

1 ENGROSSED SENATE
2 BILL NO. 1518

By: Garvin of the Senate

and

McEntire of the House

3
4
5
6 [long-term care - temporary emergency waiver -
7 educational-based or employer-based training and
8 competency evaluation program - period of approval
9 for training and competency programs -
10 recertification procedure - effective date]

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

12 SECTION 1. AMENDATORY 63 O.S. 2021, Section 1-1950.3, is
13 amended to read as follows:

14 Section 1-1950.3. A. ~~1.~~ A Except in the case of a nurse aide
15 participating in an educational-based or employer-based training and
16 competency evaluation program approved by the State Department of
17 Health, a nursing facility, specialized facility, continuum of care
18 facility, assisted living center, adult day care or residential
19 home, or facility operated by the Oklahoma Department of Veterans
20 Affairs, shall not employ as a nurse aide, on a full-time,
21 temporary, per diem, or any other basis, any individual who is not
22 certified as a nurse aide in good standing and is not eligible for
23 placement on the nurse aide registry maintained by the ~~State~~
24 Department of Health Department.

1 ~~2. The Department may grant a temporary emergency waiver to the~~
2 ~~provisions of this paragraph to any nursing facility, continuum of~~
3 ~~care facility, assisted living center or adult day care or~~
4 ~~residential home which can demonstrate that such facility, home or~~
5 ~~institution has been unable to successfully meet its staffing~~
6 ~~requirements related to the provisions of this paragraph.~~

7 B. ~~Such waiver~~ An educational-based or employer-based training
8 and competency evaluation program shall require the following:

9 1. ~~An~~ The individual who is employed as a nurse aide ~~who is~~ and
10 enrolled in a Department-approved the training and competency
11 evaluation program for nurse aides shall successfully complete such
12 training and competency evaluations within four (4) months of
13 entering the training program, after which time no employer may use
14 as a nurse aide an individual who has not completed the training and
15 competency evaluation program. For the purposes of this paragraph,
16 "four (4) months" means the equivalent of four (4) months of full-
17 time employment as a nurse aide by any employer in any facility
18 listed in subsection A of this section. The Department may grant a
19 trainee a one-time extension of the four-month training requirement
20 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;

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

11 a. ~~complete the required training and competency program~~
12 ~~as provided in rules prior to any direct contact with~~
13 ~~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 ~~c.~~

18 b. be supervised at all times ~~by no less than a licensed~~
19 ~~practical nurse; and~~

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

23 ~~C. For purposes of this section, "four (4) months" means the~~
24 ~~equivalent of four (4) months of full-time employment as a nurse~~

1 ~~aide by any employer in any nursing facility, specialized facility,~~
2 ~~continuum of care facility, assisted living center, adult day care~~
3 ~~or residential care home.~~

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

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

11 ~~2. The State Board of Health shall promulgate rules related to~~
12 ~~the review of and the process and conditions for such an extension~~
13 ~~by either:~~

14 ~~(1) direct supervision by no less than a licensed~~
15 ~~practical nurse, or~~

16 ~~(2) direct supervision by no less than a certified~~
17 ~~nurse aide and general supervision by no less~~
18 ~~than a licensed practical nurse who also~~
19 ~~supervises the supervising certified nurse aide.~~

20 ~~As used in this division, "general supervision"~~
21 ~~means responsible supervision and control, with~~
22 ~~the licensed practical nurse or greater providing~~
23 ~~both initial direction and periodic inspection of~~
24 ~~the trainee's work. Such plan of care shall not~~

1 be altered by the trainee without prior
2 consultation with and approval of the supervising
3 licensed practical nurse or greater. The
4 supervising licensed practical nurse or greater
5 need not always be physically present or on the
6 premises when the trainee is providing care;
7 however, except in cases of emergency,
8 supervision shall require the availability of the
9 supervising licensed practical nurse or greater
10 for consultation with and direction of the
11 supervised individual.

12 As used in this subparagraph, "direct supervision"
13 means personal supervision and specific delineation of
14 tasks by the direct supervisor and shall include the
15 responsibility for personally reviewing the work by
16 the trainee. It is the responsibility of the direct
17 supervisor to be on site during direct contact between
18 the trainee and residents.

19 ~~E.~~ C. 1. Certified medication aides, upon successful
20 completion of competency standards or prescribed training courses,
21 shall be eligible to distribute medications or treatments provided
22 by paragraph 2 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. 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
- d. administer oral metered dose inhalers and nebulizers.

1 3. ~~The State Board of Health~~ Commissioner shall establish rules
2 necessary to ensure the safety of medication administration by
3 certified medication aides, including but not limited to:

4 a. competency and practice standards for medication
5 aides,

6 b. maintaining a list of skills and functions that
7 medication aides will be able to perform upon
8 completion of certification course work,

9 c. certification and recertification requirements for
10 medication aides,

11 d. development of criteria and procedures for approval or
12 disapproval of training and competency evaluation
13 programs, and

14 e. procedures for denying, suspending, withdrawing, or
15 refusing to renew certification for a medication
16 aide~~+~~.

17 4. Each facility shall develop policies and procedures that
18 comply with the provisions of this subsection and rules promulgated
19 by the ~~State Board of Health~~ Commissioner. This policy shall be
20 reviewed and approved by the facility Medical Director, Director of
21 Nurses and/or Registered Nurse Consultant.

22 ~~F.~~ D. Any person convicted of violating any of the provisions
23 of this section or Section 1-1950.1 of this title shall be guilty of
24 a misdemeanor, punishable by a fine of not less than One Hundred

1 Dollars (\$100.00) nor more than Three Hundred Dollars (\$300.00),
2 imprisonment in the county jail for not more than thirty (30) days,
3 or by both such fine and imprisonment.

4 SECTION 2. AMENDATORY 63 O.S. 2021, Section 1-1951, is
5 amended to read as follows:

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

8 1. Issue certificates of training and competency for nurse
9 aides;

10 2. Approve training and competency programs including, but not
11 limited to, education-based programs and employer-based programs,
12 including those programs established pursuant to Section 223.1 of
13 Title 72 of the Oklahoma Statutes. The period of approval shall be
14 for the maximum duration allowed under federal regulation. The
15 Department may suspend or revoke approval of the program if the
16 program, or in the case of an employer-based program the program or
17 facility, is in violation of rules of the Commissioner. However,
18 the Department shall not suspend or revoke approval of an employer-
19 based program solely on the basis of the amount of administrative
20 money penalties the facility has accrued;

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

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

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

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

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

10 a. the nurse aide is found to meet any of the
11 requirements contained in subsection D of Section 1-
12 1947 of this title,

13 b. the nurse aide is found to meet any of the
14 requirements contained in subsection C of Section 1-
15 1950.1 of this title, or

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

24

1 B. The State ~~Board~~ Commissioner of Health shall promulgate
2 rules to implement the provisions of this section and shall have
3 power to assess fees.

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

9 2. In addition to the certification and recertification fees,
10 the ~~State Board of Health~~ Commissioner may impose fees for training
11 or education programs conducted or approved by the Department,
12 except for those programs operated by the Oklahoma Department of
13 Veterans Affairs.

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

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

24

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

6 E. 1. The State Department of Health shall establish and
7 maintain a certified nurse aide, nurse aide trainee and feeding
8 assistant registry that:

9 a. is sufficiently accessible to promptly meet the needs
10 of the public and employers, and

11 b. provides a process for notification and investigation
12 of alleged abuse, exploitation or neglect of residents
13 of a facility or home, clients of an agency or center,
14 or of misappropriation of resident or client property.

15 2. The registry shall contain information as to whether a nurse
16 aide has:

17 a. successfully completed a certified nurse aide training
18 and competency examination, or

19 b. met all the requirements for certification, ~~or~~

20 ~~c. received a waiver from the Board.~~

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

24 a. the full name of the individual,

1 b. information necessary to identify each individual.

2 Certified nurse aides and nurse aide trainees shall
3 maintain with the registry current residential
4 addresses and shall notify the registry, in writing,
5 of any change of name. Notification of change of name
6 shall require certified copies of any marriage license
7 or other court document which reflects the change of
8 name. Notice of change of address or telephone number
9 shall be made within ten (10) days of the effected
10 change. Notice shall not be accepted over the phone,

11 c. the date the individual became eligible for placement
12 in the registry, and

13 d. information on any finding of the Department of abuse,
14 neglect or exploitation by the certified nurse aide or
15 nurse aide trainee, including:

16 (1) documentation of the Department's investigation,
17 including the nature of the allegation and the
18 evidence that led the Department to confirm the
19 allegation,

20 (2) the date of the hearing, if requested by the
21 certified nurse aide or nurse aide trainee, and

22 (3) statement by the individual disputing the finding
23 if the individual chooses to make one.

24

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

5 a. it has been determined by an administrative law judge,
6 a district court or an appeal court that the finding
7 was in error, or

8 b. the ~~Board~~ Commissioner is notified of the death of the
9 certified nurse aide or nurse aide trainee.

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

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

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

14 8. In any proceeding in which the Department is required to
15 serve notice or an order on an individual, the Department may send
16 written correspondence to the address on file with the registry. If
17 the correspondence is returned and a notation of the United States
18 Postal Service indicates "unclaimed" or "moved" or "refused" or any
19 other nondelivery markings and the records of the registry indicate
20 that no change of address as required by this subsection has been
21 received by the registry, the notice and any subsequent notices or
22 orders shall be deemed by the court as having been legally served
23 for all purposes.

24

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

6 10. If the state finds that any other individual employed by
7 the facility has neglected, abused, misappropriated property or
8 exploited in a facility, the Department shall notify the appropriate
9 licensing authority and the district attorney for the county where
10 the abuse, neglect or exploitation, or misappropriation of resident
11 or client property occurred.

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

17 12. Upon request and except for the names of residents and
18 clients, the Department shall disclose all of the information
19 relating to the confirmed determination of abuse, exploitation and
20 neglect by the certified nurse aide or nurse aide trainee to the
21 person requesting such information, and may disclose additional
22 information the Department determines necessary.

23 13. A person who has acted in good faith to comply with state
24 reporting requirements and this section of law shall be immune from

1 liability for reporting allegations of abuse, neglect or
2 exploitation.

3 F. Each nurse aide trainee shall wear a badge which clearly
4 identifies the person as a nurse aide trainee. Such badge shall be
5 furnished by the facility employing the trainee. The badge shall be
6 nontransferable and shall include the first and last name of the
7 trainee.

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

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

17 H. 1. The training program for long term care aides shall
18 include:

19 a. at least seventy-five (75) hours of training or the
20 equivalent,

21 b. at least sixteen (16) hours of training, which may
22 include direct contact with residents, in the
23 following areas that is documented and signed by the
24 nurse aide trainee:

- (1) communication and interpersonal skills,
 - (2) infection control,
 - (3) safety and emergency procedures including the Heimlich maneuver,
 - (4) promoting a resident's independence, and
 - (5) respecting a resident's rights, and
- c. at least sixteen (16) hours of supervised practical training that is documented and signed by the nurse aide trainee.

2. The long term care aide training program shall include:

- a. the subjects specified in paragraphs (b) (2) through (7) of 42 CFR 483.152(b),
- b. pursuant to paragraph 3 of subsection A of this section, a minimum of ten (10) hours of training in the care of Alzheimer's patients,
- c. completion of a restorative nurse aide training program, and
- d. the following subjects:
 - (1) ethics and ethical conduct,
 - (2) social media behavior and privacy,
 - (3) organizational structure of various care provider settings,
 - (4) trauma informed care,

- (5) basic legal statuses of residents or patients including but not limited to guardianship, power of attorney, advance directive, and living will,
- (6) understanding basic cultural competency and religious preferences,
- (7) resident sexuality in care settings,
- (8) understanding state rules and regulations for reportable incidents to the Department and the nurse aide registry,
- (9) personal liability,
- (10) possible career progression, and
- (11) professional soft skills including time management, problem solving, teamwork, stress management, decision making, critical thinking, conflict management, receiving criticism, adaptability, and professionalism.

3. Training programs may offer up to two (2) hours of observation at a facility which may count toward course completion of the total seventy-five (75) hours required by this subsection, if:

- a. the facility has an established policy and procedure for a localized criminal history background check that searches for convictions of, or pleadings of guilty or no contest to, a felony or misdemeanor offense for the

1 offenses listed in subsection C of Section 1-1950.1 of
2 this title, and

3 b. the trainee would not be disqualified for employment
4 or contract based on the criteria of subsection C of
5 Section 1950.1 of this title.

6 4. The recertification requirements of the Department shall
7 allow nurse aides to renew certification through a facility if:

8 a. the nurse aide works or volunteers the equivalent of a
9 single eight-hour shift,

10 b. if the facility has an established policy and
11 procedure for a localized criminal history background
12 check that searches for convictions of, or pleadings
13 of guilty or no contest to, a felony or misdemeanor
14 offense for the offenses listed in subsection C of
15 Section 1-1950.1 of this title, and

16 c. the nurse aide would not be disqualified for
17 employment or contract based on the criteria of
18 subsection C of Section 1-1950.1 of this title.

19 The provisions of this paragraph shall only apply to
20 recertification procedures, and shall not apply to initial
21 certification or employment by or contracting with a facility by a
22 nurse aide.

23 SECTION 3. This act shall become effective November 1, 2022.

