Oklahoma State Department of Health

October 27, 2008

To: Licensed Nursing, Skilled, and Intermediate Care Facilities for Persons with Mental Retardation

RE: Provider Letter 08-05
- Recent Updates to Oklahoma State Licensure Rules, OAC 310:675
- Transmittal of Revised Incident Report Form, ODH #283

Dear Administrator:

The purposes of this memorandum are to:
- Advise you of recent changes to the Oklahoma Administrative Code, Title 310, Chapter 675, Nursing and Specialized Facilities, effective July 11, 2008; and
- Transmit the revised Incident Report Form (ODH Form 283), to reflect changes in reporting requirements for suspected criminal acts.

The rule amendments that were effective July 11, 2008 include the following:
- A definition of "local law enforcement"
- Revised reporting requirements, including reporting for incidents, abuse, neglect, misappropriation of resident property, and reporting of criminal acts;
- Infection control and guidelines for tuberculin skin tests;
- Implementation requirements for the Sex Offenders Registration Act and the Mary Rippy Violent Crime Offenders Registration Act;
- Updated food storage, supply and sanitation requirements, and amended requirements for food service staff; and
- Requirements for the Nontechnical Services Workers Abuse Registry.

During the Long Term Care Facility Advisory Board meeting on October 8, 2008, discussion indicated that there might be some confusion or lack of information about the amended requirements for reporting criminal acts. Section 310:675-7-5.1 provides as follows:

> (g) **Reporting criminal acts.** The facility shall report *situations arising where a criminal intent is suspected. Such situations shall also be reported to local law enforcement* [63 O.S. §1-1939(I)(1)(d)]. Where physical harm has occurred to a resident as a result of a suspected criminal act, a report shall immediately be made to the municipal police department or to the sheriff's office in the county in which the harm occurred. A facility that is not clear whether the incident should be reported to local law enforcement should consult with local law enforcement.

Secretary of Health and Commissioner of Health
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1000 NE 10TH Street
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Please note especially that the facility is required to immediately report to the police or sheriff if there is physical harm as a result of a suspected criminal act. If the facility needs clarification about reporting, the police or sheriff should be consulted.

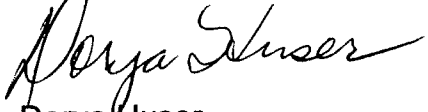
It has come to our attention that some facilities might delay reporting to the police in order to report first to the Oklahoma State Department of Health (OSDH). Please note that nothing in the requirements obligates a facility to contact the OSDH first in the case of suspected criminal acts. The facility must report to the OSDH within required time frames, such as the 24-hour limit on the initial telephone or facsimile report of an incident. However, timely reporting to the OSDH should not prevent a facility from immediately reporting to the police or sheriff. If the facility is unclear about reporting to local law enforcement, the facility should contact the police or sheriff for consultation. The Incident Report Form has been revised to show when the facility contacted police or sheriff in the case of a suspected criminal act associated with physical harm.

Additional questions about what constitutes a suspected criminal act and preservation of crime scenes will be considered in the near future by a subcommittee of the Long Term Care Facility Advisory Board. Recommendations of the subcommittee should be presented to the full Advisory Board in early 2009. Updates on this subject will be provided to you as more information becomes available. In the interim, if a facility has questions about a suspected criminal act or preservation of a crime scene, the facility should consult their local law enforcement.

Copies of the amended rule text and the Incident Report Form are enclosed. Long-term care provider letters, rules, forms and other information are available from the OSDH at www.ok.gov/health/Protective_Health/Long_Term_Care_Service

If you have questions, please call Jennifer McKinnon, Complaint Coordinator at 1-800-747-8419 or (405) 271-6868, or send email to JennifeM@health.ok.gov.

Sincerely,



Dorya Huser
Chief, Long Term Care Service

Attachments

C: DHS Aging Services Division, State LTC Ombudsman
Oklahoma Association of Health Care Providers
Oklahoma Association of Homes and Services for the Aging
Oklahoma Attorney General Medicaid Fraud Control Unit
Oklahoma Health Care Authority
Oklahoma State Board of Examiners for Long Term Care Administrators

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

☐ **Check if Final Report**
(Include Part C)

Please complete Parts A & B for 24-hour notifications. Include Part C for 5-working 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)

_____ Incident resulting in injury
_____ Utility Failure (more than 4 hours)
_____ Misappropriation of Resident Property
_____ Allegations of Abuse/Mistreatment
_____ Death other than by natural causes
_____ Communicable Disease (If you are reporting a communicable disease please **also** call the Acute Disease Service at 405-271-4060.)
_____ Suspected Criminal Act*
_____ Storm Damage
_____ Fire
_____ Allegations of Neglect
_____ Injury of Unknown Source
_____ Missing Resident
_____ Physical Harm*

*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-working 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/preventive 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.

Published in the Oklahoma Register, Volume 25, No. 20, on July 1, 2008,

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

[OAR Docket #08-1128]

EDITOR'S NOTE: *As noted by the Oklahoma State Department of Health in the ANALYSIS below, these rules were originally filed and published in the June 15, 2007 issue of the Register [see 24 Ok Reg 2030], with a stated effective date of June 25, 2007, and were subsequently published in the 2007 Supplement to the OAC. However, after the rules had been published in both the Register and the Supplement, the agency discovered that "an earlier draft, not adopted by the State Board of Health, was distributed to the [L]egislature, [G]overnor's office and Secretary of State for final adoption and publication in the Oklahoma Register." This year, after publishing another Notice of Rulemaking Intent, the Board readopted the same rules and submitted the readopted rules to the Governor and Legislature for review. The finally adopted rules were subsequently filed with the Secretary of State and are being published below.*

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions
310:675-1-2. [AMENDED]
Subchapter 7. Administration
310:675-7-5.1. [AMENDED]
310:675-7-12.1. [AMENDED]
310:675-7-17.1. [AMENDED]
310:675-7-18.1. [AMENDED]
310:675-7-21. [NEW]
Subchapter 9. Resident Care Services
310:675-9-13.1. [AMENDED]
Subchapter 13. Staff Requirements
310:675-13-7. [AMENDED]
Subchapter 21. Nontechnical Services Workers [NEW]
310:675-21-1. [NEW]
310:675-21-2. [NEW]
310:675-21-3. [NEW]
310:675-21-4. [NEW]
310:675-21-5. [NEW]
Appendix B. Reference List for Standards of Practice [REVOKED]
Appendix B. Reference List for Standards of Practice [NEW]

AUTHORITY:

Oklahoma State Board of Health: Title 63 O.S. Section 1-104, and Section 1-1901 et seq.

DATES:

Comment Period:

February 1, 2008 through March 13, 2008

Public Hearing:

March 13, 2008

Adoption:

March 13, 2008

Submitted to Governor:

March 24, 2008

Submitted to House:

March 24, 2008

Submitted to Senate:

March 24, 2008

Gubernatorial approval:

May 8, 2008

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 15, 2008

Final adoption:

May 15, 2008

Effective:

July 11, 2008

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATION BY REFERENCE:

n/a

ANALYSIS:

The proposed amendments are re-submitted in their entirety as reviewed and adopted at the Oklahoma State Board of Health, March 8, 2007, meeting. No additional amendments are offered. The re-submission is due to an error in distribution in which an earlier draft, not adopted

by the State Board of Health, was distributed to the legislature, governor's office and Secretary of State for final adoption and publication in the Oklahoma Register, Volume 24, Number 19, OAR Docket #07-1096.

The proposed amendments and new language update the rules based on changes in statute, survey experience, history of facility incident reports, complaint allegations and investigations, request and experience of the Department's Tuberculosis Division, and public meetings held by the Long Term Care Facility Advisory Board.

Definitions are updated to clarify terminology in the proposed rule relating to reports to local law enforcement.

The timeline for initial incident reporting is changed to correspond with statutory language of twenty-four (24) hours. Further amendments clarify the types of incidents to be reported and the content to be included in filed incident reports.

Infection control rules are amended to reflect the latest guidance on facility tuberculosis risk assessment, and resident and staff tuberculosis skin testing from the Centers for Disease Control.

New rules are developed to implement the Long-term Care Security Act pertaining to determination of sex or violent offender status for all facility staff and residents; procedures for determination of status; recommended registry search strategy; change in status after employment or admission; posting of offender status; and, content of notice to department of sex or violent offender's presence in the facility.

Food storage, supply and sanitation rules are amended to reflect the newly adopted Chapter 257. Food service staff rules are amended to enhance the training requirements for food service staff while reducing routine food services staff in-service time.

Subchapter 21 is added to implement the abuse registry for nontechnical services workers as required in 63 O.S. Sections 1-1950.6 through 1-1950.9. The new subchapter includes procedures of investigations, notice, hearings, orders, and entry of findings into an abuse registry.

Standards of practice are updated in Appendix B.

CONTACT PERSON:

James Joslin, Chief, Health Resources Development Service, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1299; telephone: 405-271-9444, x57209; facsimile: 405-271-7360; email: james@health.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A) WITH AN EFFECTIVE DATE OF JULY 11, 2008:

SUBCHAPTER 1. GENERAL PROVISIONS

310:675-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means Title 63 of the Oklahoma Statutes, Sections 1-1901 and following as amended also known as the Nursing Home Care Act.

"Allied health professional" means one of the following persons: physician assistant, physical, speech, or occupational therapist, occupational therapy assistant, physical therapy assistant, or qualified social worker.

"Attendant" means the person having control of an animal/pet visiting or in residence in a facility.

"Approval" means the mandatory state government process by which an agency or program is reviewed, and publicly proclaimed, to render a service worthy of note.

"CEP" means the nurse aide competency evaluation program.

"Certification" means the process by which a non-governmental agency, or association, or governmental agency attests that an individual or facility has met certain predetermined standards specified by the certifying body.

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

"Certified nurse aide" means any person who provides, for compensation, nursing care or health-related services to residents of a facility, who is not a licensed health professional and has completed a Department approved training and competency program.

"Charge nurse" means a registered nurse or licensed practical nurse responsible for supervising nursing services on a specific shift.

"Chemical restraints" means the use of a medication for the purpose of discipline, convenience, or in an emergency situation to control mood or behavior and not required to treat the resident's symptoms.

"Consultant registered nurse" means a registered nurse who provides consultation to the director of nursing and administrator concerning the delivery of nursing care for all residents in the facility.

"Denial" means a decision made by the appropriate body to disapprove an application.

"Direct care staff" means nursing, activity, social and therapy staff.

"Director of nursing" means either a registered nurse or licensed practical nurse, who has the authority and responsibility to administer nursing services within the facility.

"Emergency" means, for the purposes of Title 63 O.S. Section 1-1912, a serious, potentially life-threatening or life-endangering situation in which immediate action is necessary to ensure the health, safety, or welfare of residents, and for which the facility:

(A) does not have a plan acceptable to the Department to ensure health, safety or welfare of residents; or

(B) refuses to remedy the situation.

"Health related services" means any medically directed service provided by any person in a facility that may include but is not limited to, the following:

(A) Positioning and turning of residents.
(B) Self-help skill training.
(C) Assistance with prosthetic/assistive devices.
(D) Medication administration.
(E) Nutrition and hydration.
(F) Monitoring of resident vital signs.
(G) Catheter and nasogastric care.
(H) Behavior modification programs.
(I) Administering a medically related care plan
(J) Restorative services.

"In charge" and **"supervision"** means the administrator must have the requisite authorization from the licensee to make those purchases and incur those necessarily attendant debts in order to comply with the rules promulgated by the Board and all pertinent state statutes.

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

"Licensed health professional" means one of the following: a physician; dentist, podiatrist, chiropractor, physician assistant, nurse practitioner; pharmacist; physical, speech, or occupational therapist; registered nurse, licensed practical nurse; licensed or certified social worker; or licensed/registered dietician.

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

"Licensed pharmacist" means a person who is a graduate of an accredited pharmacy program and is currently licensed by the Oklahoma Board of Pharmacy.

"Licensed practical nurse" means a person who is a graduate of a state approved practical nursing education program, or who meets other qualifications established by the Oklahoma Board of Nursing, and is currently licensed by the Oklahoma Board of Nursing.

"Licensure" means the process by which the Department grants to persons or entities the right to establish, operate, or maintain any facility.

"Local law enforcement" means:

(A) The municipal police department, if the facility is within the jurisdiction of any municipality of this state, or
(B) The county sheriff, if the facility is outside the jurisdiction of any municipality within this state.

"Manager" or "supervisor" means the person or entity which performs administrative services for the licensee. The manager or supervisor is not legally responsible for the decisions and liabilities of the licensee, and does not stand to gain or lose financially as a result of the operation of the facility. The manager is paid a fee or salary for services, and the primary remuneration shall not be based upon the financial performance of the facility.

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

"Nurse aide" means any person providing nursing or nursing related services to residents in a facility, but does not include an individual who is a licensed health professional, or who volunteers to provide such services without monetary compensation.

"Nurse aide trainee" means any person who has been employed by a facility to provide nursing care or health related services, and is enrolled in but has not completed a Department approved training and competency program.

"Orientation" means the training for a particular job activity given to all employees.

"Perishables" means food supplies, to include dietary supplements and intravenous feedings, medical supplies, and medications.

"Physical restraints" means any manual method or physical or mechanical device, material or equipment attached or adjacent to the resident's body that the resident cannot remove easily, that is not used for the

purpose of therapeutic intervention or body alignment as determined by resident assessment and care planning, and which restricts the resident's desired freedom of movement and access to his or her body.

"Qualified nutritionist" is a Department approved person who holds a baccalaureate with major studies in food and nutrition, dietetics, or food service management; has one year experience in the dietetic service of a health care institution; and participates in continuing education annually.

"Registered/licensed dietitian" means a person who is registered as a dietitian by the American Dietetic Association and licensed by the Oklahoma Board of Medical Licensure and Supervision.

"Registered nurse" means a person who is a graduate of a state approved registered nursing education program, and who is currently licensed by the Oklahoma Board of Nursing.

"Registry" means a Department maintained list of individuals who have successfully completed a nurse aide training and competency evaluation program, or a competency evaluation program, approved by the Department.

"Revoke" means to rescind approval of a previous action.

"Specialized facility" means any facility which offers or provides inpatient long-term care services on a twenty-four hour basis to a limited category of persons requiring such services, including, but not limited to, a facility providing health or habilitation services for developmentally disabled persons, infants and/or children, or Alzheimer's and dementia residents.

"Standards of nursing practice" means an authoritative statement that describes a level of care or performance common to the profession of nursing by which the quality of nursing practice can be judged. Standards of nursing practice include both standards of care and standards of professional performance.

"Standards of care" means a description of a competent level of care demonstrated by a process of accurate assessment and diagnosis, planning, appropriate interventions, and predicted patient outcomes. (Appendix B of this Chapter.)

"Standards of professional performance" means a description of a competent level of behavior in the professional role including activities related to quality assurance, education, consultation, research, ethics, resource utilization, accountability, peer review, and interdisciplinary collaboration.

"Suspended license" means a license that is issued for a period not to exceed three years to a facility which has temporarily closed or ceased operations.

"Training and competency evaluation program" means a program approved by the Department to instruct and evaluate individuals to act as nurse aides.

"Transfer" means the move of a resident from one facility to another facility.

"Intra-facility transfer" means the moving of a resident from one room to another within a facility.

"Transfer of ownership" means a change of substantial, or controlling interest, in the ownership of a facility. A change of less than five percent (5%) of the interest of the owner does not constitute a transfer of ownership unless it also results in a change of control of the owner.

"Willful violation" means:

(A) a pattern of violation of the direct-care staffing requirement;

(B) a violation of the direct-care staffing requirement in which the facility knew or should have known staffing would be insufficient to meet the requirement yet took no action to avert the violation; or

(C) the reporting of materially inaccurate or misleading information of direct-care staffing to the Health Care Authority.

SUBCHAPTER 7. ADMINISTRATION

310:675-7-5.1. Reports to state and federal agencies

~~(a) The facility shall report communicable diseases to the Department as specified by the Board.~~

(a) **Timeline for reporting.** All reports to the Department shall be made by telephone or facsimile within twenty-four (24) hours of the reportable incident unless otherwise noted. A follow-up report of the incident shall be mailed or faxed to the Department within five (5) Department business days after the incident. The final report shall be filed with the Department within ten (10) Department business days after the incident.

~~(b) The facility shall report deaths by unusual occurrence, such as accidental deaths or deaths other than by natural causes, and deaths that may be attributed to a medical device, according to applicable state and federal laws. The facility shall also report such deaths to the Department.~~

(b) **Reporting abuse, neglect or misappropriation.** The facility shall report to the Department allegations and incidents of *resident abuse, neglect or misappropriation of residents' property* [63 O.S. §1-1939(I)(1)(e)]. This

requirement does not supersede reporting requirements in Title 43A of the Oklahoma Statutes (relating to the Protective Services for the Elderly and for Incapacitated Adults Act).

~~(c) The facility shall report to the Department allegations of resident abuse, neglect or misappropriation of residents' property. The facility shall report allegations of resident abuse, neglect, or misappropriation of residents' property by licensed personnel to the appropriate licensing board.~~

(c) **Reporting to licensing boards.** The facility shall also report allegations and incidents of resident abuse, neglect, or misappropriation of residents' property by licensed personnel to the appropriate licensing board.

~~(d) The facility shall report unusual incidents, such as missing residents, abuse and neglect of residents, to the Department and to other appropriate agencies.~~

(d) **Reporting communicable diseases.** The facility shall report *communicable diseases* [63 O.S. §1-1939(I)(1)(a)] and injuries as specified by the Department in OAC 310:515 (relating to communicable disease and injury reporting).

~~(e) All reports to the Department shall be made by telephone or facsimile within twelve hours of the reportable incident. An initial report of the incident shall be mailed or faxed to the Department within five working days after the incident. The final report shall be filed with the Department when the full investigation is complete.~~

(e) **Reporting certain deaths.** The facility shall report *deaths by unusual occurrence, such as accidental deaths or deaths other than by natural causes, and deaths that may be attributed to a medical device,* [63 O.S. §1-1939(I)(1)(b)] according to applicable state and federal laws. The facility shall also report such deaths to the Department.

~~(f) The facility shall report to the Department allegations of abuse, neglect, or misappropriation of resident property by a nurse aide by submitting a completed Nurse Aide Abuse, Neglect, Misappropriation of Resident Property Form (ODH Form 718), which requires the following:~~

~~(1) facility 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;~~

~~(10) other contact person name and address; and~~

~~(11) facts of abuse, neglect, or misappropriation of resident property.~~

(f) **Reporting missing residents.** The facility shall report *missing residents* to the Department after a search of the facility and facility grounds and a determination by the facility that the resident is missing. *In addition, the facility shall make a report to local law enforcement agencies within two (2) hours if the resident is still missing* [63 O.S. §1-1939(I)(1)(c)].

(g) **Reporting criminal acts.** The facility shall report *situations arising where a criminal intent is suspected. Such situations shall also be reported to local law enforcement* [63 O.S. §1-1939(I)(1)(d)]. Where physical harm has occurred to a resident as a result of a suspected criminal act, a report shall immediately be made to the municipal police department or to the sheriff's office in the county in which the harm occurred. A facility that is not clear whether the incident should be reported to local law enforcement should consult with local law enforcement.

(h) **Reporting utility failures.** The facility shall report to the Department utility failures of more than four (4) hours.

(i) **Reporting certain injuries.** The facility shall report to the Department incidents that result in fractures, head injury or require treatment at a hospital.

(j) **Reporting storm damage.** The facility shall report to the Department storm damage resulting in relocation of a resident from a currently assigned room.

(k) **Reporting fires.** The facility shall report to the Department all fires occurring on the licensed real estate.

(l) **Reporting nurse aides.** The facility shall report to the Department allegations and incidents of abuse, neglect, or misappropriation of resident property by a nurse aide by submitting a completed Nurse Aide Abuse, Neglect, Misappropriation of Resident Property Form (ODH Form 718), which requires the following:

(1) facility 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;

(10) other contact person name and address; and

(11) facts of abuse, neglect, or misappropriation of resident property.

(m) **Content of reports to the department.** Reports to the Department made pursuant to this section shall contain the following:

(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; and

(C) corrective measures to prevent future occurrences.

(D) if items are omitted, why the items are omitted and when they will be provided.

310:675-7-12.1. Incident reports

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

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

(c) **Incident format.** Incident reports shall be on a printed incident report form.

(d) **Incident reports signatures.** The charge nurse, at the time of the incident, shall prepare and sign the report. The report shall include the names of the persons witnessing the incident and their signatures where applicable.

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

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

~~(g) The facility shall notify the Department within twelve hours of all incidents pertaining to fire, storm damage, death other than by natural causes, missing residents, a utility failure for more than four hours, and incidents affecting the life and safety of residents. An initial incident report shall be submitted to the Department within five working days. A final report shall be filed with the Department, when the investigation is complete or the incident is resolved.~~

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

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

310:675-7-17.1. Infection control

(a) The facility shall have an infection control policy and procedures to provide a safe and sanitary environment. The policy shall address the prevention and transmission of disease and infection. The facility, and its personnel, shall practice the universal precautions identified by the Centers for Disease Control. All personnel shall demonstrate their knowledge of universal precautions through performance of duties.

(b) The facility shall maintain a sanitary environment and prevent the development and transmission of infection in the following areas.

(1) Food handling practices.
(2) Laundry practices including linen handling.
(3) Disposal of environmental and resident wastes.
(4) Pest control measures.
(5) Traffic control for high-risk areas.
(6) Visiting rules for high-risk residents.
(7) Sources of air-borne infections.
(8) Health status of all employees and residents.
(9) Isolation area for residents with communicable diseases.

(c) Infection control policies to ~~break~~ prevent the transmission of infection shall include the following:

(1) Excluding personnel and visitors with communicable infections.
(2) Limiting traffic in dietary and medication rooms.
(3) Using aseptic and isolation techniques including hand washing techniques.
(4) Bagging each resident's trash and refuse.
(5) Issuing daily damp wipe cloths, treated dust cloths and clean wet mops, as needed.
(6) Laundering the used wet mops and cleaning cloths every day.
(7) Cleaning the equipment for resident use daily, and the storage and housekeeping closets as needed.
(8) Providing properly identifiable plastic bags for the proper disposal of infected materials.
(9) **Tuberculosis risk assessment.** An annual facility tuberculosis risk assessment is to be performed by a licensed nurse or physician using a Department approved risk assessment tool.

(d) When scheduled to be cleaned, the toilet areas, utility rooms, and work closets, shall be cleaned with a disinfectant solution and fresh air shall be introduced to deodorize.

(e) **Tuberculin skin test for residents.** Within thirty (30) days from admission, all residents admitted to the facility after the adoption of this rule shall receive a two-step tuberculin skin test in conformance with the "Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Settings;" Centers for Disease Control and Prevention. Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Settings, 2005. MMWR 2005; 54(No. RR-17).

(1) Tuberculin skin tests shall be administered by a licensed nurse or physician.

(2) Where a skin test is contra-indicated, a chest radiograph, interpreted by a medical consultant in collaboration with the city, county or state health department, is acceptable.

(3) Residents claiming a prior positive tuberculin skin test shall have documentation in their medical record, obtained from a licensed health care professional, of their test results and interpretation; otherwise, a two-step tuberculin skin test shall be done.

310:675-7-18.1. Personnel records

Each facility shall maintain a personnel record for each current employee containing:

(1) Application for employment. An application for employment which contains employee's full name, social security number, professional license or registration number, if any, employment classification, and information about past employment, including: place of employment, position held, length of employment, and reason for leaving.

(2) **Employee time records.** Copies of current employee time records, signed by the employee, shall be maintained by the facility for at ~~least thirty~~least thirty-six (36) months.

(3) Training, arrest check, and certifcation. Documentation of orientation and training (may be kept in separate file), continuing education, a copy of the criminal arrest check, and appropriate certification and licensure.

(4) **Health examination on hire.** Record of health examination conducted within thirty days of employment which shall include, but not be limited to, a complete medical history, physical examination by body system and, a two-step tuberculin skin test in conformance with the "Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Settings;" Centers for Disease Control and Prevention. Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Settings, 2005. MMWR 2005; 54(No. RR-17).

(A) Tuberculin skin tests shall be administered by a licensed nurse or physician.

(B) Where a skin test is contra-indicated, a chest radiograph, interpreted by a medical consultant in collaboration with the city, county or state health department, is acceptable.

(C) Employees claiming a prior positive tuberculin skin test shall have documentation in their file, obtained from a licensed health care professional, of their test results and interpretation, otherwise, a two-step tuberculin skin test shall be done.

(5) **Tuberculin skin test.** Results of ~~annual~~ subsequent tuberculin skin test performed based on facility TB risk classification established in OAC 310:675-7-17(c)(9) (relating to annual facility tuberculosis risk assessment) or results of a physician's examination for signs and symptoms of tuberculosis for those employees who react significantly to a tuberculin skin test. All tests and examinations shall be in conformance with the "Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Settings;" Centers for Disease Control and Prevention. Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Settings, 2005. MMWR 2005; 54(No. RR-17).

310:675-7-21. Sex or violent offender status

(a) **Determination of status.** A facility subject to the provisions of this Chapter shall determine whether the following individuals have registered pursuant to the Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act:

(1) An applicant for admission or participation,

(2) A resident, client or participant of a facility subject to the provisions of this Chapter, and

(3) All employees of facilities subject to the provisions of this Chapter, in addition to the required criminal arrest check in 63 O.S. §1-1950.1 and 63 O.S. §1-1950.8 (relating to criminal arrest checks).

(b) Procedures for determination of status. Prior to admission or employment but no later than three (3) business days from acceptance of any resident or participant, the employing or receiving facility subject to the provisions of this Chapter shall determine from local law enforcement, the Department of Corrections, or the Department of Corrections' Sex Offender and Mary Rippy Violent Crime Offender registries, whether the prospective employee or accepted resident or participant is registered or qualifies for registration on either registry.

(c) **Recommended registry search strategy.** A facility subject to the provisions of this Chapter may utilize the first three letters of the last name and an asterisk, and the first letter of the first name and asterisk, any known alias, and appearance criteria as provided for search within the Department of Correction's Internet based sex and violent crime offender registries.

(d) **Change in status after employment or admission.** A facility subject to the provisions of this Chapter shall repeat the screening in OAC 310:675-7-21(b) (regarding procedures for determination of status) subsequent to the receipt of any information that an employee, resident or participant's registration status may have been altered or updated after the initial screening.

(e) **Posting of offender status.** Pursuant to 63 O.S. §1-1909(4), a facility subject to the provisions of this Chapter shall conspicuously post for display in an area of its offices accessible to residents, employees and visitors a copy of any notification from the local law enforcement authority regarding the registration status of any person residing in the facility who is required to register pursuant to the Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act.

(f) **Notice to Department of sex or violent offender's presence.** When a facility subject to the provisions of this Chapter is notified, or has determined, that an individual who is required to register pursuant to the Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act is residing or participating at such facility, *the facility shall immediately, in writing, notify the State Department of Health.*[63 O.S. §1-1946(A)(3)]

(g) **Content of notice of sex or violent offender's presence.** Notice provided to the Department shall include the name, and identifying information used to make the determination in 310:675-7-21(b)(regarding determination of status).

(h) **Notification through other means.** Where a facility subject to the provisions of this Chapter determines through other means, excepting written notification by the Department, of an employee, resident or participant required to register pursuant to the Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act, the facility shall notify the Department and shall be subject to all other requirements within this section.

SUBCHAPTER 9. RESIDENT CARE SERVICES

310:675-9-13.1. Food storage, supply and sanitation

(a) Food shall be stored, prepared and served in accordance with Chapter ~~255~~ 257 of this Title (relating to food service establishments) with the following additional requirements.

~~(1) All staff in the food service area shall use hair nets or caps.~~

~~(2) Hot foods shall be served at a palatable temperature range of 110° - 120° F. (43.3° - 48.8° C.).~~

~~(3) The facility shall provide appropriate utensils for consuming foods including assistive devices to promote resident independence.~~

(b) ~~All ice, used in food or drinks, shall be from a satisfactory source, and handled and dispensed in a sanitary manner.~~ Ice machines available to the residents, or the public, shall be a dispenser type, or have a locking enclosure.

(c) ~~All food supplies shall be from approved sources. Damaged merchandise or home processed foods shall not be used.~~ A whole, intact, fruit or vegetable is an approved food source. The food supply shall be sufficient in quantity and variety to prepare menus for three (3) days ~~menu~~. Leftovers that are potentially hazardous foods shall be used, or disposed of, within twenty-four (24) hours. Non-potentially hazardous leftovers that have been heated or cooked may be refrigerated for up to forty-eight (48) hours.

(d) **Milk, milk products and eggs.**

(1) Only grade A pasteurized fluid milk, as defined by the Oklahoma Grade A Milk and Milk Products Act, Title 2 O.S. §7-401 through 2 O.S. §7-421, shall be used for beverage and shall be served directly into a glass from a milk dispenser or container.

(2) Powdered or evaporated milk products approved ~~by~~ under the U.S. Department of Health and Human Services' Grade "A" Pasteurized Milk Ordinance (2003 Revision), may be used only as additives in cooked foods. This does not include the addition of powdered or evaporated milk products to milk or water as a milk for drinking purposes. Powdered or evaporated milk products may be used in instant desserts and whipped products, or for cooking. When foods, in which powdered or evaporated milk has been added, are not cooked, the foods shall be consumed within twenty-four (24) hours.

(3) Milk for drinking shall be stored at a temperature of ~~35° F. (1.6° C.) to 40° F. (4.4° C.)~~ 41° or below and shall not be stored in a frozen state.

(4) Only clean, whole eggs with shell intact, pasteurized liquid, frozen, dry eggs, egg products and commercially prepared and packaged hard boiled eggs may be used. All eggs shall be thoroughly cooked except pasteurized egg products or pasteurized in-shell eggs may be used in place of pooled eggs or raw or undercooked eggs.

~~(e) **Dishwashing and handwashing**~~

~~(1) The dishwashing system and procedures shall be approved by the Department.~~

~~(2) Hands shall be properly washed or sanitized before handling clean dishes or equipment. In new or remodeled facilities, handwashing facilities, including soap and paper towels, shall be conveniently located in the kitchen to facilitate good handwashing techniques.~~

~~(f) **Kitchen room temperature.** The maximum room temperature in the food preparation area shall not exceed 90° F. (32.2° C.)~~

(e) **Applicability.** This section shall only apply to food prepared or served by the facility, within the licensed facility.

SUBCHAPTER 13. STAFF REQUIREMENTS

310:675-13-7. Food service staff

(a) **Food service supervisor.**

(1) The food service supervisor shall be responsible for all aspects of food service preparation and delivery. The food service supervisor may serve only one facility. The food service supervisor hours shall be sufficient to meet the residents' needs.

(2) ~~A~~The food service supervisor ~~hired after January 1, 1993,~~ shall complete~~, or be enrolled in, the first available Department approved course in dietary management~~ certification as a dietary manager within three (3) years of beginning employment.

(3) The food service supervisor shall complete, and maintain continuous, ServeSafe food safety certification, or a Department approved alternative, within ninety (90) days of beginning employment.

(b) **Food service staff.**

(1) The facility shall have food service staff on duty sufficient to meet the residents' needs. There shall be at least one (1) hour of food service staff per three (3) residents, a day based on the daily census.

(2) The food service staff shall complete a basic orientation program before working in the food service area. This orientation shall include, but not be limited to~~,~~: fire and safety precautions, infection control, and ~~basic dietary guidelines~~ sanitary food handling practices.

~~(3) The facility shall provide each food service staff person with at least one hour of inservice training by a qualified staff/professional each month.~~

(3) Each food service staff member shall successfully complete a food service training program offered or approved by the Department within ninety (90) days of beginning employment. Food service training shall be renewed as required by the authorized training program.

SUBCHAPTER 21. ENFORCEMENT AND REGISTRY HEARINGS FOR NONTECHNICAL SERVICES WORKERS

The purpose of this Subchapter is to implement the Nontechnical Services Workers Abuse Registry, 63 O.S. Section 1-1950.6 through 1-1950.9. For the purposes of this subchapter, abuse, verbal abuse, and exploitation, shall have the meaning assigned in Section 10-103 of Title 43A of the Oklahoma Statutes.

310:675-21-2. Complaint investigation

(a) Process. Upon receipt of a complaint against a non-technical service worker alleging abuse, verbal abuse, or exploitation of a resident within a nursing facility, or upon completion of a survey of a nursing facility by the Department with a finding that a non-technical service worker abused, verbally abused, or exploited a resident, the Department shall conduct an investigation. Upon completion of the investigation, a written report will be prepared. If sufficient evidence exists to initiate an individual proceeding, notice of the investigative findings and an opportunity for hearing will be prepared and served upon the nontechnical services worker.

(b) Timeline for reporting. The facility shall report to the Department allegations and incidents of abuse, verbal abuse, or exploitation by a non-technical service worker within twenty-four (24) hours.

(c) Reporting non-technical service workers. The facility shall report to the Department allegations and incidents of abuse, verbal abuse, or exploitation by a non-technical service worker by submitting the following:

(1) facility 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 any;

(10) other contact person name and address; and

(11) facts of resident abuse, verbal abuse, or exploitation.

310:675-21-3. Right to a hearing

Before the registry is notified that a finding of resident abuse, verbal abuse, or exploitation of a resident in a nursing facility has been made against a nontechnical services worker, the Department shall offer the nontechnical

services worker an opportunity for a hearing. If the nontechnical services worker fails to request a hearing in writing within thirty (30) days from the date of the notice, the Department shall include on the registry a finding of resident abuse, verbal abuse, or exploitation of a resident in a nursing facility against the nontechnical services worker.

310:675-21-4. Petition and hearing

(a) **Petition.** If the nontechnical services worker requests a hearing, the Department shall commence an individual proceeding by filing a petition against the nontechnical services worker that states the facts supporting the allegation.

(b) **Notice of hearing.** All parties shall be given notice of the date, time and place of the hearing. The notice of hearing served upon the non-technical service worker shall include a copy of the petition.

(c) **Time.** The hearing shall be scheduled at least fifteen (15) working days after the nontechnical services worker has received notice of the hearing.

(d) The hearing shall be conducted in accord with the Oklahoma Administrative Procedures Act and Chapter 2 of this Title.

310:675-21-5. Orders

(a) **Authority.** The Administrative Law Judge shall issue a decision within fifteen (15) working days following the close of the hearing record. The decision shall include Findings of Fact and Conclusions of Law separately stated.

(b) **Delegation.** The Commissioner of Health may delegate the authority to issue a final decision in these matters as specified in 75 O.S. Section 311.1 and OAC 310:002.

(c) **Registry notification.** The decision shall direct the nontechnical services worker registry to include the findings as they relate to the nontechnical services worker. The decision shall direct the nontechnical services worker registry to include a statement by the nontechnical services worker disputing the decision if the nontechnical services worker chooses to submit such statement. If such a statement is submitted the statement of the nontechnical services worker shall be submitted to the nontechnical services worker registry within thirty (30) days after the decision is issued.

(d) **Notice.** Each party and attorney of record shall be mailed a copy of the Final Order. The Department shall transmit a copy of the Final Order to the nontechnical services worker registry when the Order is mailed.

(e) **Appeal.** An appeal of the Final Order shall be perfected pursuant to 75 O.S. Section 318 of the Administrative Procedures Act.

APPENDIX B. REFERENCE LIST FOR STANDARDS OF PRACTICE [REVOKED]
APPENDIX B. REFERENCE LIST FOR STANDARDS OF PRACTICE [NEW]

APPENDIX B. REFERENCE LIST FOR STANDARDS OF PRACTICE [NEW]

APPENDIX B. REFERENCE LIST FOR STANDARDS OF PRACTICE (Referring to OAC 310:675-1-2. Definitions: Standards of care)[12]

"Physical Examination and Health Assessment" - Third Edition - Carolyn Jarvis

"Medical-Surgical Nursing Assessment and Management of Clinical Problems" - Fifth Edition - Lewis, Heitkemper and Dirksen (Mosby)

"Handbook of Geriatric Nursing" - Second Edition - Lippincott, Williams and Wilkins

"Clinical Nursing Skills - Basic To Advanced Skills" - Fifth Edition - Smith, Duell and Martin

Oklahoma Board of Nursing Guidelines and Position Statements:

"A Decision-Making Model for Determining RN/LPN Scope of Practice Model - Model for Scope of Nursing Practice Decisions"

"Abandonment Statement"

"Advanced Practice Nurses with Prescriptive Authority Exclusionary Formulary"

"Delegation of Nursing Functions to Unlicensed Persons"

"Guidelines for Employment of Individuals Enrolled in or Non-Licensed Graduates of Nursing Education Programs"

"Guidelines for the Registered Nurse in Administering, Managing and Monitoring Patients Receiving Analgesia/Anesthesia by Catheter Techniques"

"Issuance of Temporary Licenses for RNs and LPNs"

"Licensure Verification and Photocopying of Nursing Licenses"

"Patient Assessment Guidelines"

"Refresher Course Policy"

"Wound Debridement by Licensed Nurses Guideline"

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[12] **310:675-1-2. Definitions**
"Standards of care" means a description of a competent level of care demonstrated by a process of accurate assessment and diagnosis, planning, appropriate interventions, and predicted patient outcomes. (Appendix B of this Chapter.)

Standards of the American Nurses Association and Specialty Nursing Organizations:

"Nursing: Scope and Standards of Practice" Pub# 03SSNP - 2004

"Scope and Standards for Nurse Administrators" (Second Edition); Pub#03SSNA - 2004

"Scope and Standards of Diabetes Nursing Practice" (2nd Edition); Pub# DNP23 - 2003

"Scope and Standards of Forensic Nursing Practice" Pub# ST-4 - 1997

"Scope and Standards of Gerontological Nursing Practice" 2nd Edition; Pub# GNP21 - 2001

"Scope and Standards of Hospice and Palliative Nursing Practice" Pub# HPN22 - 2002

"Scope and Standards of Neuroscience Nursing Practice" Pub# NNS22 - 2002

"Scope and Standards of Nursing Informatics Practice" Pub# NIP21 - 2001

"Scope and Standards of Psychiatric-Mental Health Nursing Practice" Pub# PMH-20 - 2000

"Statement on the Scope and Standards for the Nurse Who Specializes in Developmental Disabilities and/or Mental Retardation" Pub# 9802ST - 1998

"Statement on the Scope and Standards of Oncology Nursing Practice" Pub# MS-23 - 1996

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93; Revoked and Reenacted at 24 Ok Reg 2030, eff 6-25-2007]