

OKLAHOMA STATE SENATE  
CONFERENCE  
COMMITTEE REPORT

May 18, 2022

Mr. President:

Mr. Speaker:

The Conference Committee, to which was referred

SB1436

By: Garvin of the Senate and Wallace and Randleman of the House

Title: Long-term care; modifying certain restrictions on employment of nurse aide; stating requirements for employer-based training and competency evaluation program; modifying authority of certified medication aide. Effective date.

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together with Engrossed House Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the House recede from all Amendments.
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

SENATE CONFEREES:

  
\_\_\_\_\_  
Garvin

  
\_\_\_\_\_  
Rosino

  
\_\_\_\_\_  
Haste

  
\_\_\_\_\_  
Standridge

  
\_\_\_\_\_  
Hicks

\_\_\_\_\_  
Young

\_\_\_\_\_  
Pugh

HOUSE CONFEREES:

Conference Committee on Health Services and Long-Term Care

Senate Action \_\_\_\_\_ Date \_\_\_\_\_ House Action \_\_\_\_\_ Date \_\_\_\_\_

SB1436 CCR (A)  
**HOUSE CONFEREES**

Caldwell, Chad



Davis, Dean



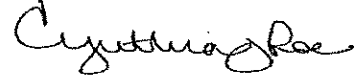
Nollan, Jadine



Ranson, Trish

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Roe, Cynthia



Stark, Marilyn

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STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

CONFERENCE COMMITTEE SUBSTITUTE  
FOR ENGROSSED

SENATE BILL NO. 1436

By: Garvin of the Senate

and

McEntire of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to long-term care; amending 63 O.S. 2021, Section 1-1950.1, which relates to criminal history background check for nurse aide; modifying time period of certain requirement; modifying certain restrictions on employment; creating certain exemption from additional background check; amending 63 O.S. 2021, Section 1-1950.3, which relates to nurse aides; adding exception to certain employment prohibition; broadening applicability of certain requirements; modifying requirement for direct contact with residents; specifying certain supervision requirements; allowing certified nurse aide to begin certain training immediately upon certification; authorizing certified medication aide to administer oxygen under specified condition; directing promulgation of certain rules; amending 63 O.S. 2021, Section 1-1951, which relates to certification, training, and registration of nurse aide; stipulating period of approval for training and competency programs; requiring, permitting, and prohibiting withdrawal of training program under specified conditions; providing for reapplication of withdrawn program; directing State Department of Health to administer competency examinations to certain nurse aides; authorizing certain contracts; directing certification of certain individuals; requiring provision of certain form; stating requirements for employer-based long term care aide training program; stipulating certain recertification

1 procedures; clarifying applicability of certain  
2 provisions; directing promulgation of certain rules;  
3 updating statutory language; and providing an  
4 effective date.

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

6 SECTION 1. AMENDATORY 63 O.S. 2021, Section 1-1950.1, is  
7 amended to read as follows:

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

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

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

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

23 b. a residential care home as such term is defined by the  
24 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,
- 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,
- h. any facility operated by the Oklahoma Department of Veterans Affairs, and
- i. any 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;

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;

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

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

6 B. Before ~~any employer makes an offer to employ or to contract~~  
7 ~~with~~ a nurse aide begins employment or a contract to provide nursing  
8 care, health-related services or supportive assistance to any  
9 individual, the employer shall provide for a criminal history  
10 background check to be made on the nurse aide pursuant to the  
11 provisions of the Long-Term Care Security Act. If the employer is a  
12 facility, home or institution which is part of a larger complex of  
13 buildings, the requirement of a criminal history background check  
14 shall apply only to an offer of employment or contract made to a  
15 person who will work primarily in the immediate boundaries of the  
16 facility, home, or institution.

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

23 1. The employer shall request the Bureau to conduct a criminal  
24 history background check on the nurse aide and shall provide to the

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

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

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

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

23 C. 1. If the results of a criminal history background check  
24 reveal that the subject person has been convicted of, pled guilty or

1 no contest to, or received a deferred sentence for, a felony or  
2 misdemeanor offense for any of the following offenses in any state  
3 or federal jurisdiction, the employer shall not hire or contract  
4 with the person:

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

8 b. rape, incest, or sodomy, or any crime that resulted in  
9 the person being registered on a sex offender registry  
10 at any time,

11 c. child abuse,

12 d. murder or attempted murder,

13 e. manslaughter,

14 f. kidnapping,

15 g. human trafficking,

16 h. aggravated assault and battery,

17 ~~h.~~ i. assault and battery with a dangerous weapon, or

18 ~~i.~~ j. arson in the first degree.

19 2. If less than ~~seven (7)~~ five (5) years have elapsed since the  
20 completion of sentence, and the results of a criminal history check  
21 reveal that the subject person has been convicted of, or pled guilty  
22 or no contest to, a felony or misdemeanor offense for any of the  
23 following offenses, in any state or federal jurisdiction, the  
24 employer shall not hire or contract with the person:



- 1 a. assault,
- 2 b. battery,
- 3 c. indecent exposure and indecent exhibition, except
- 4 where such offense disqualifies the applicant as a
- 5 registered sex offender,
- 6 d. pandering,
- 7 e. burglary in the first or second degree,
- 8 f. robbery in the first or second degree,
- 9 g. robbery or attempted robbery with a dangerous weapon,
- 10 or imitation firearm,
- 11 h. arson in the second degree,
- 12 i. unlawful manufacture, distribution, prescription, or
- 13 dispensing of a Schedule I through V drug as defined
- 14 by the Uniform Controlled Dangerous Substances Act,
- 15 j. grand larceny, or
- 16 k. petit larceny or shoplifting.

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

22 E. All employment eligibility determination records received by  
23 the employer pursuant to this section are confidential and are for  
24 the exclusive use of the State Department of Health and the employer

1 | which requested the information. Except on court order or with the  
2 | written consent of the person being investigated, the records shall  
3 | not be released or otherwise disclosed to any other person or  
4 | agency. These records shall be destroyed after one (1) year from  
5 | the end of employment of the person to whom such records relate.

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

13 | G. A nurse aide who has undergone a criminal history background  
14 | check and been deemed eligible for employment by the Department and  
15 | who is currently employed or contracted by a facility and works not  
16 | less than one hundred sixty (160) hours per month for the facility  
17 | may be employed or contracted by one or more secondary facilities  
18 | without an additional criminal history background check if:

19 | 1. The criminal history record check is dated not more than one  
20 | (1) year from the date the nurse aide begins employment or contract  
21 | at each applicable secondary facility;

22 | 2. Each secondary facility has common ownership with the  
23 | primary facility;  
24 |

1       3. The nurse aide works a total of not more than eighty (80)  
2 hours per month in all secondary facilities combined; and

3       4. The determination of eligibility from the Department is on  
4 file at each secondary facility.

5       The hours worked by a nurse aide at a secondary facility shall  
6 be available upon by request by the Department for review or audit.

7       SECTION 2.        AMENDATORY        63 O.S. 2021, Section 1-1950.3, is  
8 amended to read as follows:

9       Section 1-1950.3. A. 1. A Except as provided by paragraph 2  
10 or 3 of this subsection, a nursing facility, specialized facility,  
11 continuum of care facility, assisted living center, adult day care  
12 or residential home, or facility operated by the Oklahoma Department  
13 of Veterans Affairs, shall not employ as a nurse aide, on a full-  
14 time, temporary, per diem, or any other basis, any individual who is  
15 not certified as a nurse aide in good standing and is not eligible  
16 for placement on the nurse aide registry maintained by the State  
17 Department of Health.

18       2. The Department may grant a temporary emergency waiver to the  
19 provisions of ~~this~~ paragraph 1 of this subsection to any nursing  
20 facility, continuum of care facility, assisted living center ~~or,~~  
21 adult day care, or residential home which can demonstrate that such  
22 facility, home or institution has been unable to successfully meet  
23 its staffing requirements related to the provisions of ~~this~~  
24 paragraph 1 of this subsection.

1       3. Until November 1, 2025, to the extent allowed under federal  
2 regulations, a nursing facility, continuum of care facility,  
3 assisted living center, adult day care, or residential home that  
4 utilizes an employer-based training and competency evaluation  
5 program approved by the State Department of Health may employ nurse  
6 aides who are not yet certified if the nurse aides are enrolled in  
7 the facility's training and competency evaluation program.

8       B. ~~Such~~ The temporary emergency waiver described in paragraph 2  
9 of subsection A of this section or an employer-based training and  
10 competency evaluation program described in paragraph 3 of subsection  
11 A of this section shall require the following:

12       1. ~~An~~ The individual who is employed as a nurse aide who is  
13 must be enrolled in a Department-approved educational-based or  
14 employer-based training and competency evaluation program for nurse  
15 aides and shall successfully complete such training and competency  
16 evaluations within four (4) months of entering the training program,  
17 after which time no employer may use as a nurse aide an individual  
18 who has not completed the training and competency evaluation  
19 program. The Department may grant a trainee a one-time extension of  
20 the four-month training requirement if:

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

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

1           c.    the extension meets such conditions as may be required  
2                   by rules promulgated by the Commissioner;

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

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

- 11           a.    complete the ~~required training and competency program~~  
12                   ~~as provided in rules~~ specified by 42 CFR 483.152(b)(1)  
13                   prior to any direct contact with a resident or client,  
14           ~~b.~~   not perform any service for which the trainee has not  
15                   trained and been determined proficient by the  
16                   instructor, and  
17           ~~e.~~ b. be supervised at all times by no less than a licensed  
18                   practical nurse; and.

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

22           ~~C. For purposes of this section, "four (4) months" means the~~  
23 ~~equivalent of four (4) months of full-time employment as a nurse~~  
24 ~~aide by any employer in any nursing facility, specialized facility,~~

1 ~~continuum of care facility, assisted living center, adult day care~~  
2 ~~or residential care home.~~

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

- 5 ~~a. such requirement causes an undue hardship for the~~  
6 ~~trainee due to unusual circumstances or illness, and~~  
7 ~~b. the trainee has demonstrated a good faith effort to~~  
8 ~~complete the training and competency evaluation~~  
9 ~~program.~~

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

12 (1) If the facility is subject to federal regulations  
13 governing supervision of nurse aides, the  
14 facility shall comply with the federal  
15 regulations.

16 (2) If the facility is not subject to federal  
17 regulations governing supervision of nurse aides,  
18 the facility shall ensure that the trainee is  
19 assigned a certified nurse aide as a mentor. A  
20 licensed practical nurse or greater shall oversee  
21 the training program, shall conduct all  
22 evaluations of the trainee, and shall provide  
23 initial direction and periodic inspection of the  
24 trainee's and mentoring certified nurse aide's

1           work. The plan of care shall not be altered by  
2           the trainee or mentoring certified nurse aide  
3           without prior consultation with and approval of  
4           the supervising licensed practical nurse or  
5           greater. The supervising licensed practical  
6           nurse or greater need not always be physically  
7           present or on the premises when the trainee is  
8           providing care for which the trainee has been  
9           found competent; however, except in cases of  
10           emergency, the licensed practical nurse or  
11           greater shall be available for consultation with  
12           and direction of the trainee and mentoring  
13           certified nurse aide.

14        E. C. 1. Certified nurse aides may begin an education-based or  
15 employer-based training and competency evaluation and examination  
16 program to become a certified medication aide immediately after  
17 receiving certification as a nurse aide and being listed on the  
18 nurse aide registry.

19        2. Certified medication aides, upon successful completion of  
20 competency standards or prescribed training courses, shall be  
21 eligible to distribute medications or treatments provided by  
22 paragraph 2 3 of this subsection within a:

- 23           a. correctional facility, as set forth in Section 623 of  
24           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,
- i. residential care home, or
- j. facilities operated by the Oklahoma Department of Veterans Affairs.

~~2.~~ 3. 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~~



- 1 d. administer oral metered dose inhalers and nebulizers~~†~~,  
2 and  
3 e. administer oxygen as prescribed by a physician or  
4 other licensed practitioner with the authority to  
5 prescribe oxygen.

6 ~~3.~~ 4. The ~~State Board of Health~~ Commissioner shall establish  
7 rules necessary to ensure the safety of medication administration by  
8 certified medication aides~~†~~ including but not limited to:

- 9 a. competency and practice standards for medication  
10 aides,  
11 b. maintaining a list of skills and functions that  
12 medication aides will be able to perform upon  
13 completion of certification course work,  
14 c. certification and recertification requirements for  
15 medication aides,  
16 d. development of criteria and procedures for approval or  
17 disapproval of training and competency evaluation  
18 programs, and  
19 e. procedures for denying, suspending, withdrawing, or  
20 refusing to renew certification for a medication  
21 aide~~†~~.

22 ~~4.~~ 5. Each facility shall develop policies and procedures that  
23 comply with the provisions of this subsection and rules promulgated  
24 by the ~~State Board of Health~~ Commissioner. This policy shall be

1 reviewed and approved by the facility Medical Director, Director of  
2 Nurses and/or Registered Nurse Consultant.

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

9 E. Not later than November 1, 2025, the State Commissioner of  
10 Health shall promulgate rules governing employer-based training  
11 programs including but not limited to rules that allow the  
12 employment of noncertified nurse aides enrolled in an employer-based  
13 training program, subject to the conditions allowed in such rules.

14 SECTION 3. AMENDATORY 63 O.S. 2021, Section 1-1951, is  
15 amended to read as follows:

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

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

20 2. a. Approve training and competency programs including,  
21 but not limited to, education-based programs and  
22 employer-based programs, including those programs  
23 established pursuant to Section 223.1 of Title 72 of  
24 the Oklahoma Statutes. The period of approval shall

1 be for the maximum duration allowed under federal  
2 regulation.

3 b. The Department may withdraw approval of the program if  
4 the program or in the case of an employer-based  
5 program, the program or facility, is in violation of  
6 rules promulgated by the State Commissioner of Health  
7 that govern the program.

8 c. Until November 1, 2025, the Department shall  
9 immediately withdraw approval of an employer-based  
10 program if:

11 (1) the facility's temporary emergency waiver under  
12 paragraph 2 of subsection A of Section 1-1950.3  
13 of this title is withdrawn due to one or more  
14 deficiencies cited during an investigation or  
15 inspection; however, the Department shall not  
16 withdraw approval of the employer-based program  
17 if the facility's temporary emergency waiver is  
18 withdrawn solely due to having a sufficiency of  
19 staffing that makes the facility ineligible for a  
20 temporary emergency waiver, or

21 (2) the facility is cited for one or more  
22 deficiencies of causing immediate jeopardy to  
23 resident health or safety.

1           d.    Until November 1, 2025, the Department shall not  
2           withdraw approval of an employer-based program solely  
3           on the basis of the amount of monetary penalties the  
4           facility has accrued unless the facility is assessed  
5           the maximum civil monetary penalty stipulated under  
6           federal regulation, in which case the Department shall  
7           immediately withdraw approval of the employer-based  
8           training program.

9           e.    Until November 1, 2025, if an employer-based program  
10           is withdrawn for any reason, the facility may reapply  
11           for approval of an employer-based program after  
12           completion of a plan of correction and certification  
13           by the Department that the facility is in compliance  
14           with all applicable laws and rules and the approval  
15           may be reinstated as provided by rules promulgated by  
16           the Commissioner;

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

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

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

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

6 7. Suspend or revoke any certification issued to any nurse  
7 aide, if:

8 a. the nurse aide is found to meet any of the  
9 requirements contained in subsection D of Section 1-  
10 1947 of this title,

11 b. the nurse aide is found to meet any of the  
12 requirements contained in subsection C of Section 1-  
13 1950.1 of this title, or

14 c. the nurse aide is found to have committed abuse,  
15 neglect or exploitation of a resident or  
16 misappropriation of resident or client property  
17 pursuant to the requirements contained in paragraph 7  
18 of subsection ~~D~~ E of this section. The action to  
19 revoke or suspend may be included with the filing of  
20 any action pursuant to the requirements of paragraph 7  
21 of subsection ~~D~~ E of this section; and

22 8. Administer competency examinations to nurse aides who have  
23 completed a Department-approved employer-based training program.

24 Until November 1, 2025, the Department shall offer both an online

1 competency examination and an in-person competency examination. The  
2 Department may contract with one or more vendors to administer  
3 either type or both types of competency examination. An individual  
4 who has received a passing score on the competency examination and  
5 has met all other requirements for certification as a nurse aide  
6 including but not limited to training requirements shall be granted  
7 certification and shall be placed on the nurse aide registry. The  
8 provisions of this paragraph shall not be construed to exempt a  
9 nurse aide from in-person evaluation by a licensed practical nurse  
10 before the nurse aide is eligible to take a competency examination.  
11 The Department shall provide a form appropriate for the care  
12 provided in each different type of licensed care facility for in-  
13 person skills competency evaluation by no less than a licensed  
14 practical nurse overseeing the training program.

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

18 1. Each person certified as a nurse aide pursuant to the  
19 provisions of this section shall be required to pay certification  
20 and recertification fees in amounts to be determined by the ~~State~~  
21 ~~Board of Health~~ Commissioner, not to exceed Fifteen Dollars  
22 (\$15.00).

23 2. In addition to the certification and recertification fees,  
24 the ~~State Board of Health~~ Commissioner may impose fees for training

1 or education programs conducted or approved by the Department,  
2 except for those programs operated by the Oklahoma Department of  
3 Veterans Affairs.

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

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

14 D. A person qualified by the Department as a certified nurse  
15 aide shall be deemed to have met the requirements to work as a home  
16 health aide pursuant to the provisions of the Home Care Act and  
17 shall require no further licensure for performing services within  
18 the scope of practice of home health aides.

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

22 a. is sufficiently accessible to promptly meet the needs  
23 of the public and employers, and  
24

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

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

- 7           a. successfully completed a certified nurse aide training  
8           and competency examination,  
9           b. met all the requirements for certification, or  
10          c. received a waiver from the Board.

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

- 14          a. the full name of the individual,  
15          b. information necessary to identify each individual.

16 Certified nurse aides and nurse aide trainees shall  
17 maintain with the registry current residential  
18 addresses and shall notify the registry, in writing,  
19 of any change of name. Notification of change of name  
20 shall require certified copies of any marriage license  
21 or other court document which reflects the change of  
22 name. Notice of change of address or telephone number  
23 shall be made within ten (10) days of the effected  
24 change. Notice shall not be accepted over the phone,



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

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

- 18 a. it has been determined by an administrative law judge,  
19 a district court or an appeal court that the finding  
20 was in error, or
- 21 b. the ~~Board~~ Commissioner is notified of the death of the  
22 certified nurse aide or nurse aide trainee.

23 5. Upon receipt of an allegation of abuse, exploitation or  
24 neglect of a resident or client, or an allegation of

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

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

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

1 that requires certification of nurse aides, and notice of any  
2 further appeal rights shall also be sent to the nurse aide.

3 8. In any proceeding in which the Department is required to  
4 serve notice or an order on an individual, the Department may send  
5 written correspondence to the address on file with the registry. If  
6 the correspondence is returned and a notation of the United States  
7 Postal Service indicates "unclaimed" or "moved" or "refused" or any  
8 other nondelivery markings and the records of the registry indicate  
9 that no change of address as required by this subsection has been  
10 received by the registry, the notice and any subsequent notices or  
11 orders shall be deemed by the court as having been legally served  
12 for all purposes.

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

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

1 11. Upon a written request by a certified nurse aide or nurse  
2 aide trainee, the ~~Board~~ Commissioner shall provide within twenty  
3 (20) working days all information on the record of the certified  
4 nurse aide or nurse aide trainee when a finding of abuse,  
5 exploitation or neglect is confirmed and placed in the registry.

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

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

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

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

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

6        H. 1. Until November 1, 2025, an employer-based training  
7 program for long term care aides shall consist of at least eighty-  
8 five (85) hours of training or the equivalent if the facility is  
9 subject to regulation by the Centers for Medicare and Medicaid  
10 Services. Of the total required hours of training or the equivalent  
11 as specified in this paragraph, the program shall include:

12            a. at least sixteen (16) hours of supervised practical  
13            training that is documented and signed by the nurse  
14            aide trainee,

15            b. all of the curriculum specified in 42 CFR 483.152(b),  
16            and

17            c. pursuant to paragraph 3 of subsection A of this  
18            section, a minimum of ten (10) hours of training in  
19            the care of Alzheimer's patients.

20        2. Until November 1, 2025, an employer-based training program  
21 for long term care aides shall consist of at least one hundred  
22 twenty (120) hours of training or the equivalent if the facility is  
23 not subject to regulation by the Centers for Medicare and Medicaid  
24

1 Services. Of the total required hours of training or the equivalent  
2 as specified in this paragraph, the program shall include:

3 a. at least sixteen (16) hours of supervised practical  
4 training that is documented and signed by the nurse  
5 aide trainee,

6 b. all of the curriculum specified in 42 CFR 483.152(b),

7 c. pursuant to paragraph 3 of subsection A of this  
8 section, a minimum of ten (10) hours of training in  
9 the care of Alzheimer's patients,

10 d. completion of a restorative nurse aide training  
11 program, and

12 e. the following subjects:

13 (1) ethics and ethical conduct,

14 (2) social media behavior and privacy,

15 (3) organizational structure of various care provider  
16 settings,

17 (4) trauma informed care,

18 (5) basic legal statuses of residents or patients  
19 including but not limited to guardianship, power  
20 of attorney, advance directive, and living will,

21 (6) understanding basic cultural competency and  
22 religious preferences,

23 (7) resident sexuality in care settings,

24

- 1           (8) understanding state rules and regulations for  
2           reportable incidents to the Department and the  
3           nurse aide registry,  
4           (9) personal liability,  
5           (10) possible career progression, and  
6           (11) professional soft skills including time  
7           management, problem solving, teamwork, stress  
8           management, decision making, critical thinking,  
9           conflict management, receiving criticism,  
10           adaptability, and professionalism.

11        I. 1. The recertification requirements of the Department shall  
12 allow nurse aides to renew certification if the nurse aide works or  
13 volunteers the equivalent of a single eight-hour shift.

14        2. For a nurse aide who volunteers, the nurse aide must have  
15 undergone a criminal history background check as provided by Section  
16 1-1947 of this title prior to volunteering and shall only be  
17 eligible for recertification if the nurse aide would not be  
18 disqualified for employment or contract based on the criteria of  
19 subsection C of Section 1-1950.1 of this title. The facility may  
20 require a nurse aide who volunteers to pay the cost of his or her  
21 own criminal history background check.

22        3. The provisions of this subsection shall only apply to  
23 recertification procedures and shall not apply to initial  
24

1 certification or employment by or contracting with a facility by a  
2 nurse aide.

3 J. Not later than November 1, 2025, the State Commissioner of  
4 Health shall promulgate rules governing employer-based training  
5 programs including but not limited to rules governing approval and  
6 withdrawal of employer-based training programs, administration of  
7 competency examinations to nurse aides who have completed a  
8 Department-approved employer-based training program, and employer-  
9 based training program requirements including but not limited to  
10 curriculum.

11 SECTION 4. This act shall become effective July 1, 2023.

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