

EHB 1688

THE STATE SENATE
Wednesday, April 13, 2005

ENGROSSED

House Bill No. 1688

As Amended

ENGROSSED HOUSE BILL NO. 1688 - By: COX and SMALIGO of the House and SHURDEN of the Senate.

[public health and safety - amending 63 O.S., Sections 1-1912, 1-1914, 1-1914.1 and 1-1951 - Nursing Home Care Act - resolution hearing - nurse aides - codification - effective date]

SECTION 1. AMENDATORY 63 O.S. 2001, Section 1-1912, as amended by Section 6, Chapter 230, O.S.L. 2002 (63 O.S. Supp. 2004, 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

1 provision, rule or standard alleged to have been violated. The
2 notice of violation shall inform the licensee of its obligation to
3 file a plan of correction within ten (10) working days of receipt of
4 the notice of violation.

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

11 D. Whenever the Department finds that an emergency exists
12 requiring immediate action to protect the health, safety or welfare
13 of any resident of a facility licensed pursuant to the provisions of
14 this act, the Department may, without notice of hearing, issue an
15 order stating the existence of such an emergency and requiring that
16 action be taken as deemed necessary by the Department to meet the
17 emergency. The order shall be effective immediately. Any person to
18 whom such an order is directed shall comply with such order
19 immediately but, upon application to the Department, shall be
20 afforded a hearing within ten (10) business days of receipt of the
21 application. On the basis of such hearing, the Department may
22 continue the order in effect, revoke it, or modify it. Any person
23 aggrieved by such order continued after the hearing provided in this

1 subsection may appeal to the district court in Oklahoma County
2 within thirty (30) days. Such appeal when docketed shall have
3 priority over all cases pending on the docket, except criminal
4 cases. For purposes of this subsection, the State Board of Health
5 shall define by rule the term "emergency" to include, but not be
6 limited to, a life-endangering situation.

7 SECTION 2. AMENDATORY 63 O.S. 2001, Section 1-1914, is
8 amended to read as follows:

9 Section 1-1914. A. A facility shall have ten (10) working days
10 after receipt of notice of violation in which to prepare and submit
11 a plan of correction. The plan of correction shall include a fixed
12 time period, not to exceed sixty (60) days within which the
13 violations are to be corrected. The Department may extend this
14 period where correction involves substantial structural improvement.
15 If the Department rejects a plan of correction, it shall send notice
16 of the rejection and the reason for the rejection to the facility.
17 The facility shall have ten (10) working days after receipt of the
18 notice of rejection in which to submit a modified plan. If the
19 modified plan is not timely submitted, or if the modified plan is
20 rejected, the Department shall impose a plan of correction which the
21 facility shall follow.

1 B. If the violation has been corrected prior to submission and
2 approval of a plan of correction, the facility may submit a report
3 of correction in place of a plan of correction.

4 C. Upon a licensee's written request, the Department shall
5 determine whether to grant a licensee's request for an extended
6 correction time. Such request shall be served on the Department
7 prior to expiration of the correction time originally approved. The
8 burden of proof shall be on the licensee to show good cause for not
9 being able to comply with the original correction time approved.

10 D. If a facility desires to contest any Department action under
11 this section, it shall send a written request for an informal
12 dispute resolution or a hearing to the Department within ten (10)
13 working days of receipt of notice of the contested action and the
14 Department shall commence the informal dispute resolution or
15 hearing.

16 SECTION 3. AMENDATORY 63 O.S. 2001, Section 1-1914.1, as
17 amended by Section 7, Chapter 230, O.S.L. 2002 (63 O.S. Supp. 2004,
18 Section 1914.1), is amended to read as follows:

19 Section 1914.1 A. For violations of the Nursing Home Care Act,
20 the rules promulgated thereto, or Medicare/Medicaid certification
21 regulations:

22 1. The State Department of Health shall seek remedial action
23 against a licensee, owner or operator of a facility and may, after

1 notice and opportunity for hearing, impose the remedy most likely
2 to:

3 a. gain and ensure continued compliance with the Nursing
4 Home Care Act, the rules promulgated thereto, or
5 federal certification standards or both rules and
6 standards, or

7 b. provide for the financial operation of the facility
8 that ensures the health, safety and welfare of the
9 residents;

10 2. In the alternative or in addition to any remedial action,
11 the State Commissioner of Health may direct the Oklahoma Health Care
12 Authority to withhold vendor payments due to a facility under its
13 programs until such time as the corrections are made;

14 3. The Department may deny, refuse to renew, suspend or revoke
15 a license, ban future admissions to a facility, assess
16 administrative penalties, or issue a conditional license; ~~and~~

17 4. a. Pursuant to an investigation or inspection that
18 reveals a willful violation of rules pertaining to
19 minimum direct-care staffing requirements, the
20 Commissioner shall notify the Oklahoma Health Care
21 Authority and the Authority shall withhold as a
22 penalty a minimum of twenty percent (20%) of the

1 vendor payments due the facility under its programs
2 for each day such violation continues.

3 b. The Commissioner shall impose an equivalent penalty
4 amount under licensure standards for a facility that
5 does not receive vendor payments under its program
6 that is in willful violation of rules pertaining to
7 minimum direct-care staffing requirements; and

8 5. Engage in informal dispute resolution.

9 B. Whenever the Department takes remedial action against a
10 facility because the financial condition of the facility has
11 endangered or is at risk of endangering the proper operation of the
12 facility or the health, safety or welfare of the residents of the
13 facility, the Department shall also review the conditions of all
14 other facilities in this state owned or operated by a person with a
15 controlling interest as defined Section 1-851.1 of this title, and
16 may take remedial action against the facilities as necessary or
17 appropriate.

18 C. Remedial action as provided in subsection A or B of this
19 section shall be based on current and past noncompliance or
20 incomplete or partial compliance; repeated violations; or failure to
21 substantially comply with the Nursing Home Care Act and rules
22 promulgated thereto. In determining the most appropriate remedy,
23 the Department shall consider at least the following:

- 1 1. The nature, circumstances and gravity of the violations;
- 2 2. The repetitive nature of the violations at the facility or
- 3 others operated by the same or related entities;
- 4 3. The previous degree of difficulty in obtaining compliance
- 5 with the rules at the facility or others operated by the same or
- 6 related entities; and
- 7 4. A clear demonstration of good faith in attempting to achieve
- 8 and maintain continuing compliance with the provisions of the
- 9 Nursing Home Care Act.

10 SECTION 4. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 1-1914.3 of Title 63, unless
12 there is created a duplication in numbering, reads as follows:

13 A. The Legislature finds it is necessary to provide an
14 alternative process to formal judicial or administrative appeals of
15 deficiencies for long-term care facilities as a means for faster,
16 more efficient, and less expensive resolution of disputes.

17 B. Informal dispute resolution hearings shall be conducted by
18 the State Department of Health or its successor agency.

19 C. The State Department of Health shall assign all informal
20 dispute resolution hearings to the unit or section charged with
21 performing survey or inspection activity.

1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1-1914.4 of Title 63, unless
3 there is created a duplication in numbering, reads as follows:

4 For purposes of this act:

5 1. "Deficiency" means a violation or alleged violation by a
6 long-term care facility of applicable state or federal laws, rules,
7 or regulations governing the operation or licensure of a long-term
8 care facility;

9 2. "Deficiency identification number" means an alphanumeric
10 designation of a deficiency by the Office of Long-Term Care that
11 denotes the applicable state or federal rule, regulation, or law
12 allegedly violated and that is used on the statement of
13 deficiencies;

14 3. "Impartial decision maker" means an individual employed by a
15 state agency to conduct an informal dispute resolution hearing for
16 the agency;

17 4. "Informal dispute resolution" means a nonjudicial process or
18 forum before an impartial decision maker that provides a facility
19 cited for deficiency with the opportunity to dispute a citation for
20 deficiency;

21 5. "Long-term care facility" has the same meaning as under
22 Section 1-851.1 of Title 63 of the Oklahoma Statutes;

1 6. "Party" means a facility requesting an informal dispute
2 resolution hearing, the Office, or both;

3 7. "State survey agency" means the Office, the federally
4 designated state entity that performs Medicaid and Medicare surveys
5 and inspections of Oklahoma long-term care facilities; and

6 8. "Statement of deficiencies" means a statement prepared by
7 the Office citing the applicable state or federal laws, rules, or
8 regulations violated by a long-term care facility and the facts
9 supporting the citation.

10 SECTION 6. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 1-1914.5 of Title 63, unless
12 there is created a duplication in numbering, reads as follows:

13 A. A long-term care facility that wishes to challenge a
14 deficiency through the informal dispute resolution process shall
15 make a written request to the State Department of Health within ten
16 (10) calendar days of the receipt of the statement of deficiencies
17 from the Office of Long-Term Care.

18 B. The written request for an informal dispute resolution shall
19 include:

20 1. A list of all deficiencies that the facility wishes to
21 challenge; and

22 2. A statement indicating whether the long-term care facility
23 wants the hearing to be conducted by telephone conference call, by

1 record review of the impartial decision maker, or by a meeting in
2 which the facility and the Office appear before the impartial
3 decision maker.

4 C. A request for an informal dispute resolution shall not:

5 1. Stay any action for enforcement or imposition of remedies;

6 or

7 2. Affect or preclude the right of a long-term care facility to
8 judicial or administrative appeal.

9 SECTION 7. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 1-1914.6 of Title 63, unless
11 there is created a duplication in numbering, reads as follows:

12 A. Upon receipt of a request for an informal dispute resolution
13 hearing from a long-term care facility, the State Department of
14 Health shall assign the matter to an impartial decision maker.

15 B. The impartial decision maker shall:

16 1. Schedule a time and date for a hearing; and

17 2. Inform the parties of the time and date of the hearing.

18 C. If the request for an informal dispute resolution hearing
19 includes a request by the facility for a hearing at which the
20 facility may appear before the impartial decision maker, the
21 impartial decision maker shall:

22 1. Arrange for facilities appropriate for conducting the
23 hearing; and

1 2. Inform the parties of the location of the facility.

2 D. 1. Each party shall submit to the impartial decision maker
3 all documentary evidence that the party believes has a bearing on or
4 relevance to the deficiencies in dispute by the date specified by
5 the impartial decision maker.

6 2. Documentary evidence that is not submitted by the date
7 specified by the impartial decision maker may be:

8 a. refused and not considered by the impartial decision
9 maker, or

10 b. accepted by the impartial decision maker.

11 (1) If the evidence is accepted, the impartial
12 decision maker shall provide the opposing party
13 the opportunity to submit additional documentary
14 evidence.

15 (2) However, the additional evidence shall be limited
16 to information that addresses or rebuts the
17 documentary evidence submitted after the date
18 specified by the impartial decision maker.

19 E. 1. If the request for an informal dispute resolution
20 hearing does not include a request by the long-term care facility
21 for a hearing at which the long-term care facility may appear before
22 the impartial decision maker, or upon agreement of the long-term
23 care facility and the Office of Long-Term Care, the impartial

1 decision maker may conduct the hearing by telephone conference call
2 or by a review of documentary evidence submitted by the parties.

3 2. a. If the informal dispute resolution hearing is
4 conducted by record review, the impartial hearing
5 officer may request, and the parties shall provide, a
6 written statement setting forth the parties positions
7 for accepting, rejecting, or modifying each deficiency
8 in dispute.

9 b. The written statement shall specify the documentary
10 evidence that supports the position of each party for
11 each deficiency in dispute.

12 c. The long-term care facility shall provide its written
13 statement to the impartial decision maker and the
14 Office.

15 d. The Office shall then provide its written statement in
16 rebuttal to the impartial decision maker and the
17 facility.

18 SECTION 8. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1-1914.7 of Title 63, unless
20 there is created a duplication in numbering, reads as follows:

21 A. The impartial decision maker in the informal dispute
22 resolution process may be an individual or a committee of
23 individuals employed by the State Department of Health.

1 B. 1. An impartial decision maker shall be a nurse, a
2 physician, a pharmacist, or any combination of nurses, physicians,
3 or pharmacists, employed by the Department.

4 2. Each person acting as an impartial decision maker shall be
5 licensed by the State of Oklahoma and be in good standing with their
6 respective licensing agencies or boards.

7 C. All impartial decision makers shall undergo and complete
8 surveyor training arranged by the Office of Long-Term Care.

9 SECTION 9. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 1-1914.8 of Title 63, unless
11 there is created a duplication in numbering, reads as follows:

12 A. 1. In all informal dispute resolution cases except record
13 review, the long-term care facility shall present the initial
14 arguments.

15 2. The Office of Long-Term Care shall then present its
16 arguments.

17 B. 1. The informal dispute resolution hearing shall be limited
18 to no more than two (2) hours in length, with each party being
19 permitted one (1) hour to present its arguments.

20 2. However, the impartial hearing officer may grant each party
21 additional equal time for good cause as determined by the impartial
22 decision maker.

1 C. 1. Rules of evidence or procedure shall not apply to the
2 informal dispute resolution hearing except as provided in this
3 section.

4 2. The impartial decision maker may:

5 a. accept any information that the impartial decision
6 maker deems material to the issue being presented, and

7 b. reject any information that the impartial decision
8 maker deems immaterial to the issue being presented.

9 D. 1. The informal dispute resolution hearing may not be
10 recorded.

11 2. However, the impartial decision maker may make written or
12 recorded notes of the arguments.

13 E. Only employees of the long-term care facility, attending
14 physicians of residents of the long-term care facility at the time
15 of the deficiency, pharmacists providing medications to residents of
16 the long-term care facility at the time of the deficiency, and
17 consultant pharmacists or nurse consultants utilized by the long-
18 term care facility, or the medical director of the long-term care
19 facility may appear or participate at the hearing for, or on the
20 behalf of, the long-term care facility.

21 F. Only employees of the Office of Long-Term Care may appear or
22 participate at the hearing for, or on behalf of, the Office.

23 G. No party may be represented by an attorney.

1 SECTION 10. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1-1914.9 of Title 63, unless
3 there is created a duplication in numbering, reads as follows:

4 A. 1. Upon the conclusion of all arguments by the parties at
5 the informal dispute resolution hearing, the impartial decision
6 maker shall issue a written statement of findings that shall be
7 entitled "Determinations".

8 2. The determinations shall include:

- 9 a. a recitation of the deficiency identification numbers,
10 b. a statement of whether a disputed deficiency should
11 remain, be removed, or be modified on the statement of
12 deficiencies, and
13 c. the facts and persuasive arguments that support the
14 finding of the impartial decision maker for each
15 deficiency identification number.

16 B. 1. The determination of the impartial decision maker shall
17 be provided to all parties.

18 2. a. The Office of Long-Term Care shall review the
19 determination and shall issue a written document
20 entitled "State Survey Agency Determination".

21 b. The state survey agency determination shall state:
22 (1) whether, for each disputed deficiency mentioned
23 in the impartial decision maker's determination,

1 the finding of the impartial decision maker is
2 accepted, rejected, or accepted as modified by
3 the state survey agency,

4 (2) for each deficiency finding by the impartial
5 decision maker that the Office does not accept
6 the finding of the impartial decision maker, a
7 statement explaining the reasons that the finding
8 was not accepted along with the facts,
9 circumstances, or reasons for not accepting the
10 finding, and

11 (3) for each disputed deficiency finding of the
12 impartial decision maker that the Office accepts
13 the finding with modification, a recitation of
14 the modification and the reason or reasons for
15 the modification.

16 C. A state survey agency determination is not subject to
17 appeal, reargument, or reconsideration.

18 D. The Office shall deliver a copy of the state survey agency
19 determination to the facility and to the impartial decision maker.

20 E. 1. In accordance with the state survey agency
21 determination, the Office shall issue an amended state of
22 deficiencies if the state survey agency determination results in

1 modification to any deficiencies cited in the original statement of
2 deficiencies.

3 2. If the Office determines that amendments to the statement of
4 deficiencies should result in changes to the scope or severity
5 assigned to any deficiency, the amended statement of deficiencies
6 shall reflect the changes to the scope or severity of any cited
7 deficiency.

8 F. The amended statement of deficiencies shall be provided to
9 the facility.

10 SECTION 11. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 1-1914.10 of Title 63, unless
12 there is created a duplication in numbering, reads as follows:

13 A. The informal dispute resolution hearing is limited to
14 deficiencies cited on a statement of deficiencies.

15 B. No other issues may be addressed at an informal dispute
16 resolution hearing, including, but not limited to:

17 1. Scope and severity assessments of deficiencies unless the
18 scope and severity assessments allege substandard quality of care or
19 immediate jeopardy;

20 2. Any remedies imposed;

21 3. Any alleged failure of the survey team to comply with a
22 requirement of the survey process;

1 4. Any alleged inconsistency of the survey team in citing
2 deficiencies among facilities; and

3 5. Any alleged inadequacy or inaccuracy of the informal dispute
4 resolution process.

5 C. 1. If the impartial decision maker finds that matters not
6 subject to informal dispute resolution are presented, the impartial
7 decision maker shall strike all documentary evidence related to or
8 presented for the purpose of disputing the matter not subject to
9 informal dispute resolution.

10 2. The impartial decision maker may not include in the
11 determination any matter not subject to informal dispute resolution.

12 SECTION 12. AMENDATORY 63 O.S. 2001, Section 1-1951, as
13 amended by Section 16, Chapter 230, O.S.L. 2002 (63 O.S. Supp. 2004,
14 Section 1-1951), is amended to read as follows:

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

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

19 2. Approve training and competency programs including, but not
20 limited to, education-based programs and employer-based programs;

21 3. Determine curricula and standards for training and
22 competency programs;

1 4. Establish and maintain a registry for certified nurse aides
2 ~~and for,~~ nurse aide trainees, and feeding assistants;

3 5. Establish categories and standards for nurse aide
4 certification and registration; and

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

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

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

14 2. In addition to the certification and recertification fees,
15 the State Board of Health may impose fees for training or education
16 programs conducted or approved by the Board.

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

20 C. Only a person who has qualified as a certified nurse aide
21 and who holds a valid current nurse aide certificate for use in this
22 state shall have the right and privilege of using the title
23 Certified Nurse Aide and to use the abbreviation CNA after the name

1 of such person. Any person who violates the provisions of this
2 section shall be subject to a civil monetary penalty to be assessed
3 by the Department.

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

- 7 a. is sufficiently accessible to promptly meet the needs
8 of the public and employers, and
- 9 b. provides a process for notification and investigation
10 of alleged abuse, exploitation or neglect of residents
11 of a facility or home, clients of an agency or center,
12 or of misappropriation of resident or client property.

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

- 15 a. successfully completed a certified nurse aide training
16 and competency examination,
- 17 b. met all the requirements for certification, or
- 18 c. received a waiver from the Board.

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

- 22 (1) the ~~individual's~~ full name of the individual,

- 1 (2) information necessary to identify each
2 individual,
3 (3) the date the individual became eligible for
4 placement in the registry,
5 (4) information on any finding of the Department of
6 abuse, neglect or exploitation by the certified
7 nurse aide or nurse aide trainee, including:
8 (a) documentation of the Department's
9 investigation, including the nature of the
10 allegation and the evidence that led the
11 Department to confirm the allegation,
12 (b) the date of the hearing, if requested by the
13 certified nurse aide or nurse aide trainee,
14 and
15 (c) a statement by the individual disputing the
16 finding if the individual chooses to make
17 one.

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

- 1 a. it has been determined by an administrative law judge,
2 a district court or an appeal court that the finding
3 was in error, or
4 b. the Board is notified of the death of the certified
5 nurse aide or nurse aide trainee.

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

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

21 7. If the Department after notice and opportunity for hearing
22 determines with clear and convincing evidence that abuse, neglect or
23 exploitation, or misappropriation of resident or client property has

1 occurred and the alleged perpetrator is the person who committed the
2 prohibited act, notice of the findings shall be sent to the nurse
3 aide and to the district attorney for the county where the abuse,
4 neglect or exploitation, or misappropriation of resident or client
5 property occurred and to the Medicaid Fraud Control Unit of the
6 Attorney General's Office. Notice of ineligibility to work as a
7 nurse aide in a long-term care facility, a residential care
8 facility, assisted living facility, day care facility, or any entity
9 that requires certification of nurse aides, and notice of any
10 further appeal rights shall also be sent to the nurse aide.

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

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

22 10. Upon a written request by a certified nurse aide or nurse
23 aide trainee, the Board shall provide within twenty (20) working

1 days all information on the record of the certified nurse aide or
2 nurse aide trainee when a finding of abuse, exploited or neglect is
3 confirmed and placed in the registry.

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

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

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

19 F. 1. For purposes of this section, "feeding assistant" means
20 an individual who is paid to feed residents by a facility or who is
21 used under an arrangement with another agency or organization and
22 completes a minimum eight-hour training course approved by the state
23 that contains the following topics:

- 1 a. feeding techniques,
- 2 b. assistance with feeding and hydration,
- 3 c. communication and interpersonal skills,
- 4 d. appropriate responses to resident behavior,
- 5 e. safety and emergency procedures, including the
- 6 Heimlich maneuver,
- 7 f. infection control,
- 8 g. resident rights, and
- 9 h. recognizing resident behavioral changes that should be
- 10 reported to the supervisory nurse; and

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

16 SECTION 13. This act shall become effective November 1, 2005.

17 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 4-6-05 - DO
18 PASS, As Amended and Coauthored.