

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 370

By: Garvin

AS INTRODUCED

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permitting, and prohibiting withdrawal of training program under specified conditions; providing for reapplication of withdrawn program; directing State Department of Health to administer competency examinations to certain nurse aides; authorizing certain contracts; directing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 procedures; clarifying applicability of certain provisions; directing promulgation of certain rules; updating statutory language; and providing an effective date.

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

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

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

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

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

- a. a nursing facility or specialized facility as such terms are defined in the Nursing Home Care Act,
- b. a residential care home as such term is defined by the Residential Care Act,
- c. an adult day care center as such term is defined in the Adult Day Care Act,

- 1 d. an assisted living center as such term is defined by
2 the Continuum of Care and Assisted Living Act,
3 e. a continuum of care facility as such term is defined
4 by the Continuum of Care and Assisted Living Act,
5 f. a home health or home care agency,
6 g. the Department of Human Services, in its capacity as
7 an operator of any hospital or health care institution
8 or as a contractor with providers under the Medicaid
9 State Plan Personal Care Program,
10 h. any facility operated by the Oklahoma Department of
11 Veterans Affairs, and
12 i. any facility approved and annually reviewed by the
13 United States Department of Veterans Affairs as a
14 medical foster home in which care is provided
15 exclusively to three or fewer veterans;

16 3. "Home health or home care agency" means any person,
17 partnership, association, corporation or other organization which
18 administers, offers or provides health care services or supportive
19 assistance for compensation to three or more ill, disabled, or
20 infirm persons in the temporary or permanent residence of such
21 persons, and includes any subunits or branch offices of a parent
22 home health or home care agency;

23 4. "Bureau" means the Oklahoma State Bureau of Investigation;
24 and

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

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

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

21 1. The employer shall request the Bureau to conduct a criminal
22 history background check on the nurse aide and shall provide to the
23 Bureau any relevant information required by the Bureau to conduct
24 the check. The employer shall pay a fee of Fifteen Dollars (\$15.00)

1 to the Bureau for each criminal history background check that is
2 conducted pursuant to such a request;

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

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

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

21 C. 1. If the results of a criminal history background check
22 reveal that the subject person has been convicted of, pled guilty or
23 no contest to, or received a deferred sentence for, a felony or
24 misdemeanor offense for any of the following offenses in any state

1 or federal jurisdiction, the employer shall not hire or contract
2 with the person:

- 3 a. abuse, neglect, or financial exploitation of any
4 person entrusted to the care or possession of such
5 person,
- 6 b. rape, incest, or sodomy, or any crime that resulted in
7 the person being registered on a sex offender registry
8 at any time,
- 9 c. child abuse,
- 10 d. murder or attempted murder,
- 11 e. manslaughter,
- 12 f. kidnapping,
- 13 g. human trafficking,
- 14 h. aggravated assault and battery,
- 15 ~~h.~~ i. assault and battery with a dangerous weapon, or
- 16 ~~i.~~ j. arson in the first degree.

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

- 23 a. assault,
- 24 b. battery,

- c. indecent exposure and indecent exhibition, except where such offense disqualifies the applicant as a registered sex offender,
- d. pandering,
- e. burglary in the first or second degree,
- f. robbery in the first or second degree,
- g. robbery or attempted robbery with a dangerous weapon, or imitation firearm,
- h. arson in the second degree,
- i. unlawful manufacture, distribution, prescription, or dispensing of a Schedule I through V drug as defined by the Uniform Controlled Dangerous Substances Act,
- j. grand larceny, or
- k. petit larceny or shoplifting.

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

E. All employment eligibility determination records received by the employer pursuant to this section are confidential and are for the exclusive use of the State Department of Health and the employer which requested the information. Except on court order or with the written consent of the person being investigated, the records shall

1 not be released or otherwise disclosed to any other person or
2 agency. These records shall be destroyed after one (1) year from
3 the end of employment of the person to whom such records relate.

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

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

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

20 2. Each secondary facility has common ownership with the
21 primary facility;

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

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

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

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

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

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

23 3. Until November 1, 2026, to the extent allowed under federal
24 regulations, a nursing facility, continuum of care facility,

1 assisted living center, adult day care, or residential home that
2 utilizes an employer-based training and competency evaluation
3 program approved by the State Department of Health may employ nurse
4 aides who are not yet certified if the nurse aides are enrolled in
5 the facility's training and competency evaluation program.

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

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

- 19 a. such requirement causes an undue hardship for the
20 trainee due to unusual circumstances or illness,
21 b. the trainee has demonstrated a good faith effort to
22 complete the training and competency evaluation
23 program, and

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

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

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

12 a. complete the ~~required training and competency program~~
13 ~~as provided in rules~~ specified by 42 CFR 483.152(b)(1)
14 prior to any direct contact with a resident or client,

15 b. not perform any service for which the trainee has not
16 trained and been determined proficient by the
17 instructor, and

18 c. 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 (1) if the facility is subject to federal regulations
14 governing supervision of nurse aides, the
15 facility shall comply with the federal
16 regulations, or

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

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

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

20 2. Certified medication aides, upon successful completion of
21 competency standards or prescribed training courses, shall be
22 eligible to distribute medications or treatments provided by
23 paragraph ~~2~~ 3 of this subsection within a:
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- 1 a. correctional facility, as set forth in Section 623 of
- 2 Title 57 of the Oklahoma Statutes,
- 3 b. correctional facility operated by a contractor of the
- 4 Department of Corrections,
- 5 c. county or municipal jail,
- 6 d. nursing facility,
- 7 e. specialized facility,
- 8 f. continuum of care facility,
- 9 g. assisted living center,
- 10 h. adult day care,
- 11 i. residential care home, or
- 12 j. facilities operated by the Oklahoma Department of
- 13 Veterans Affairs.

14 ~~2.~~ 3. Certified medication aides may:

- 15 a. perform fingerstick blood sugars,
- 16 b. administer diabetic medications, including
- 17 subcutaneous injections of insulin, provided that the
- 18 certified medication aide has completed a Department-
- 19 approved advanced training program on diabetes and the
- 20 administration of diabetes medications, including
- 21 injections,
- 22 c. administer medications, first aid treatments and
- 23 nutrition; by oral, rectal, vaginal, otic, ophthalmic,
- 24

- 1 nasal, skin, topical, transdermal, and
2 nasogastric/gastrostomy tubes routes, and
3 d. administer oral metered dose inhalers and nebulizers~~†~~,
4 and
5 e. administer oxygen as prescribed by a physician or
6 other licensed practitioner with the authority to
7 prescribe oxygen.

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

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

1 4. 5. Each facility shall develop policies and procedures that
2 comply with the provisions of this subsection and rules promulgated
3 by the ~~State Board of Health~~ Commissioner. This policy shall be
4 reviewed and approved by the facility Medical Director, Director of
5 Nurses and/or Registered Nurse Consultant.

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

12 E. Not later than November 1, 2026, the State Commissioner of
13 Health shall promulgate rules governing employer-based training
14 programs including but not limited to rules that allow the
15 employment of noncertified nurse aides enrolled in an employer-based
16 training program, subject to the conditions allowed in such rules.

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

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

21 1. Issue certificates of training and competency for nurse
22 aides;

23 2. a. Approve training and competency programs including,
24 but not limited to, education-based programs and

1 employer-based programs, including those programs
2 established pursuant to Section 223.1 of Title 72 of
3 the Oklahoma Statutes. The period of approval shall
4 be for the maximum duration allowed under federal
5 regulation.

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

11 c. Until November 1, 2026, the Department shall
12 immediately withdraw approval of an employer-based
13 program if:

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

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

4 d. Until November 1, 2026, the Department shall not
5 withdraw approval of an employer-based program solely
6 on the basis of the amount of monetary penalties the
7 facility has accrued unless the facility is assessed
8 the maximum civil monetary penalty stipulated under
9 federal regulation, in which case the Department shall
10 immediately withdraw approval of the employer-based
11 training program.

12 e. Until November 1, 2026, if an employer-based program
13 is withdrawn for any reason, the facility may reapply
14 for approval of an employer-based program after
15 completion of a plan of correction and certification
16 by the Department that the facility is in compliance
17 with all applicable laws and rules and the approval
18 may be reinstated as provided by rules promulgated by
19 the Commissioner;

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

1 8. Administer competency examinations to nurse aides who have
2 completed a Department-approved employer-based training program.
3 Until November 1, 2026, the Department shall offer both an online
4 competency examination and an in-person competency examination. The
5 Department may contract with one or more vendors to administer
6 either type or both types of competency examination. An individual
7 who has received a passing score on the competency examination and
8 has met all other requirements for certification as a nurse aide
9 including but not limited to training requirements shall be granted
10 certification and shall be placed on the nurse aide registry. The
11 provisions of this paragraph shall not be construed to exempt a
12 nurse aide from in-person evaluation by a Licensed Practical Nurse
13 before the nurse aide is eligible to take a competency examination.
14 The Department shall provide a form appropriate for the care
15 provided in each different type of licensed care facility for in-
16 person skills competency evaluation by no less than a Licensed
17 Practical Nurse overseeing the training program.

18 B. The State ~~Board~~ Commissioner of Health shall promulgate
19 rules to implement the provisions of this section and shall have
20 power to assess fees.

21 1. Each person certified as a nurse aide pursuant to the
22 provisions of this section shall be required to pay certification
23 and recertification fees in amounts to be determined by the ~~State~~

1 ~~Board of Health~~ Commissioner, not to exceed Fifteen Dollars
2 (\$15.00).

3 2. In addition to the certification and recertification fees,
4 the ~~State Board of Health~~ Commissioner may impose fees for training
5 or education programs conducted or approved by the Department,
6 except for those programs operated by the Oklahoma Department of
7 Veterans Affairs.

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

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

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

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

4 a. is sufficiently accessible to promptly meet the needs
5 of the public and employers, and

6 b. provides a process for notification and investigation
7 of alleged abuse, exploitation or neglect of residents
8 of a facility or home, clients of an agency or center,
9 or of misappropriation of resident or client property.

10 2. The registry shall contain information as to whether a nurse
11 aide has:

12 a. successfully completed a certified nurse aide training
13 and competency examination,

14 b. met all the requirements for certification, or

15 c. received a waiver from the Board.

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

19 a. the full name of the individual,

20 b. information necessary to identify each individual.

21 Certified nurse aides and nurse aide trainees shall
22 maintain with the registry current residential
23 addresses and shall notify the registry, in writing,
24 of any change of name. Notification of change of name

1 shall require certified copies of any marriage license
2 or other court document which reflects the change of
3 name. Notice of change of address or telephone number
4 shall be made within ten (10) days of the effected
5 change. Notice shall not be accepted over the phone,

6 c. the date the individual became eligible for placement
7 in the registry, and

8 d. information on any finding of the Department of abuse,
9 neglect or exploitation by the certified nurse aide or
10 nurse aide trainee, including:

11 (1) documentation of the Department's investigation,
12 including the nature of the allegation and the
13 evidence that led the Department to confirm the
14 allegation,

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

17 (3) statement by the individual disputing the finding
18 if the individual chooses to make one.

19 4. The Department shall include the information specified in
20 subparagraph d of paragraph 3 of this subsection in the registry
21 within ten (10) working days of the substantiating finding and it
22 shall remain in the registry, unless:
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- 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~~ Commissioner is notified of the death of the
5 certified 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
24 occurred and the alleged perpetrator is the person who committed the
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1 prohibited act, notice of the findings shall be sent to the nurse
2 aide and to the district attorney for the county where the abuse,
3 neglect or exploitation, or misappropriation of resident or client
4 property occurred and to the Medicaid Fraud Control Unit of the
5 Attorney General's Office. Notice of ineligibility to work as a
6 nurse aide in a long-term care facility, a residential care
7 facility, assisted living facility, day care facility, or any entity
8 that requires certification of nurse aides, and notice of any
9 further appeal rights shall also be sent to the nurse aide.

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

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

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

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

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

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

22 F. Each nurse aide trainee shall wear a badge which clearly
23 identifies the person as a nurse aide trainee. Such badge shall be
24 furnished by the facility employing the trainee. The badge shall be

1 nontransferable and shall include the first and last name of the
2 trainee.

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

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

12 H. 1. Until November 1, 2026, an employer-based training
13 program for long term care aides shall consist of at least eighty-
14 five (85) hours of training or the equivalent if the facility is
15 subject to regulation by the Centers for Medicare and Medicaid
16 Services. Of the total required hours of training or the equivalent
17 as specified in this paragraph, the program shall include:

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

21 b. all of the curriculum specified in 42 CFR 483.152(b),
22 and

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

4 2. Until November 1, 2026, an employer-based training program
5 for long term care aides shall consist of at least one hundred
6 twenty (120) hours of training or the equivalent if the facility is
7 not subject to regulation by the Centers for Medicare and Medicaid
8 Services. Of the total required hours of training or the equivalent
9 as specified in this paragraph, the program shall include:

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

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

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

17 d. completion of a restorative nurse aide training
18 program, and

19 e. the following subjects:

20 (1) ethics and ethical conduct,

21 (2) social media behavior and privacy,

22 (3) organizational structure of various care provider
23 settings,

24 (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.

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

2. For a nurse aide who volunteers, the nurse aide must have undergone a criminal history background check as provided by Section 1-1947 of this title prior to volunteering and shall only be eligible for recertification if the nurse aide would not be disqualified for employment or contract based on the criteria of

1 subsection C of Section 1-1950.1 of this title. The facility may
2 require a nurse aide who volunteers to pay the cost of his or her
3 own criminal history background check.

4 3. The provisions of this subsection shall only apply to
5 recertification procedures and shall not apply to initial
6 certification or employment by or contracting with a facility by a
7 nurse aide.

8 J. Not later than November 1, 2026, the State Commissioner of
9 Health shall promulgate rules governing employer-based training
10 programs including but not limited to rules governing approval and
11 withdrawal of employer-based training programs, administration of
12 competency examinations to nurse aides who have completed a
13 Department-approved employer-based training program, and employer-
14 based training program requirements including but not limited to
15 curriculum.

16 SECTION 4. This act shall become effective July 1, 2024.

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