

ENGROSSED HOUSE
BILL NO. 2282

By: Mitchell of the House

and

Wilkerson of the Senate

(public health and safety - amending 63 O.S.,

Section 1-1950.3 - Nursing Home Care Act -

restriction -

emergency)

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

SECTION 1. AMENDATORY 63 O.S. 2001, Section 1-1950.3, as last amended by Section 3, Chapter 429, O.S.L. 2003 (63 O.S. Supp. 2003, 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 nursing facility, assisted living or other long-term care facility shall ~~employ~~ use 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. 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. The Department may grant a temporary emergency waiver to the provisions of this paragraph to any nursing facility, assisted living or other long-term care facility which can demonstrate that such facility has been unable to successfully meet its staffing requirements. 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.

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.

2. 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. 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. Any nursing facility, assisted living or other long-term care facility 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.

5. 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, assisted living or other long-term care facility.

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. Certified medication aides, upon successful completion of competency standards, shall be eligible to distribute medication within a nursing facility.

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.

G. The Oklahoma Health Care Authority shall submit to the Governor, the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the State Senate no later than March 1, 2004, an analysis of the projected fiscal impact of the implementation of the provisions of subparagraph a of paragraph 2 of subsection A of this section. The Authority shall consider information provided by the long-term care industry and the Office of the State Long-Term Care Ombudsman in projecting the costs and/or cost savings associated with the full implementation of subparagraph a of paragraph 2 of subsection A of this section.

SECTION 2. 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 House of Representatives the 4th day of March, 2004.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2004.

Presiding Officer of the Senate