

ENROLLED HOUSE
BILL NO. 2282

By: Mitchell of the House

and

Robinson of the Senate

An Act relating to public health and safety; amending 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), which relates to employment of nurses aides; requiring certain promulgation; setting time period; prohibiting certain monetary penalties and licensure deficiencies; providing conditions; prohibiting the establishment or operation of a public bathing place without an annual license; providing for certain fees; providing for issuance and expiration of licenses; prohibiting certain transfers; requiring certifications of compliance; authorizing suspension and revocation of certain licenses; specifying reasons therefor; amending 63 O.S. 2001, Section 1-1014, which relates to the powers and duties of the State Commissioner of Health; authorizing certain additional powers; authorizing and providing for reinspections; authorizing additional fees; providing certain procedures; providing for codification; and providing an effective date.

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 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. 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 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 penalty nor shall it issue any licensure deficiency related to the provisions of subparagraph a of this paragraph to a nursing, specialized, or continuum of care facility, assisted living facility 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.

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. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1013.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

No person, municipality, as defined by paragraph 5 of Section 1-102 of Title 11 of the Oklahoma Statutes, or entity shall engage in or continue the operation of a public bathing place, as defined by Section 1-1013 of Title 63 of the Oklahoma Statutes, until an annual license has been obtained from the State Commissioner of Health for each such public bathing place. Each such operator shall pay an annual fee for such license to be fixed by the State Board of Health. Unless otherwise provided by rules promulgated by the Board, each such license shall expire one (1) year following the date of issue. No such license shall be transferable, and application for such license shall be made upon forms prescribed by the Commissioner. Each application for such license shall be

accompanied by the applicant's certification that the public bathing place for which the license is sought is in compliance with the provisions of Section 1-1017 of Title 63 of the Oklahoma Statutes, and no license shall be issued or renewed for such public bathing place until after such certification of compliance has been received by the Commissioner. Provided, municipalities of five thousand (5,000) population or less, shall not be charged more than Fifty Dollars (\$50.00) for such fee.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1013.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

The State Commissioner of Health may suspend or revoke a public bathing place license on any of the following grounds:

1. Violation of any of the provisions of this act or State Board of Health rules promulgated pursuant thereto;
2. Permitting, aiding or abetting the commission of any illegal act in or on the premises of the licensed public bathing place; or
3. Conduct or practices by the owner, management or any employee of the public bathing place deemed by the Commissioner to be detrimental to the health, safety or welfare of any person.

SECTION 4. AMENDATORY 63 O.S. 2001, Section 1-1014, is amended to read as follows:

Section 1-1014. The State Commissioner of Health shall have supervision of the sanitation, healthfulness, safety, and design of public bathing places, and shall enforce all rules ~~and regulations~~ promulgated and adopted by the State Board of Health for carrying out the ~~following~~ provisions of this ~~article~~ act. The Board is hereby authorized to promulgate and adopt reasonable standards and rules ~~and regulations~~ pertaining to the design, construction, safety, sanitation, and sanitary operation of public bathing places and to establish fees, as it may deem necessary to effectively carry out the ~~following~~ provisions of this ~~article~~ act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1020.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

Each public bathing place that has been declared, as a result of an examination or investigation conducted pursuant to the provisions of Section 1-1018 of Title 63 of the Oklahoma Statutes, to be a public nuisance pursuant to the provisions of Section 1-1020 of Title 63 of the Oklahoma Statutes shall be subject to reinspection. For each such reinspection performed, the operator of such public bathing place subject to reinspection shall pay to the State Department of Health a reinspection fee to be fixed by the State Board of Health. The reinspection fee shall be paid prior to a determination by the State Commissioner of Health, an authorized representative or the local health officer that the public bathing place is in compliance with the provisions of this act.

SECTION 6. This act shall become effective November 1, 2004.

Passed the House of Representatives the 25th day of May, 2004.

Presiding Officer of the House of
Representatives

Passed the Senate the 26th day of May, 2004.

Presiding Officer of the Senate