An Act

ENROLLED SENATE
BILL NO. 629

By: Simpson, Johnson (Constance), Standridge and Fields of the Senate

and

Hardin, Lockhart, Ownbey, Pittman, Walker, Williams, Hoskin, Morrissette, Wesselhoft, Sherrer, Ortega, McDaniel (Jeannie), McDaniel (Curtis) and Perryman of the House

An Act relating to public health and safety; amending 63 O.S. 2011, Section 1-1903, as amended by Section 3, Chapter 12, O.S.L. 2012 (63 O.S. Supp. 2012, Section 1-1903), which relates to the Nursing Home Care Act exemptions; removing facilities operated by the Oklahoma Department of Veterans Affairs from exemption; requiring Oklahoma Veterans Center nursing facilities to be regulated as an existing nursing facility; amending 63 O.S. 2011, Section 1-1911, which relates to inspections; including facilities operated by the Oklahoma Department of Veterans Affairs; requiring annual inspection by State Department of Health; amending 63 O.S. 2011, Section 1-1912, which relates to violations of the Nursing Home Care Act; providing for corrective measures; directing the State Department of Health to submit certain report; amending 63 O.S. 2011, Section 1-1916, which relates to correcting violations; applying certain prohibitions to any person at any facility operated by the Oklahoma Department of Veterans Affairs; amending 63 O.S. 2011, Section 1-1950.1, as amended by Section 3, Chapter 358, O.S.L. 2012 (63 O.S. Supp. 2012, Section 1-1950.1), which

relates to criminal background checks; updating definition; amending 63 O.S. 2011, Section 1950.3, which relates to staffing; deleting obsolete language; updating definition; requiring a waiver for certain employees; allowing certain actions by certain employees in facilities operated by the Oklahoma Department of Veterans Affairs; amending 63 O.S. 2011, Section 1-1951, as amended by Section 6, Chapter 358, O.S.L. 2012 (63 O.S. Supp. 2012, Section 1-1951), which relates to training programs; updating powers and duties of the State Department of Health; directing promulgation of certain rules; providing for codification; and declaring an emergency.

SUBJECT: Facilities operated by the Oklahoma Department of Veterans Affairs

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 63 O.S. 2011, Section 1-1903, as amended by Section 3, Chapter 12, O.S.L. 2012 (63 O.S. Supp. 2012, Section 1-1903), is amended to read as follows:

Section 1-1903. A. No person shall establish, operate, or maintain in this state any nursing facility without first obtaining a license as required by the Nursing Home Care Act.

B. The Nursing Home Care Act shall not apply to ~~any facility operated by the Oklahoma Department of Veterans Affairs under control of the Oklahoma War Veterans Commission~~ residential care homes, assisted living facilities or adult companion homes which are operated in conjunction with a nursing facility, a home or facility approved and annually reviewed by the United States Department of Veterans Affairs as a medical foster home in which care is provided exclusively to three or fewer veterans, or to hotels, motels, boarding houses, rooming houses, or other places that furnish board or room to their residents.

C. Each Oklahoma Veterans Center nursing facility licensed pursuant to the provisions of this section shall be regulated as an

existing nursing facility for the purposes of meeting state and federal standards.

D. Certificate of need review shall not be required for any addition, deletion, modification or new construction of current or future State Veterans Center nursing facilities.

~~D.~~ E. The Nursing Home Care Act shall not authorize any person to engage in any manner in the practice of the healing arts or the practice of medicine, as defined by law.

~~E.~~ F. The Nursing Home Care Act shall not apply to a facility which is not charging or receiving periodic compensation for services rendered, and not receiving any county, state, or federal assistance.

SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-1911, is amended to read as follows:

Section 1-1911. A. 1. Every building, institution, or establishment for which a license has been issued, including any facility operated by the Oklahoma Department of Veterans Affairs, shall be periodically inspected by a duly appointed representative of the State Department of Health, pursuant to rules promulgated by the State Board of Health with the advice and counsel of the Long-Term Care Facility Advisory Board, created in Section 1-1923 of this title.

2. Inspection reports shall be prepared on forms prescribed by the Commissioner with the advice and counsel of the Advisory Board.

B. 1. The Department, whenever it deems necessary, shall inspect, survey, and evaluate every facility, including any facility operated by the Oklahoma Department of Veterans Affairs, to determine compliance with applicable licensure and certification requirements and standards. All inspections of facilities shall be unannounced. The Department may have as many unannounced inspections as it deems necessary.

2. The Department shall conduct at least one unannounced inspection per calendar year of all nursing facilities operated by the Oklahoma Department of Veterans Affairs.

3. Any employee of the State Department of Health who discloses to any unauthorized person, prior to an inspection, information regarding an unannounced nursing home inspection required pursuant to the provisions of this section shall, upon conviction thereof, be guilty of a misdemeanor. In addition, such action shall be construed to be a misuse of office and punishable as a violation of rules promulgated by the Ethics Commission.

~~3.~~

4. a. The Department may periodically visit a facility for the purpose of consultation and may notify the facility in advance of such a visit. An inspection, survey, or evaluation, other than an inspection of financial records or a consultation visit, shall be conducted without prior notice to the facility.

b. One person shall be invited by the Department from a statewide organization of the elderly to act as a citizen observer in unannounced inspections. The individual may be a state or local ombudsman as defined by the Aging Services Division of the Department of Human Services, acting pursuant to the provisions of the Older Americans Act of 1965, Public Law No. 89-73, 42 U.S.C.A., Section 3001 et seq., as amended.

c. The citizen observer shall be reimbursed for expenses in accordance with the provisions of the State Travel Reimbursement Act.

d. An employee of a state or unit of a local government agency, charged with inspecting, surveying, and evaluating facilities, who aids, abets, assists, conceals, or conspires with a facility administrator or employee in violation of the provisions of the Nursing Home Care Act shall be guilty, upon conviction thereof, of a misdemeanor and shall be subject to dismissal from employment.

C. The Department shall hold open meetings, as part of its routine licensure survey, in each of the licensed facilities to advise and to facilitate communication and cooperation between facility personnel and the residents of facilities in their mutual efforts to improve patient care. Administrators, employees of the facility, residents, residents' relatives, friends, residents' representatives, and employees from appropriate state and federal agencies shall be encouraged to attend these meetings to contribute to this process.

D. 1. The Department shall require periodic reports and shall have access to books, records, and other documents maintained by the facility to the extent necessary to implement the provisions of the Nursing Home Care Act and the rules promulgated pursuant thereto.

2. Any holder of a license or applicant for a license shall be deemed to have given consent to any authorized officer, employee, or agent of the Department to enter and inspect the facility in accordance with the provisions of the Nursing Home Care Act. Refusal to permit said entry or inspection, except for good cause, shall constitute grounds for remedial action or administrative penalty or both such action and penalty as provided in the Nursing Home Care Act.

E. The Department shall maintain a file on each facility in the state. All conditions and practices not in compliance with applicable standards shall be specifically stated. If a violation is corrected or is subject to an approved plan of correction, such action shall be contained in the file. Upon receiving a written request for a copy of the file documents, the Department shall send a copy of the document to any person making the written request. The Department may charge a reasonable fee for copying costs.

SECTION 3. AMENDATORY 63 O.S. 2011, Section 1-1912, is amended to read as follows:

Section 1-1912. A. The State Department of Health shall promptly serve a notice of violation upon a licensee whenever upon inspection or investigation, the Department determines that:

1. The facility is in violation of the Nursing Home Care Act, any rule promulgated thereunder, or applicable federal certification criteria; or

2. The financial condition of the facility poses an immediate risk to the proper operation of the facility or to the health, safety or welfare of the residents of the facility.

B. Each notice of violation shall be prepared in writing and shall specify the nature of the violation, and the statutory provision, rule or standard alleged to have been violated. The notice of violation shall inform the licensee of its obligation to file a plan of correction within ten (10) working days of receipt of the notice of violation. In the case of a specialized facility for persons with mental retardation, the Department shall offer the licensee an informal opportunity comparable to the process offered to Medicaid-certified nursing facilities pursuant to 42 CFR 488.331, in order to dispute the alleged violations.

C. The Department shall notify the licensee of its intent to take any remedial action, impose administrative penalties, place a monitor or temporary manager in the facility, issue a conditional license, or suspend or revoke a license. The Department shall also inform the licensee of the right to an informal dispute resolution, hearing, or both.

D. Whenever the Department finds that an emergency exists requiring immediate action to protect the health, safety or welfare of any resident of a facility licensed pursuant to the provisions of this act, the Department may, without notice of hearing, issue an order stating the existence of such an emergency and requiring that action be taken as deemed necessary by the Department to meet the emergency. The order shall be effective immediately. Any person to whom such an order is directed shall comply with such order immediately but, upon application to the Department, shall be afforded a hearing within ten (10) business days of receipt of the application. On the basis of such hearing, the Department may continue the order in effect, revoke it, or modify it. Any person aggrieved by such order continued after the hearing provided in this subsection may appeal to the district court in Oklahoma County within thirty (30) days. Such appeal when docketed shall have priority over all cases pending on the docket, except criminal

cases. For purposes of this subsection, the State Board of Health shall define by rule the term "emergency" to include, but not be limited to, a life-endangering situation.

E. Within thirty (30) days of receipt of a plan of correction by the State Department of Health from any facility operated by the Oklahoma Department of Veterans Affairs, the State Department of Health shall submit the results of the inspection, including a list of deficiencies in the condition or operation of the facility and recommendations for corrective measures in the form of a written report to the person immediately responsible for the administration of the facility inspected, to the Oklahoma Department of Veterans Affairs, to the Governor, to the Speaker of the House of Representatives, and to the President Pro Tempore of the Senate.

SECTION 4. AMENDATORY 63 O.S. 2011, Section 1-1916, is amended to read as follows:

Section 1-1916. A. No person, including any person at any facility operated by the Oklahoma Department of Veterans Affairs, shall:

1. Intentionally fail to correct or interfere with the correction of a violation within the time specified on the notice or approved plan of correction under this act as the maximum period given for correction, unless an extension is granted and the corrections are made before expiration of extension;

2. Intentionally prevent, interfere with, or attempt to impede in any way the work of any duly authorized representative of the Department in the investigation and enforcement of this act;

3. Intentionally prevent or attempt to prevent any such representative from examining any relevant books or records in the conduct of official duties under this act;

4. Intentionally prevent or interfere with any such representative in the preserving of evidence of any violation of this act or the rules promulgated under this act;

5. Intentionally retaliate or discriminate against any resident or employee for contacting or providing information to any state

official, or for initiating, participating in, or testifying in an action for any remedy authorized under this act;

6. Willfully file any false, incomplete or intentionally misleading information required to be filed under this act, or willfully fail or refuse to file any information; or

7. Open or operate a facility without a license.

B. A violation of this section is a misdemeanor.

C. The district attorney of the county in which the facility is located, or the Attorney General, may be requested by the Department to initiate prosecutions under this section.

SECTION 5. AMENDATORY 63 O.S. 2011, Section 1-1950.1, as amended by Section 3, Chapter 358, O.S.L. 2012 (63 O.S. Supp. 2012, Section 1-1950.1), is amended to read as follows:

Section 1-1950.1. A. For purposes of this section:

1. "Nurse aide" means any person who provides, for compensation, nursing care or health-related services to residents in a nursing facility, a specialized facility, a residential care home, continuum of care facility, assisted living center or an adult day care center and who is not a licensed health professional. Such term also means any person who provides such services to individuals in their own homes as an employee or contract provider of a home health or home care agency, or as a contract provider of the Medicaid State Plan Personal Care Program;

2. "Employer" means any of the following facilities, homes, agencies or programs which are subject to the provision of this section:

a. a nursing facility or specialized facility as such terms are defined in the Nursing Home Care Act,

b. a residential care home as such term is defined by the Residential Care Act,

c. an adult day care center as such term is defined in the Adult Day Care Act,

d. an assisted living center as such term is defined by the Continuum of Care and Assisted Living Act,

e. a continuum of care facility as such term is defined by the Continuum of Care and Assisted Living Act,

f. a home health or home care agency, ~~and~~

g. the Department of Human Services, in its capacity as an operator of any hospital or health care institution or as a contractor with providers under the Medicaid State Plan Personal Care Program, and

h. any facility operated by the Oklahoma Department of Veterans Affairs;

3. "Home health or home care agency" means any person, partnership, association, corporation or other organization which administers, offers or provides health care services or supportive assistance for compensation to three or more ill, disabled, or infirm persons in the temporary or permanent residence of such persons, and includes any subunits or branch offices of a parent home health or home care agency;

4. "Bureau" means the Oklahoma State Bureau of Investigation; and

5. "Completion of the sentence" means the last day of the entire term of the incarceration imposed by the sentence including any term that is deferred, suspended or subject to parole.

B. Before any employer makes an offer to employ or to contract with a nurse aide to provide nursing care, health-related services or supportive assistance to any individual, the employer shall provide for a criminal history background check to be made on the nurse aide pursuant to the provisions of the Long-Term Care Security Act. If the employer is a facility, home or institution which is part of a larger complex of buildings, the requirement of a criminal history background check shall apply only to an offer of employment

or contract made to a person who will work primarily in the immediate boundaries of the facility, home or institution.

Where the provisions of the Long-Term Care Security Act pertaining to registry screenings and national criminal history record check are not in effect pending an effective date established in rulemaking, an employer is authorized to obtain any criminal history background records maintained by the Bureau pursuant to the following:

1. The employer shall request the Bureau to conduct a criminal history background check on the nurse aide and shall provide to the Bureau any relevant information required by the Bureau to conduct the check. The employer shall pay a fee of Fifteen Dollars ($15.00) to the Bureau for each criminal history background check that is conducted pursuant to such a request;

2. An employer may make an offer of temporary employment to a nurse aide pending the results of the criminal history background check. The employer in such instance shall provide to the Bureau the name and relevant information relating to the person within seventy-two (72) hours after the date the person accepts temporary employment. The employer shall not hire or contract with the nurse aide on a permanent basis until the results of the criminal history background check are received;

3. An employer may accept a criminal history background report less than one (1) year old of a person to whom such employer makes an offer of employment. The report shall be obtained from the previous employer or contractor of such person and shall only be obtained upon the written consent of such person; and

4. Every employer while subject to the provisions of this subsection shall inform each applicant for employment, or each prospective contract provider, as applicable, that the employer is required to obtain a criminal history background record before making an offer of permanent employment or contract to a nurse aide.

C. 1. If the results of a criminal history background check reveal that the subject person has been convicted of, pled guilty or no contest to, or received a deferred sentence for, a felony or misdemeanor offense for any of the following offenses in any state

or federal jurisdiction, the employer shall not hire or contract with the person:

a. abuse, neglect or financial exploitation of any person entrusted to the care or possession of such person,

b. rape, incest or sodomy,

c. child abuse,

d. murder or attempted murder,

e. manslaughter,

f. kidnapping,

g. aggravated assault and battery,

h. assault and battery with a dangerous weapon, or

i. arson in the first degree.

2. If less than seven (7) years have elapsed since the completion of sentence, and the results of a criminal history check reveal that the subject person has been convicted of, or pled guilty or no contest to, a felony or misdemeanor offense for any of the following offenses, in any state or federal jurisdiction, the employer shall not hire or contract with the person:

a. assault,

b. battery,

c. indecent exposure and indecent exhibition, except where such offense disqualifies the applicant as a registered sex offender,

d. pandering,

e. burglary in the first or second degree,

f. robbery in the first or second degree,

g. robbery or attempted robbery with a dangerous weapon, or imitation firearm,

h. arson in the second degree,

i. unlawful manufacture, distribution, prescription, or dispensing of a Schedule I through V drug as defined by the Uniform Controlled Dangerous Substances Act,

j. grand larceny, or

k. petit larceny or shoplifting.

D. An employer shall not employ or continue employing a person addicted to any Schedule I through V drug as specified by the Uniform Controlled Dangerous Substances Act unless the person produces evidence that the person has successfully completed a drug rehabilitation program.

E. All employment eligibility determination records received by the employer pursuant to this section are confidential and are for the exclusive use of the State Department of Health and the employer which requested the information. Except on court order or with the written consent of the person being investigated, the records shall not be released or otherwise disclosed to any other person or agency. These records shall be destroyed after one (1) year from the end of employment of the person to whom such records relate.

F. As part of the inspections required by the Nursing Home Care Act, Continuum of Care and Assisted Living Act, the Residential Care Act, and the Adult Day Care Act, the State Department of Health shall review the employment files of any facility, home or institution required to obtain a criminal history background determination to ensure such facilities, homes or institutions are in compliance with the provisions of this section.

SECTION 6. AMENDATORY 63 O.S. 2011, Section 1-1950.3, is amended to read as follows:

Section 1-1950.3. A. 1. ~~Until November 1, 2004, no employer or contractor who is subject to the provisions of Section 1-1950.1~~

~~or 1-1950.2 of this title shall use, on a full-time, temporary, per diem, or other basis, any individual who is not a licensed health professional as a nurse aide for more than four (4) months, unless such individual has satisfied all requirements for certification and is eligible for placement on the nurse aide registry maintained by the State Department of Health.~~

~~2. a. Effective November 1, 2004, no~~ A nursing facility, specialized facility, continuum of care facility, assisted living center, adult day care or residential home, or facility operated by the Oklahoma Department of Veterans Affairs, shall not employ as a nurse aide, on a full-time, temporary, per diem, or any other basis, any individual who is not certified as a nurse aide in good standing and is not eligible for placement on the nurse aide registry maintained by the State Department of Health.

~~b.~~

2. The Department may grant a temporary emergency waiver to the provisions of this paragraph to any nursing facility, continuum of care facility, assisted living center or adult day care or residential home which can demonstrate that such facility, home or institution has been unable to successfully meet its staffing requirements related to the provisions ~~of subparagraph a~~ of this paragraph. ~~No later than September 30, 2004, the State Board of Health shall promulgate rules related to eligibility for receipt of such waiver, and the process and the conditions for obtaining the waiver.~~

~~c. From November 1, 2004, until October 31, 2005, the Department shall not issue any monetary penalties nor shall it issue any licensure deficiency related to the provisions of subparagraph a of this paragraph to a nursing facility, specialized facility, continuum of care facility, assisted living center, adult day care or residential care home, which is unable to comply with the requirements and which has applied for a temporary waiver under subparagraph b of this paragraph, whether or not the waiver application has been approved.~~

B. ~~1. Until November 1, 2004, no person shall use an individual as a nurse aide unless the individual:~~

~~a. is enrolled in a Department-approved training and competency evaluation program,~~

~~b. is currently certified and eligible to be listed on the nurse aide registry, or~~

~~c. has completed the requirements for certification and placement on the nurse aide registry.~~ Such waiver shall require the following:

~~2.~~ 1. An individual employed as a nurse aide who is enrolled in a Department-approved training and competency evaluation program for nurse aides shall successfully complete such training and competency evaluations within four (4) months of entering the training program~~.~~;

~~3.~~ 2. The individual shall obtain certification, and the Department shall place the nurse aide on the registry within thirty (30) days after demonstration of competency~~.~~;

~~4.~~ 3. Any nursing facility, specialized facility, continuum of care facility, assisted living center, adult day care or residential care home that employs an individual who is in nurse aide training, as provided in this section, shall ensure that the trainee shall:

a. complete the required training and competency program as provided in rules prior to any direct contact with a resident or client,

b. not perform any service for which the trainee has not trained and been determined proficient by the instructor, and

c. be supervised at all times by no less than a licensed practical nurse~~.~~; and

~~5.~~ 4. No employer may use as a nurse aide an individual who has not completed the nurse aide training and competency program within the required four-month period.

C. For purposes of this section, "four (4) months" means the equivalent of four (4) months of full-time employment as a nurse aide by any employer in any nursing facility, specialized facility, continuum of care facility, assisted living center, adult day care or residential care home.

D. 1. The Department may grant a trainee a one-time extension of the four-month training requirement if:

a. such requirement causes an undue hardship for the trainee due to unusual circumstances or illness, and

b. the trainee has demonstrated a good faith effort to complete the training and competency evaluation program.

2. The State Board of Health shall promulgate rules related to the review of and the process and conditions for such an extension.

E. 1. Certified medication aides, upon successful completion of competency standards or prescribed training courses, shall be eligible to distribute medications or treatments provided by paragraph 2 of this subsection within a:

a. correctional facility, as set forth in Section 623 of Title 57 of the Oklahoma Statutes,

b. correctional facility operated by a contractor of the Department of Corrections,

c. county or municipal jail,

d. nursing facility,

e. specialized facility,

f. continuum of care facility,

g. assisted living center,

h. adult day care, ~~or~~

i. residential care home, or

j. facilities operated by the Oklahoma Department of Veterans Affairs.

2. Certified medication aides may:

a. perform fingerstick blood sugars,

b. administer diabetic medications, including subcutaneous injections of insulin, provided that the certified medication aide has completed a Department-approved advanced training program on diabetes and the administration of diabetes medications, including injections,

c. administer medications, first aid treatments and nutrition; by oral, rectal, vaginal, otic, ophthalmic, nasal, skin, topical, transdermal, and nasogastric/gastrostomy tubes routes, and

d. administer oral metered dose inhalers and nebulizers;

3. The State Board of Health shall establish rules necessary to ensure the safety of medication administration by certified medication aides, including but not limited to:

a. competency and practice standards for medication aides,

b. maintaining a list of skills and functions that medication aides will be able to perform upon completion of certification course work,

c. certification and recertification requirements for medication aides,

d. development of criteria and procedures for approval or disapproval of training and competency evaluation programs, and

e. procedures for denying, suspending, withdrawing, or refusing to renew certification for a medication aide;

4. Each facility shall develop policies and procedures that comply with the provisions of this subsection and rules promulgated by the State Board of Health. This policy shall be reviewed and approved by the facility Medical Director, Director of Nurses and/or Registered Nurse Consultant.

F. Any person convicted of violating any of the provisions of this section or Section 1-1950.1 of this title shall be guilty of a misdemeanor, punishable by a fine of not less than One Hundred Dollars ($100.00) nor more than Three Hundred Dollars ($300.00), imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

SECTION 7. AMENDATORY 63 O.S. 2011, Section 1-1951, as amended by Section 6, Chapter 358, O.S.L. 2012 (63 O.S. Supp. 2012, Section 1-1951), is amended to read as follows:

Section 1-1951. A. The State Department of Health shall have the power and duty to:

1. Issue certificates of training and competency for nurse aides;

2. Approve training and competency programs including, but not limited to, education-based programs and employer-based programs, <u>including those programs established pursuant to Section 223.1 of Title 72 of the Oklahoma Statutes</u>;

3. Determine curricula and standards for training and competency programs. The Department shall require such training to include a minimum of ten (10) hours of training in the care of Alzheimer's patients;

4. Establish and maintain a registry for certified nurse aides and for nurse aide trainees;

5. Establish categories and standards for nurse aide certification and registration, including feeding assistants as defined in 42 CFR Parts 483 and 488; and

6. Exercise all incidental powers as necessary and proper to implement and enforce the provisions of this section.

B. The State Board of Health shall promulgate rules to implement the provisions of this section and shall have power to assess fees.

1. Each person certified as a nurse aide pursuant to the provisions of this section shall be required to pay certification and recertification fees in amounts to be determined by the State Board of Health, not to exceed Fifteen Dollars ($15.00).

2. In addition to the certification and recertification fees, the State Board of Health may impose fees for training or education programs conducted or approved by the ~~Board~~ Department, except for those programs operated by the Oklahoma Department of Veterans Affairs.

3. All revenues collected as a result of fees authorized in this section and imposed by the Board shall be deposited into the Public Health Special Fund.

C. Only a person who has qualified as a certified nurse aide and who holds a valid current nurse aide certificate for use in this state shall have the right and privilege of using the title Certified Nurse Aide and to use the abbreviation CNA after the name of such person. Any person who violates the provisions of this section shall be subject to a civil monetary penalty to be assessed by the Department.

D. 1. The State Department of Health shall establish and maintain a certified nurse aide, nurse aide trainee and feeding assistant registry that:

a. is sufficiently accessible to promptly meet the needs of the public and employers, and

b. provides a process for notification and investigation of alleged abuse, exploitation or neglect of residents of a facility or home, clients of an agency or center, or of misappropriation of resident or client property.

2. The registry shall contain information as to whether a nurse aide has:

a. successfully completed a certified nurse aide training and competency examination,

b. met all the requirements for certification, or

c. received a waiver from the Board.

3. The registry shall include, but not be limited to, the following information on each certified nurse aide or nurse aide trainee:

a. the full name of the individual,

b. information necessary to identify each individual,

c. the date the individual became eligible for placement in the registry, and

d. information on any finding of the Department of abuse, neglect or exploitation by the certified nurse aide or nurse aide trainee, including:

(1) documentation of the Department's investigation, including the nature of the allegation and the evidence that led the Department to confirm the allegation,

(2) the date of the hearing, if requested by the certified nurse aide or nurse aide trainee, and

(3) statement by the individual disputing the finding if the individual chooses to make one.

4. The Department shall include the information specified in subparagraph d of paragraph 3 of this subsection in the registry within ten (10) working days of the substantiating finding and it shall remain in the registry, unless:

a. it has been determined by an administrative law judge, a district court or an appeal court that the finding was in error, or

b. the Board is notified of the death of the certified nurse aide or nurse aide trainee.

5. Upon receipt of an allegation of abuse, exploitation or neglect of a resident or client, or an allegation of misappropriation of resident or client property by a certified nurse aide or nurse aide trainee, the Department shall place a pending notation in the registry until a final determination has been made. If the investigation, or administrative hearing held to determine whether the certified nurse aide or nurse aide trainee is in violation of the law or rules promulgated pursuant thereto, reveals that the abuse, exploitation or neglect, or misappropriation of resident or client property was unsubstantiated, the pending notation shall be removed within twenty-four (24) hours of receipt of notice by the Department.

6. The Department shall, after notice to the individuals involved and a reasonable opportunity for a hearing, make a finding as to the accuracy of the allegations.

7. If the Department after notice and opportunity for hearing determines with clear and convincing evidence that abuse, neglect or exploitation, or misappropriation of resident or client property has occurred and the alleged perpetrator is the person who committed the prohibited act, notice of the findings shall be sent to the nurse aide and to the district attorney for the county where the abuse, neglect or exploitation, or misappropriation of resident or client property occurred and to the Medicaid Fraud Control Unit of the Attorney General's Office. Notice of ineligibility to work as a nurse aide in a long-term care facility, a residential care facility, assisted living facility, day care facility, or any entity that requires certification of nurse aides, and notice of any further appeal rights shall also be sent to the nurse aide.

8. The Department shall require that each facility check the nurse aide registry before hiring a person to work as a nurse aide. If the registry indicates that an individual has been found, as a result of a hearing, to be personally responsible for abuse, neglect or exploitation, that individual shall not be hired by the facility.

9. If the state finds that any other individual employed by the facility has neglected, abused, misappropriated property or exploited in a facility, the Department shall notify the appropriate licensing authority and the district attorney for the county where the abuse, neglect or exploitation, or misappropriation of resident or client property occurred.

10. Upon a written request by a certified nurse aide or nurse aide trainee, the Board shall provide within twenty (20) working days all information on the record of the certified nurse aide or nurse aide trainee when a finding of abuse, exploited or neglect is confirmed and placed in the registry.

11. Upon request and except for the names of residents and clients, the Department shall disclose all of the information relating to the confirmed determination of abuse, exploitation and neglect by the certified nurse aide or nurse aide trainee to the person requesting such information, and may disclose additional information the Department determines necessary.

12. A person who has acted in good faith to comply with state reporting requirements and this section of law shall be immune from liability for reporting allegations of abuse, neglect or exploitation.

E. Each nurse aide trainee shall wear a badge which clearly identifies the person as a nurse aide trainee. Such badge shall be furnished by the facility employing the trainee. The badge shall be nontransferable and shall include the first and last name of the trainee.

F. 1. For purposes of this section, "feeding assistant" means an individual who is paid to feed residents by a facility or who is used under an arrangement with another agency or organization and meets the requirements cited in 42 CFR Parts 483 and 488.

2. Each facility that employs or contracts employment of a feeding assistant shall maintain a record of all individuals, used by the facility as feeding assistants, who have successfully completed a training course approved by the state for paid feeding assistants.

G. An individual shall not be eligible for certification as a nurse aide for the period the individual satisfied one or more of the disqualifying criteria found in subsection D of Section 1-1947 of this title. A nurse aide certified on or after November 1, 2012, and subsequently found to satisfy one or more of the disqualifying criteria found in subsection D of Section 1-1947 of this title shall, for the period he or she satisfies the criteria, be subject to revocation or nonrenewal of certification after reasonable opportunity for notice and hearing pursuant to the Administrative Procedures Act.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1951.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

The State Board of Health and the War Veterans Commission shall promulgate rules to implement the provisions of this act.

SECTION 9. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 21st day of May, 2013.

Presiding Officer of the Senate

Passed the House of Representatives the 22nd day of May, 2013.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 23rd

day of May, 20 13, at 11:45 o'clock A M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 29th

day of May, 20 13, at 4:12 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 29th

day of May, 20 13, at 5:25 o'clock P. M.

By: Chris Benniss