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Senate Bill No. 950
As Amended

SENATE BILL NO. 950 - By: CAIN of the Senate and WESSELHOFT of the House.

[public health and safety - certified nurse aides - training - effective date]

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

SECTION 1. AMENDATORY 63 O.S. 2001, Section 1-1951, as amended by Section 16, Chapter 230, O.S.L. 2002 (63 O.S. Supp. 2004, 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;
- 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;

1 5. Establish categories and standards for nurse aide
2 certification and registration; and

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

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

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

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

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

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

1 section shall be subject to a civil monetary penalty to be assessed
2 by the Department.

3 D. 1. The State Department of Health shall establish and
4 maintain a certified nurse aide and nurse aide trainee registry
5 that:

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

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

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

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

- 21 (1) the individual's full name,
- 22 (2) information necessary to identify each
23 individual,

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

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

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

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

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

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

18 7. If the Department after notice and opportunity for hearing
19 determines with clear and convincing evidence that abuse, neglect or
20 exploitation, or misappropriation of resident or client property has
21 occurred and the alleged perpetrator is the person who committed the
22 prohibited act, notice of the findings shall be sent to the nurse
23 aide and to the district attorney for the county where the abuse,

1 neglect or exploitation, or misappropriation of resident or client
2 property occurred and to the Medicaid Fraud Control Unit of the
3 Attorney General's Office. Notice of ineligibility to work as a
4 nurse aide in a long-term care facility, a residential care
5 facility, assisted living facility, day care facility, or any entity
6 that requires certification of nurse aides, and notice of any
7 further appeal rights shall also be sent to the nurse aide.

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

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

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

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

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

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

16 SECTION 2. This act shall become effective November 1, 2005.

17 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-23-05 - DO
18 PASS, As Amended and Coauthored.