

Title 310 - Oklahoma State Department of Health [\[Return\]](#)

Chapter 675 - Nursing and Specialized Facilities [\[Return\]](#)

Subchapter 1 - General Provisions

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310:675-1-1. Purpose

The purpose of this Chapter is to implement the "Nursing Home Care Act" (63 O.S. 1991, §§ 1-1901 et seq.) and to establish the minimum criteria for the issuance or renewal of a nursing or specialized facility license.

310:675-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means Title 63 of the Oklahoma Statutes, Sections 1-1901 and following as amended also known as the Nursing Home Care Act.

"Allied health professional" means one of the following persons: physician assistant, physical, speech, or occupational therapist, occupational therapy assistant, physical therapy assistant, or qualified social worker.

"Attendant" means the person having control of an animal/pet visiting or in residence in a facility.

"Approval" means the mandatory state government process by which an agency or program is reviewed, and publicly proclaimed, to render a service worthy of note.

"CEP" means the nurse aide competency evaluation program.

"Certification" means the process by which a non-governmental agency, or association, or governmental agency attests that an individual or facility has met certain predetermined standards specified by the certifying body.

"Certified medication aide" means a person who has passed a Department approved program for administering medications.

"Certified nurse aide" means any person who provides, for compensation, nursing care or health-related services to residents of a facility, who is not a licensed health professional and has completed a Department approved training and competency program.

"Charge nurse" means a registered nurse or licensed practical nurse responsible for supervising nursing services on a specific shift.

"Chemical restraints" means the use of a medication for the purpose of discipline, convenience, or in an emergency situation to control mood or behavior and not required to treat the resident's symptoms.

"Consultant registered nurse" means a registered nurse who provides consultation to the director of nursing and administrator concerning the delivery of nursing care for all residents in the facility.

"Denial" means a decision made by the appropriate body to disapprove an application.

"Direct care staff" means nursing, activity, social and therapy staff.

"Director of nursing" means either a registered nurse or licensed practical nurse, who has the authority and responsibility to administer nursing services within the facility.

"Emergency" means, for the purposes of Title 63 O.S. Section 1-1912, a serious, potentially life-threatening or life-endangering situation in which immediate action is necessary to ensure the health, safety, or welfare of residents, and for which the facility:

(A) does not have a plan acceptable to the Department to ensure health, safety or welfare of residents; or

(B) refuses to remedy the situation.

"Health related services" means any medically directed service provided by any person in a facility that may include but is not limited to, the following:

(A) Positioning and turning of residents.

(B) Self-help skill training.

(C) Assistance with prosthetic/assistive devices.

(D) Medication administration.

(E) Nutrition and hydration.

(F) Monitoring of resident vital signs.

(G) Catheter and nasogastric care.

(H) Behavior modification programs.

(I) Administering a medically related care plan

(J) Restorative services.

"In charge" and **"supervision"** means the administrator must have the requisite authorization from the licensee to make those purchases and incur those necessarily attendant debts in order to comply with the rules promulgated by the Board and all pertinent state statutes.

"Inservice education" means activities intended to assist the individual to acquire, maintain, and/or increase competence in fulfilling the assigned responsibilities specific to the employer's expectations.

"Licensed health professional" means one of the following: a physician; dentist, podiatrist, chiropractor, physician assistant, nurse practitioner; pharmacist; physical, speech, or occupational therapist; registered nurse, licensed practical nurse; licensed or certified social worker; or licensed/registered dietician.

"Licensed nurse" means a registered nurse or a licensed practical nurse who is currently licensed by the Oklahoma Board of Nursing.

"Licensed pharmacist" means a person who is a graduate of an accredited pharmacy program and is currently licensed by the Oklahoma Board of Pharmacy.

"Licensed practical nurse" means a person who is a graduate of a state approved practical nursing education program, or who meets other qualifications established by the Oklahoma Board of Nursing, and is currently licensed by the Oklahoma Board of Nursing.

"Licensure" means the process by which the Department grants to persons or entities the right to establish, operate, or maintain any facility.

"Local law enforcement" means:

(A) The municipal police department, if the facility is within the jurisdiction of any municipality of this state, or

(B) The county sheriff, if the facility is outside the jurisdiction of any municipality within this state.

"Manager" or "supervisor" means the person or entity which performs administrative services for the licensee. The manager or supervisor is not legally responsible for the decisions and

liabilities of the licensee, and does not stand to gain or lose financially as a result of the operation of the facility. The manager is paid a fee or salary for services, and the primary remuneration shall not be based upon the financial performance of the facility.

"Misappropriation of resident's property" means the taking, secretion, misapplication, deprivation, transfer, or attempted transfer to any person not entitled to receive any property, real or personal, or anything of value belonging to or under the legal control of a resident, without the effective consent of the resident or other appropriate legal authority, or the taking of any action contrary to any duty imposed by federal or state law prescribing conduct relating to the custody or disposition of resident's property.

"Nurse aide" means any person providing nursing or nursing related services to residents in a facility, but does not include an individual who is a licensed health professional, or who volunteers to provide such services without monetary compensation.

"Nurse aide trainee" means any person who has been employed by a facility to provide nursing care or health related services, and is enrolled in but has not completed a Department approved training and competency program.

"Orientation" means the training for a particular job activity given to all employees.

"Perishables" means food supplies, to include dietary supplements and intravenous feedings, medical supplies, and medications.

"Physical restraints" means any manual method or physical or mechanical device, material or equipment attached or adjacent to the resident's body that the resident cannot remove easily, that is not used for the purpose of therapeutic intervention or body alignment as determined by resident assessment and care planning, and which restricts the resident's desired freedom of movement and access to his or her body.

"Qualified nutritionist" is a Department approved person who holds a baccalaureate with major studies in food and nutrition, dietetics, or food service management; has one year experience in the dietetic service of a health care institution; and participates in continuing education annually.

"Registered/licensed dietitian" means a person who is registered as a dietitian by the American Dietetic Association and licensed by the Oklahoma Board of Medical Licensure and Supervision.

"Registered nurse" means a person who is a graduate of a state approved registered nursing education program, and who is currently licensed by the Oklahoma Board of Nursing.

"Registry" means a Department maintained list of individuals who have successfully completed a nurse aide training and competency evaluation program, or a competency evaluation program, approved by the Department.

"Revoke" means to rescind approval of a previous action.

"Specialized facility" means any facility which offers or provides inpatient long-term care services on a twenty-four hour basis to a limited category of persons requiring such services, including, but not limited to, a facility providing health or habilitation services for developmentally disabled persons, infants and/or children, or Alzheimer's and dementia residents.

"Standards of nursing practice" means an authoritative statement that describes a level of care or performance common to the profession of nursing by which the quality of nursing practice can be judged. Standards of nursing practice include both standards of care and standards of professional performance.

"Standards of care" means a description of a competent level of care demonstrated by a process of accurate assessment and diagnosis, planning, appropriate interventions, and predicted patient outcomes. (Appendix B of this Chapter.)

"Standards of professional performance" means a description of a competent level of behavior in the professional role including activities related to quality assurance, education,

consultation, research, ethics, resource utilization, accountability, peer review, and interdisciplinary collaboration.

"Suspended license" means a license that is issued for a period not to exceed three years to a facility which has temporarily closed or ceased operations.

"Training and competency evaluation program" means a program approved by the Department to instruct and evaluate individuals to act as nurse aides.

"Transfer" means the move of a resident from one facility to another facility.

"Intra-facility transfer" means the moving of a resident from one room to another within a facility.

"Transfer of ownership" means a change of substantial, or controlling interest, in the ownership of a facility. A change of less than five percent (5%) of the interest of the owner does not constitute a transfer of ownership unless it also results in a change of control of the owner.

"Willful violation" means:

- (A) a pattern of violation of the direct-care staffing requirement;
- (B) a violation of the direct-care staffing requirement in which the facility knew or should have known staffing would be insufficient to meet the requirement yet took no action to avert the violation; or
- (C) the reporting of materially inaccurate or misleading information of direct-care staffing to the Health Care Authority.

[**Source:** Amended at 9 Ok Reg 3163, eff 7-1-92 (emergency); Amended at 10 Ok Reg 1639, eff 6-1-93; Amended at 18 Ok Reg 2533, eff 6-25-01; Amended at 18 Ok Reg 3599, eff 8-22-01 through 7-14-02 (emergency)¹; Amended at 20 Ok Reg 2399, eff 7-11-03; Amended at 24 Ok Reg 2030, eff 6-25-07²; Amended at 25 Ok Reg 2482, eff 7-11-08]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency amend

310:675-1-3. Staff identification

Each facility shall ensure that each staff member wears an identification badge that clearly indicates the staff member's name and title.

310:675-1-4. Purpose, authority and indoor tobacco smoke

(a) The purpose of this section is to establish a prevention program for several non-communicable diseases, which will improve the health of Oklahomans by eliminating exposure to secondhand tobacco smoke and its deadly effects. This section abates the public health nuisance of secondhand smoke under the authority of the Commissioner of Health as specified under Section 1-106(b)(1) of Title 63 of the Oklahoma Statutes. This section also further specifies how compliance with the Smoking in Public Places Act will be accomplished. [63 O.S. §§ 1-1521 *et seq.*]

(b) The Commissioner of Health has conducted a study and is recommending these measures to the Board of Health under his authority as stated in section 1-106 of the Public Health Code. [63 O.S. § 1-106] The Board has the authority to establish prevention programs for non-communicable disease and to promulgate rules for the control of causative or toxic substances, which can cause disease under section 1-502b of the Public Health Code. [63 O.S. § 1-502b] The Board is adopting this rule under its authority in sections 1-104 and 1-1526 of Title 63 of the Oklahoma Statutes. [63 O.S. §§ 1-104 & 1-1526]

(c) Smoking or possessing a lighted tobacco product is prohibited in a facility and within fifteen (15) feet of each entrance to a facility and of any air intakes; provided however, the facility may provide a smoking room available to the residents and their guests and another room available to the employees.

(d) An indoor smoking room may be provided if:

- (1) It is completely enclosed;
- (2) It is exhausted directly to the outside and maintained under negative pressure sufficient to prevent any tobacco smoke from entering non-smoking areas of the building;
- (3) It allows for visual observation of the residents from outside of the smoking room; and
- (4) The plans are reviewed and approved by the Department.
- (e) To enable better observation and supervision of residents who wish to smoke outside, a facility may designate a smoking area outside an entrance other than the main entrance which may be closer than fifteen (15) feet to the entrance providing consideration is given to minimizing the possibility of smoke entering the building.
- (f) The walkway to the main entrance shall also be smoke free.
- (g) No ashtray shall be located closer than fifteen (15) feet to an entrance, except in an indoor smoking room or a designated outdoor smoking area under paragraph "c" above.
- (h) Should construction requirements not be in agreement with this rule, the stricter rule shall apply.
- (i) The facility's tobacco use policy shall be clearly posted near the main entrance, and prospective residents or their legal representatives shall be notified of the policy prior to the residents' acceptance for admission.

310:675-1-5. Relocation of a resident by the Department in emergency

- (a) The Department may relocate a resident in an emergency when:
 - (1) The Department determines that the resident is in immediate jeopardy which cannot be rectified without relocation; or
 - (2) The facility has substantial quality of care non-compliance with the rules and/or certification standards and when actual harm has occurred in the facility; or
 - (3) The facility is unable to meet the needs of the resident.
- (b) The Department may order the removal of all the residents to close the facility.
- (c) The Department shall involve the resident and the resident's family or representative in the decision to relocate the resident; however, the Department may move the resident without the consent of the resident or the family if necessary to preserve the health, welfare or safety of the resident. If the resident does not consent, then if possible a member of the Adult Protective Services staff must agree in writing that the resident needs to be moved.
- (d) The Department shall give written notice to the resident and to the facility of the reasons for the discharge or transfer if the resident or the resident's families do not agree to transfer the resident.
- (e) If the resident has no specific preference, the Department shall relocate the residents to the nearest facility capable of care for the resident if acceptable to the resident.
- (f) Should a resident be aggrieved by the decision of the Department to relocate or transfer that resident, the Department shall conduct a hearing before relocating the resident unless to do so will fail to preserve the health, welfare or safety of the resident.
- (g) The hearing will be conducted following Chapter 2 of this title and the Administrative Procedures Act.
- (h) The hearing will be conducted at the facility, and will be attended by the Administrative Law Judge and the Department's legal counsel. The Department will maintain a record on the case as it would for another individual proceeding.
- (i) The Administrative Law Judge shall make this case a priority and shall issue a written opinion within one working day from the close of the hearing.
- (j) The Administrative Law Judge's order shall include findings of fact, conclusions of law and an order that the transfer was according to law or not.

(k) The order may be appealed to District Court as in any other individual proceeding under the Administrative Procedures Act.

[Source: Added at 20 Ok Reg 2399, eff 7-11-03]