

Subchapter 21 - Enforcement and Registry Hearings for Nontechnical Services Workers

310:675-21-1. Purpose

The purpose of this Subchapter is to implement the Nontechnical Services Workers Abuse Registry, 63 O.S. Section 1-1950.6 through 1-1950.9. For the purposes of this subchapter, abuse, verbal abuse, and exploitation, shall have the meaning assigned in Section 10-103 of Title 43A of the Oklahoma Statutes.

[Source: Added at 24 Ok Reg 2030, eff 6-25-07¹; Added at 25 Ok Reg 2482, eff 7-11-08]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

310:675-21-2. Complaint investigation

(a) Process. Upon receipt of a complaint against a non-technical service worker alleging abuse, verbal abuse, or exploitation of a resident within a nursing facility, or upon completion of a survey of a nursing facility by the Department with a finding that a non-technical service worker abused, verbally abused, or exploited a resident, the Department shall conduct an investigation. Upon completion of the investigation, a written report will be prepared. If sufficient evidence exists to initiate an individual proceeding, notice of the investigative findings and an opportunity for hearing will be prepared and served upon the nontechnical services worker.

(b) Timeline for reporting. The facility shall report to the Department allegations and incidents of abuse, verbal abuse, or exploitation by a non-technical service worker within twenty-four (24) hours.

(c) Reporting non-technical service workers. The facility shall report to the Department allegations and incidents of abuse, verbal abuse, or exploitation by a non-technical service worker by submitting the following:

- (1) facility name, address, and telephone;
- (2) facility type;
- (3) date;
- (4) reporting party name or administrator name;
- (5) employee name and address;
- (6) employee certification number;
- (7) employee social security number;
- (8) employee telephone number;
- (9) termination action and date, if any;
- (10) other contact person name and address; and
- (11) facts of resident abuse, verbal abuse, or exploitation.

[Source: Added at 24 Ok Reg 2030, eff 6-25-07¹; Added at 25 Ok Reg 2482, eff 7-11-08]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

310:675-21-3. Right to a hearing

Before the registry is notified that a finding of resident abuse, verbal abuse, or exploitation of a resident in a nursing facility has been made against a nontechnical services worker, the Department shall offer the nontechnical services worker an opportunity for a hearing. If the nontechnical services worker fails to request a hearing in writing within thirty (30) days from the date of the notice, the Department shall include on the registry a finding of resident abuse, verbal abuse, or exploitation of a resident in a nursing facility against the nontechnical services worker.

[Source: Added at 24 Ok Reg 2030, eff 6-25-07¹; Added at 25 Ok Reg 2482, eff 7-11-08]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

310:675-21-4. Petition and hearing

(a) **Petition.** If the nontechnical services worker requests a hearing, the Department shall commence an individual proceeding by filing a petition against the nontechnical services worker that states the facts supporting the allegation.

(b) **Notice of hearing.** All parties shall be given notice of the date, time and place of the hearing. The notice of hearing served upon the non-technical service worker shall include a copy of the petition.

(c) **Time.** The hearing shall be scheduled at least fifteen (15) working days after the nontechnical services worker has received notice of the hearing.

(d) The hearing shall be conducted in accord with the Oklahoma Administrative Procedures Act and Chapter 2 of this Title.

[Source: Added at 24 Ok Reg 2030, eff 6-25-07¹; Added at 25 Ok Reg 2482, eff 7-11-08]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.

310:675-21-5. Orders

(a) **Authority.** The Administrative Law Judge shall issue a decision within fifteen (15) working days following the close of the hearing record. The decision shall include Findings of Fact and Conclusions of Law separately stated.

(b) **Delegation.** The Commissioner of Health may delegate the authority to issue a final decision in these matters as specified in 75 O.S. Section 311.1 and OAC 310:002.

(c) **Registry notification.** The decision shall direct the nontechnical services worker registry to include the findings as they relate to the nontechnical services worker. The decision shall direct the nontechnical services worker registry to include a statement by the nontechnical services worker disputing the decision if the nontechnical services worker chooses to submit such statement. If such a statement is submitted the statement of the nontechnical services worker shall be submitted to the nontechnical services worker registry within thirty (30) days after the decision is issued.

(d) **Notice.** Each party and attorney of record shall be mailed a copy of the Final Order. The Department shall transmit a copy of the Final Order to the nontechnical services worker registry when the Order is mailed.

(e) **Appeal.** An appeal of the Final Order shall be perfected pursuant to 75 O.S. Section 318 of the Administrative Procedures Act.

[Source: Added at 24 Ok Reg 2030, eff 6-25-07¹; Added at 25 Ok Reg 2482, eff 7-11-08]

EDITOR'S NOTE: ¹See Editor's Note at beginning of this Chapter.