Steve Blunk	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Adam Jordan	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Denise Wilson	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
			Shading = Absent

**Agenda Item #4  
Vote 5**

**Motion: Accepting the rule changes for Chapter 677**

Motion Made by: William Whited      Seconded: Adam Jordan      Motion Carried: Yes

Aye: 19    Abstain: 0    Nay: 0    Absent: 5

**Aye: 19    Abstain: 0    Nay: 0    Absent: 5**

Joanne Alderman	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Joanna Martin	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Paula Porter	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Alan Mason	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Stephen Ross	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Jim McWhirter	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Jonathan Bushman	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Jacki Millsbaugh	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Tracy Chlouber	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Kay Parsons	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Lori Morton	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Charles Schwarz	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Dustin Cox	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Dewey Sherbon	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Modina Allen	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Wendell Short	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Esther Houser	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Diana Sturdevant	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Donald Courtney	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	William Whited	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay

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Patricia Ingram	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Steve Blunk	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Adam Jordan	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Denise Wilson	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
			Shading = Absent

**5) Nurse Staffing Hours in Nursing Facilities:**

Esther Houser provided a document produced by Leading Age, for the first quarter of federal fiscal year 2018 (October 1, 2017 to December 30, 2017) pertaining to nurse staffing for nursing homes in the state of Oklahoma. In 1987 federal nursing home reform law was passed requiring eight hours of registered nurse (RN) staffing per day, per facility. A facility could have Twenty-five beds or two-hundred beds. The size of the facility did not matter. In the second quarter of federal fiscal year 2018 there were one hundred and ninety nursing home facilities out of three hundred and ten that had one or more days in the ninety-day period of the report, in which the facilities failed to have eight hours of RN staffing covered. The worst in the state was at seventy-four days out of ninety days without a RN on duty for eight hours. There were quite a few with one, two, five, or six days without a RN on duty for at least eight hours. Oklahoma had more facilities than any another state that failed to meet that standard.

In April 2018, CMS began to use the payroll based journal (PBJ) data to calculate staffing levels. Esther expressed, if a facility reported in their staffing reports that they meet a standard and they did not that is Medicaid fraud, if they are certified for Medicaid. No RN waivers have been given to facilities recently. Esther stressed this needs to be looked at seriously.

Oklahoma is number one in the nation for residents receiving anti-psychotic drugs without a prescription or diagnosis (chemical restraint) and number two for high risk residents with pressure sores. Esther stated there are some serious issues with quality of care in the state of Oklahoma that could be related to the lack of RN staffing in facilities.

Mike Cook responds to the data presented by Esther. Mr. Cook reached out to members of Long Term Care staff at the Oklahoma State Department of Health (OSDH) to discuss these findings and their accuracy before the meeting. Two questions to analyze, first what is CMS doing and second what has The Department of Health been doing? An analysis was done on the one hundred and eighty-six homes discussed in the Leading Age report provided by Esther. Long Term Care does recertification surveys at intervals of up to 15.9 months. For the federal fiscal year 2018, we did two hundred and eighty recertification surveys. For all Long Term Care facilities investigated last year we did about thirty-two hundred LTC investigations and this includes complaints.

Glenn Box analyzed the one hundred and eighty-six facilities addressed in the Leading Age report. The complaint department has received very few complaints from the public on RN coverage. The information from Leading Age was comprised of a lot of data, but it didn't say where the problems were occurring or what the outcomes were for the facilities. Mr. Box put his focus on the facilities with the greatest number of days missed in the quarter by RNs, facilities with more than twenty days missed in a quarter missing an eight-hour RN shift. Of the one hundred and eighty-four facilities, ninety-three had four or fewer missed shifts, of the remaining ninety-one facilities that had more than four missed shifts, twenty-eight missed five to ten shifts, fifteen missed twenty-one to thirty shifts, thirty-seven missed eleven to twenty shifts, eleven missed thirty-one to seventy-

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four shifts. When you look at population, you are looking a RN availability. The worst number of missed shifts appear to be in rural Oklahoma and that is because the availability of RNs in rural areas is so low. Complaints are focused survey. The most likely place we would look at RNs is on a recertification survey, which is a very wide focused survey.

Beverly Clark, Training Manager for Protective Health Services, will give a brief description of the recertification process. The first step of a survey is the Entrance Conference. The surveyors have a checklist of items to ask the facility for to review. Number six on that checklist is information regarding Director of Nursing (DON) coverage per Center for Medicare and Medicaid Services (CMS), verbal confirmation is acceptable. Number fifteen on the checklist ask the surveyors to request a copy of the actual working schedule for licensed and registered staff for that survey time period. As the surveyors work through the survey process they identify on average twenty-four residents per facility, conduct in depth observations, in depth interviews, and in depth record reviews on the residents. The surveyors will ask questions concerning different care areas. One specific area the surveyors look at is sufficient staffing. They are looking for triggers that would identify insufficient staffing. Whenever staffing issues are identified we follow a pathway, this pathway is called Sufficient and Competent Nurse Staffing. In part of this pathway we are to review the staffing schedule including call-ins and staff postings for the last month. The surveyors also inquire about the eight-hour register nurse staffing, seven days a week. Unless the facility has a waiver, the surveyors will cite a facility that does not have a registered nurse for eight hours a day, seven days a week. During the course of the survey and investigation, if it goes into an extended survey this pathway is automatically pulled and reviewed.

Paula Terrel, Coordinator for Long Term Care, provided additional information regarding RN staffing. Typically, what the surveyors do in the entrance conference is to take a verbal confirmation. If the surveyors have reason to believe there is a staffing issue when they go to this pathway, they will take a two-week sample and either pick a recent one or a certain time frame. The surveyors will ask for the timesheets (punch details) to review. A surveyor never looks at an entire three months because they don't have time to do that, they have to pick a sample. DONs count as RNs, so the DON accounts for the RN Monday thru Friday eight hours a day. Since DONs are salaried they don't punch a clock and there for may not have punch details to provide the surveyors

Mr. Cook reported that on April 1, 2018, CMS said they are no longer going to except the way the PBJ are completed on form 671, going forward this would be totally electronic.

Bob Bischoff, State Automation Coordinator, explains Casper reports, which provide lots of data for several reports. The data from a PBJ report might not be accepted, if they submit the data the PBJ timesheets. The facilities should be getting a validation report. This will explain whether or not the information was accepted. There are all types of information within the validation report, which can cause discrepancies. If the information is being sent to a third party, then the facility will need to follow-up with the third party to see how that is being submitted. Another reason the PBJs show up with incorrect data is if they are using the incorrect CCN number which is the Medicare number. They initially start out with a 37E number which is the Medicaid number. Within a couple of months, they get a Medicare number, but if they don't change the software the which they are submitting the PBJ data on, then nothing is submitted.

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Mr. Cook reports that Federal Tag 727 was cited eleven times. Considering there are one hundred and eighty-six facilities listed. In the same timeframe Federal Tags 725 Sufficient Nursing Staffing and 726 Competent Nursing Staffing cited fifty-seven deficiencies for those two tags.

CMS sent out a QSO letter in November 2018. A QSO letter is how CMS updates state agencies and Long Term Care Facilities on changes. The letter stated that CMS has analyzed this PBJ data and the survey agency have a mandated requirement to survey 10% of NH on off hours. Off hours are anything not between 8am to 5pm. Surveyors must go in before 8am, after 5pm, or on the weekends (this is called a staggered survey). Of the 10% of surveys that are staggered, CMS wants the survey agency to go to 50% of those on the weekend. The ones that they will go to is based on a list that the regional office is to provide.

James Joslin offered that the HRDS staff will research the following for the next LTCFAB meeting:

- What reports on the staffing data we can generate and provide the Board?
- Validate and understand the data reported
- Investigate the data to understand if there are errors in reporting staffing data.
- Identify the facilities showing deficits in the staffing data
- Develop a communication plan for those facilities reporting insufficient nurse staffing hours that addresses the requirements and communicates common errors in recording staffing hours.

**6) Licensure, Resident Assessment, Nurse Aide Registry, and Background Check Update:**

Due to the current time constraints Mr. Joslin refrained from any discussion on the topics listed above until the next Long Term Care Facility Advisory Board Meeting.

**7) Presentation on MDS Training:**

Natasha Mason discussed the importance of properly training MDS Coordinators in Long Term Care facilities, in order to ensure that all the coding used in the MDS is accurate. As a new MDS coordinator Ms. Mason only received three days of training. It would be very beneficial for all MDS coordinators to be required to take some kind of certification program or training, whether it is approved by the state or through American Association of Nurse Assessment Coordinators. These trainings would teach someone how to code the assessment, why it is important that you are coding the assessment, how to read the reports, how to look at the validation reports, and why the information your coding is important. If an assessment is not coded correctly on someone who just admits to a facility and the information is not corrected, that single assessment is setting your entire care plan for that resident for their entire stay at that facility. MDS coordinators should have continued education, annual required trainings, and better access to the Resident Assessment Instrument (RAI).

Diane Henry State MDS Coordinator, takes calls from facilities, they do training annually, and they assist with calls on how to get your Casper report.

Esther Houser made the suggestion for an Ad Hoc Committee, a fact finding committee on MDS Coordinators. Diana Sturdevant Chair and Esther Houser Co-Chair.

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**8) Long Term Care Service Update:**

Mr. Cook said he would save his Long Term Care update for the April LTCFAB meeting. He welcomed new members, welcomed back returning members, and acknowledged three reappointed members. Those three members are Adam Jordan, Alan Mason, and Denise Wilson. He then explained that Long Term Care has seven different facility types Nursing Homes (NH), Veterans Centers (VA), Assisted Living Centers (ALC), Residential Care Facilities (RCF), ICF/IID (Intermediate Care Facilities for Individuals with Intellectual Disability, and Continuum of Care Facilities. The Long Term Care staff not only does the certifications/recertifications, they also do Incident Reports, Complaints on Long Term Care Facilities, and Enforcement Actions.

**9) Public Comment:**

Public comment made throughout the meeting.

**10) Adjournment**

The meeting adjourned at 3:27 p.m.