



LONG-TERM CARE FACILITY ADVISORY COUNCIL
Regular Meeting
July 17, 2024
1:30pm
123 Robert S Kerr Ave,
Oklahoma City, OK 73102
28th Floor Room 6

Agenda posted in compliance with 25 O.S. §311

A G E N D A

1. Call to order..... Chair
2. Roll call..... Inez Bennett
3. Review and approve Minutes from the Regular Meeting on April 17, 20..... Inez Bennett
4. Review, discussion, and possible action on the facility licensure data report from Health Resources Development Systems (HRDS)..... Espa Bowen
5. Review, discussion, and possible action on the top citations report from Long Term Care (LTC)..... Philip Miller
6. Rule promulgation for alignment update..... OSDH
7. Discussion of possible agenda items for the next meeting..... Chair
8. Comments from visitors limited to Agenda Items (5 minutes per person)..... Chair
9. Adjournment..... Chair

**Health Facility Systems- Long Term Care Facilities
Long Term Care Facility Advisory Board Meeting – July 17,2024**

<u>Long Term Care Facilities</u>	<u>As of April 17, 2024</u>	<u>As of June 30, 2024</u>
Nursing Home	289	288
Nursing Home Other	6	6
Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID)	98	99
Assisted Living	187	187
Residential Care	26	27
Adult Day Care	37	40
Facility Totals	643	647

The question was asked if any of the facilities counted in the report are in the same building and the answer was yes. There are about twenty to thirty facilities like that in the state. There are three more Adult Day Care Centers located in Oklahoma City.

5) Review and Discussion on Top Citations for Long Term Care

Philip Miller provided the report for Long Term Care which included Facility Counts at the end of State Fiscal Year (SFY 2023), Top five deficiencies L-Tags (State Licensure) SNF/NF, Top five deficiencies L-Tags (State Licensure) ICF/IID, Top five deficiencies C-Tags Assisted living Centers, Top 5 deficiencies R-Tags Residential Care Homes, Top two deficiencies Z-Tags Adult Day Care Centers, Top five deficiencies F-Tags (Federal) SNF/NF, and Top five deficiencies W-Tags (federal) ICF/IID.

Facility Counts at end of SFY 2024

Facility Type - LTC	
Nursing Homes	294
Intermediate Care Facility/IID	99
Assisted Living	187
Residential Care	27
Adult Day Care	40
Total	647

Top 5 Cited Deficiencies – L Tags (State Licensure) NF/SNF

Rank	Tag	Description
1	L920	Direct Care Staffing
2	L347	Personnel Records: Health Examination on Hire
3	L364	Training in Pain Recognition, Screening
4	L912	Inservice
5	L918	Maintenance Personnel

**Top 5 Cited Deficiencies – L Tags (State Licensure)
ICF/IID**

Rank	Tag	Description
1	L347	Personnel Records: Health Examination on Hire
2	L612	Reports to state and federal agencies
3	L610	Reporting abuse, neglect or misappropriation
4	L361	Resident Pain Assessment
5	L364	Training in pain recognition, screening

**Top 5 Cited Deficiencies – C Tags
Assisted Living**

Rank	Tag	Description
1	C0391	Food Storage, Preparation & Service
2	C1505	Resident Rights – Medical Care
3	C0542	Conduct of Assessment
4	C0522	Assessment Timeframes
5	C0543	Conduct of Assessment

**Top 5 Cited Deficiencies – R Tags
Residential Care**

Rank	Tag	Description
1	R0345	Resident Rooms – Mattress/Bed Linens
2	R0322	Fire Safety
3	R0351	Insect & Rodent Control
4	R0359	Housekeeping
5	R0510	Staff Training – First Aid/CPR

**Top 2 Cited Deficiencies – Z Tags
Adult Day Care**

Rank	Tag	Description
1	Z1118	Staffing Requirements – Employment Exam
2	Z1321	Required Services – Chapter 257

**Top 5 Cited Deficiencies – F Tags (Federal)
NF/SNF**

Rank	Tag	Description
1	F0884	Reporting – National Health Safety Network
2	F0880	Infection Prevention & Control
3	F0812	Food Procurement, Store/Prepare/Serve-Sanitary
4	F0755	Pharmacy Srvcs/Procedures/Pharmacist/Records
5	F0689	Free of Accident Hazards/Supervision/Devices

**Top 5 Cited Deficiencies – W Tags (Federal)
ICF/IID**

Rank	Tag	Description
1	W0440	Evacuation Drills
2	W0149	Staff Treatment of Clients
3	W0127	Protection of Clients Rights
4	W0104	Governing Body
5	W0322	Physician Services

How many facilities were cited with these tags? That information will be pulled and provided at the next meeting.

The key takeaway from this meeting is where the facilities may be struggling and what is being cited, giving you key indicators as to where the facilities can improve.

The next step after a facility is cited a deficiency are, the facility must provide a plan of correction explaining how they will fix the deficiency, and the State Agency goes back out to confirm that the facility has fixed the deficiency.

It is important that the surveyors are aware of the facility type they are entering and the regulations that go with it.

Pulling the Casper Report to provide insight into where the staffing shortages are.

The State Agency is CMS conduit on the federal side.

Discussion on what the council's responsibilities is, started.

Statutory authority as part of the council is to:

Serve as an advisory body to the Department for the development and improvement of care and treatment of residents of facilities subject to the provisions of the Nursing Home Care Act, the Residential Care Act, and Adult Day Care Act.

Review and make recommendations regarding the quality of services, care, and treatment provided to individuals receiving services from entities that are subject to the Nursing Home Care Act, the Residential Care Act, and Adult Day Care Act.

Evaluate and review the standards, practices, and procedures regarding the administration and enforcement of the provisions of the Nursing Home Care Act, the Residential Care Act, and Adult Day Care Act.

6) Rule Promulgation for the Alignment Update

Philip Miller discussed the reconstitution of oral medication. The rule comes from Chapter 675 of the Nursing Home Care Act, and it says that a licensed practical nurse may reconstitute oral medications only.

Barry Edwards discussed Senate Bill 1511. Senate Bill 1511 is an Act relating to long-term care criminal history background checks for nurse aides. On page one of this Act is the definition of a nurse aide.

On page four lifetime barriers are listed which now includes sex offenders and human trafficking. On page five they lowered the seven-year barrier down to a five-year barrier.

Employers are responsible for ensuring the back checks are done.

Lisa Hale discussed House Bill 3238. House Bill 3238 is an Act relating to long-term care designating the Oklahoma Health Care Authority as the inclusive care for the elderly (PACE) agreement.

There is a change to the Adult Day Care portion of the statute stating the PACE organizations are exempt from Adult Day Care regulations in Oklahoma.

There are three PACE organizations in the state Life Senior Services, Valir Health, and Cherokee Nation.

7) Discussion of Possible Agenda Items for Next Meeting

There was discussion with State Ombudsman about what they investigate and what data they collect.

An organizational chart was requested. Information on weak areas and where we can be stronger.

8) Comments from Visitors

Medical Director for Valir Health Teney John said the challenge with long term care is surveyors are citing silly deficiencies. Staffing is a big issue also. Is the State trying to help the facilities make improvements? Facilities don't always understand what they are doing wrong.

Denise Wilson Assistant Executive Director OSLA. Clarification on sex offender registry.

9) Adjournment

The meeting was adjourned at 2:39 p.m.

#4



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Long-Term Care Top Cited Deficiencies – SFY 2024

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 19 - Nursing Home Care Act

Section 1-1923 - Long-Term Care Facility Advisory Board

Cite as: 63 O.S. § 1-1923 (OSCN 2024)

A. There is hereby re-created, to continue until July 1, 2025, in accordance with the provisions of the Oklahoma Sunset Law, a Long-Term Care Facility Advisory Council which shall be composed as follows:

1. The Governor shall appoint a thirteen-member Long-Term Care Facility Advisory Council which shall advise the State Commissioner of Health. The Advisory Council shall be comprised of the following persons:

- a. one representative from the Oklahoma Health Care Authority, designated by the Administrator,
- b. one representative from the Department of Mental Health and Substance Abuse Services, designated by the Commissioner of Mental Health and Substance Abuse Services,
- c. one representative from the Department of Human Services, designated by the Director of Human Services,
- d. one member who shall be a licensed general practitioner of the medical or osteopathic profession,
- e. one member who shall be a registered pharmacist,
- f. one member who shall be a licensed registered nurse or licensed practical nurse,
- g. one member who shall be an operator-administrator of a nursing home which has a current license issued pursuant to the Nursing Home Care Act and who shall have had five (5) years' experience in the nursing home profession as an operator-administrator,
- h. one member who shall be an operator-administrator of a residential care home licensed pursuant to the provisions of the Residential Care Act,
- i. one member who shall be an owner-operator of an adult day care facility licensed pursuant to the provisions of the Adult Day Care Act,
- j. one member who shall be an owner-operator of a continuum of care facility or assisted living center licensed pursuant to the provisions of the Continuum of Care and Assisted Living Act,
- k. two members who shall be over the age of sixty-five (65) who shall represent the general public and have no long-term care professional work history, and
- l. one member who shall be over the age of sixty-five (65) who shall represent the general public and who advocates for individuals receiving long-term care services; and

m. Appointments shall be for two-year terms. Members shall serve at the pleasure of their designators. Members may be reappointed not to exceed two terms. In case of a vacancy, the Governor shall appoint individuals to fill the remainder of the term.

n. The State Department of Health shall provide administrative support to perform designated duties of the Advisory Council. The Department shall also provide space for meetings of the Advisory Council.

o. The Advisory Council shall annually elect a chair, vice-chair and secretary-treasurer, shall meet at least quarterly, and may hold such special meetings as may be necessary. The members of the Advisory Council shall be reimbursed as provided for by the State Travel Reimbursement Act.

- (1) All prescribed medications shall be clearly labeled indicating the resident's full name, physician's name, prescription number, name and strength of medication, dosage, directions for use, date of issue and expiration, and name, address and telephone number of pharmacy or physician issuing the medication, and the quantity. If a unit dose system is used, medications shall indicate, at least, the resident's full name, physician's name and strength of medication, and directions for use.
- (2) When over-the-counter medications are prescribed and obtained in the original manufacturers container, the package directions shall be considered part of the label. The resident's name shall be on the package.
- (3) Each resident's medications shall be kept or stored in the originally received containers. Paper envelopes shall not be considered containers.
- (4) Medication containers having soiled, damaged, illegible or makeshift labels shall be relabeled by the issuing pharmacy or physician. Labels on containers shall be clearly legible and firmly affixed. No label shall be superimposed on another label on a medication container except for over-the-counter medication containers.
- (5) No person shall change labels on medication containers. If the attending physician orders a change of directions, there shall be a procedure to mark the container indicating a label change is needed at the next prescription refill.
- (6) A pharmacist shall dilute, reconstitute and label medications, whenever possible. If not possible, a registered nurse may reconstitute, dilute and label medications. A distinctive, indelible, supplementary label shall be affixed to the medication container when diluted or reconstituted for other than immediate use. **A licensed practical nurse may reconstitute oral medications only.** The label shall include the following: resident's name, dosage and strength per unit/volume, nurse's initials, expiration date, and date and time of dilution or reconstitution.
- (7) When a resident is discharged, or is on therapeutic leave, the unused medication shall be sent with the resident, or with the resident's representative, unless there is a written physician's order to the contrary, or the medication has been discontinued, or unless the resident or the resident's representative donates unused prescription medications for dispensation to medically indigent persons in accordance with the Utilization of Unused Prescription Medications Act. The clinical record shall document the quantity of medication sent, and returned or donated, and the signature of the person receiving or transferring the medications.
- (8) All medication orders shall be automatically stopped after a given time period, unless the order indicates the number of doses to be administered, or the length of time the medication is to be administered. The automatic stop order may vary for different types of medications. The facility shall develop policies and procedures, in consultation with the medical director and pharmacist, to review automatic stop orders on medications. The policy shall be available to personnel administering medications.
- (9) No resident shall be allowed to keep any medications unless the attending physician or interdisciplinary team has indicated on the resident's clinical record that the resident is mentally and physically capable of self-administering medications.
- (10) A resident who has been determined by the physician or interdisciplinary team as capable of self-administering medication may retain the medications in a safe location in the resident's room. The facility shall develop policies for accountability. Scheduled medications shall not be authorized for self-administration, except when delivered by a patient controlled analgesia pump.
- (11) A physician's telephone orders shall be conveyed to, recorded in the clinical record, and initialed by the licensed nurse receiving the orders.
- (12) Medications shall be administered only by a physician, registered nurse, a licensed practical nurse, or a certified medication aide. The only injectables which a certified medication aide may administer are insulin and vitamin B-12 and then only when specifically trained to do so.
- (13) A pharmacy, operating in connection with a facility, shall comply with the State pharmacy law and the rules of the Oklahoma State Board of Pharmacy.
- (14) Powdered over-the-counter medication for topical use may be administered by a trained nurse aide when designated in writing by the attending physician and delegated by a licensed nurse. The licensed nurse shall ensure that the aide demonstrates competency in reporting skin changes,

310:675-9-9.1. Medication services

(a) Storage.

- (1) Medications shall be stored in a medication room, a locked cabinet, or a locked medication cart, used exclusively for medication storage.
- (2) The medication storage area temperature shall be maintained between 60° F. (15.5° C.) to 80° F. (26.6° C.)
- (3) The medication room, the medication storage cabinet, and medication cart shall be locked when not in use.
- (4) The key to the medication storage areas shall be in the possession of the person responsible for administering medications.
- (5) Scheduled medications shall be in a locked box within the locked medication area or cart.
- (6) Medications for external use shall be stored separately from medications for internal use.
- (7) Medications requiring refrigeration shall be kept within a temperature range of 36° F. (2.2° C.) to 48° F. (8.8° C.) and separated from food and other items. There shall be a method for locking these medications.
- (8) The medication areas shall be well lighted, clean and organized.
- (9) Running water shall be in close proximity to the medication area.
- (10) Powdered over-the-counter medication for topical use may be kept in the resident's room for administration by a nurse aide if:
 - (A) The facility develops and implements policies and procedures for safe storage and application of the powder; and
 - (B) Each aide who applies the over-the-counter topical medication is trained in accordance with the established policies and procedures of the facility.

(b) Emergency medications. Emergency medication, policies and equipment shall include but not be limited to:

- (1) An electric suction machine with necessary aseptic aspirator tips.
- (2) An emergency tray or cart with the following items labeled and accessible to licensed personnel only: resuscitation bag; tongue depressors; and assorted airways; sterile hypodermic syringes in 2 cc, 5 cc, and 20 cc or larger sizes and appropriate needles. The content shall be limited to emergency medications and contain no scheduled medications. Only two single dose vials of the following medications may be on the tray or cart: 50% Dextrose, respiratory stimulant, a cardiac stimulant, injectable lasix, injectable dilantin and injectable benadryl.
- (3) A certified medication aide shall not administer injectable medications from any emergency tray or cart, but shall have access to resuscitation bags, tongue depressors, and assorted sizes of airways.

(c) Medication accountability.

- (1) Medications shall be administered only on a physician's order.
- (2) The person responsible for administering medications shall personally prepare the dose, observe the swallowing of oral medication, and record the medication. Medications shall be prepared within one hour of administration.
- (3) An accurate written record of medications administered shall be maintained. The medication record shall include:
 - (A) The identity and signature of the person administering the medication.
 - (B) The medication administered within one hour of the scheduled time.
 - (C) Medications administered as the resident's condition may require (p.r.n.) are recorded immediately, including the date, time, dose, medication, and administration method.
 - (D) Adverse reactions or results.
 - (E) Injection sites.
 - (F) An individual inventory record shall be maintained for each Schedule II medication prescribed for a resident.
 - (G) Medication error incident reports.
- (4) A resident's adverse reactions shall be reported at once to the attending physician.

(d) Medication labels and handling.

storage, application and documentation policies and procedures. The licensed nurse or the attending physician shall document in the resident's record a skin assessment at least twice each week and more often if required by the facility's approved policy.

(e) Medication destruction.

(1) Non-controlled medications prescribed for residents who have died and non-controlled medications which have been discontinued shall be destroyed by both the director of nursing and a licensed pharmacist or another licensed nurse. Controlled medication shall be destroyed by a licensed pharmacist and the Director of Nursing. The facility may transfer unused prescription drugs to city-county health department pharmacies or county pharmacies in compliance with the Utilization of Unused Prescription Medications Act and all rules promulgated thereunder. Prescription only medications including controlled medications shall not be returned to the family or resident representatives. The destruction and the method used shall be noted on the clinical record.

(2) Medications prescribed for one resident may not be administered to, or allowed in the possession of, another resident.

(3) There shall be policies and procedures for the destruction of discontinued or other unused medications within a reasonable time. The policy shall provide that medications pending destruction shall not be retained with the resident's current medications. The destruction of medication shall be carried out in the facility and a signed record of destruction shall be retained in the facility.

(f) Medication regimen review. The facility shall ensure that each resident's medications are reviewed monthly, by a registered nurse or a licensed pharmacist. The reviewer shall notify the physician and director of nursing, in writing, when irregularities are evident.

(g) Consultant pharmacist. The facility shall have a consultant licensed pharmacist to assist with the medication regimen review and medication destruction. The consultant pharmacist shall discuss policies and procedures for the administration, storage, and destruction of medications with the administrator, director of nursing and other appropriate staff.

(h) Emergency pharmacy. The facility shall have a contract, or letter of agreement, with a licensed pharmacy that agrees to serve as the emergency pharmacy. The emergency pharmacy shall be available twenty-four hours a day.

(i) Bulk nonprescription drugs. A facility may maintain nonprescription drugs for dispensing from a common or bulk supply as *ordered or otherwise authorized by a physician currently licensed to practice medicine in this state* [63:1-1950(B)] if all of the following are accomplished.

(1) **Policy of facility.** The facility must have and follow a written policy and procedure to assure safety in dispensing and documentation of medications given to each resident.

(2) **Acquisition.** The facility shall maintain records which document the name of the medication acquired, the acquisition date, the amount and the strength received for all medications maintained in bulk.

(3) **Dispensing.** Only licensed nurses, physicians, pharmacists or certified medication aides (CMA) may dispense these medications.

(4) **Storage.** Bulk medications shall be stored in the medication area and not in resident rooms.

(5) **Records.** The facility shall maintain records of all bulk medications which are dispensed on an individual signed medication administration record (MAR).

(6) **Labeling.** The original labels shall be maintained on the container as it comes from the manufacturer or on the unit-of-use (blister packs) package.

(7) **Package size.** The maximum size of packaging shall be established by the facility in its policy and procedures and shall insure that each resident receives the correct dosage; provided however, that no liquid medications shall be acquired nor maintained in a package size which exceeds 16 fluid ounces.

(8) **Allowed nonprescription drugs.** Facilities may have only oral analgesics, antacids, and laxatives for bulk dispensing and/or drugs listed in a facility formulary developed or approved by the consultant pharmacist, medical director and director of nurses. Non formulary over the counter medications may be prescribed if the resident has therapeutic failure, drug allergy, drug interaction or contraindications to the formulary over the counter medication.

[Source: Added at 9 Ok Reg 3163, eff 7-1-92 (emergency); Added at 10 Ok Reg 1639, eff 6-1-93; Amended at 11 Ok Reg 907, eff 12-17-93 (emergency); Amended at 11 Ok Reg 2645, eff 6-25-94; Amended Ok Reg 2521, eff 6-25-99; Amended at 18 Ok Reg 2533, eff 6-25-01; Amended at 19 Ok Reg 524, eff 1-3-02 (emergency); Amended at 19 Ok Reg 2099, eff 6-27-02; Amended at 28 Ok Reg 1371, eff 6-25-11; Amended at 31 Ok Reg 1622, eff 9-12-14; Amended at 33 Ok Reg 1530, eff 9-11-16]

An Act

ENROLLED SENATE
BILL NO. 1511

By: Garvin of the Senate

and

McEntire of the House

An Act relating to long-term care; amending 63 O.S. 2021, Section 1-1950.1, which relates to criminal history background checks for nurse aides; modifying time period of certain requirement; modifying certain restrictions on employment; updating statutory language; updating statutory references; and providing an effective date.

SUBJECT: Long-term care

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,
- 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;

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

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

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

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

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

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

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

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

C. 1. If the results of a criminal history background check reveal that the subject person has been convicted of, pled guilty or no contest to, or received a deferred sentence for, a felony or misdemeanor offense for any of the following offenses in any state or federal jurisdiction, the employer shall not hire or contract with the person:

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

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

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

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

SECTION 2. This act shall become effective November 1, 2024.

Passed the Senate the 7th day of March, 2024.

Presiding Officer of the Senate

Passed the House of Representatives the 17th day of April, 2024.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____

Approved by the Governor of the State of Oklahoma this _____
day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____

An Act

ENROLLED HOUSE
BILL NO. 3238

By: Lawson, Waldron, Hefner,
and Pittman of the House

and

Garvin of the Senate

An Act relating to long-term care; defining terms; designating the Oklahoma Health Care Authority as the state administering agency for programs of all-inclusive care for the elderly (PACE) agreements; requiring enforcement of certain federal regulations; providing certain powers and duties; exempting PACE organizations from certain licensure; providing certain construction; authorizing certain interagency agreement; authorizing promulgation of rules; amending 63 O.S. 2021, Section 1-872, which relates to definitions used in the Adult Day Care Act; modifying definition; amending 63 O.S. 2021, Section 1-1961, which relates to definitions used in the Home Care Act; modifying definitions; providing for codification; and declaring an emergency.

SUBJECT: Long-term care

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1017.7 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "PACE" stands for programs of all-inclusive care for the elderly; and

2. The terms "PACE program agreement", "PACE organization", "participant" and "state administering agency" have the same meaning as provided by 42 C.F.R., Section 460.6.

B. The Oklahoma Health Care Authority shall serve as the state administering agency responsible for administering PACE program agreements under 42 C.F.R., Part 460, Subpart C.

C. The Authority shall enforce the federal regulations of the Centers for Medicare and Medicaid Services governing PACE codified at 42 C.F.R., Part 460. The Authority shall have all the powers and duties provided to the state administering agency under 42 C.F.R., Part 460.

D. PACE organizations shall be exempt from licensure by the State Department of Health under the Home Care Act, the Adult Day Care Act, or any other act that governs a different type of facility or provider. This subsection shall not be construed to prevent the Department from enforcing such acts with respect to facilities or providers contracted by the PACE organization to provide services to PACE program participants.

E. The Authority may, as necessary, execute an interagency agreement with the State Department of Health to carry out any of the functions of the state administering agency under 42 C.F.R., Part 460.

F. The Oklahoma Health Care Authority Board may promulgate rules as necessary to implement this section.

SECTION 2. AMENDATORY 63 O.S. 2021, Section 1-872, is amended to read as follows:

Section 1-872. As used in the Adult Day Care Act:

1. "Adult day care center" or "center" means a facility which provides basic day care services to unrelated impaired adults for more than four (4) hours in a twenty-four-hour period. A center shall be a distinct entity, either freestanding or a separate program of a larger organization. A center shall have a separately verifiable staff, space, budget and participant record system. The terms "adult day care center" adult day care center or "center" center shall not include retirement centers and, senior citizen centers, or PACE organizations as defined by 42 C.F.R., Section 460.6;

2. "Basic day care services" means supervised health, social supportive, and recreational services in a structured daytime program which serves functionally impaired adults who continue to live in their own homes, usually with the aid of family ~~care-givers~~ caregivers;

3. "Department" means the State Department of Health; and

4. "Participant" means any person attending an adult day care center.

SECTION 3. AMENDATORY 63 O.S. 2021, Section 1-1961, is amended to read as follows:

Section 1-1961. As used in the Home Care Act:

1. "Board" means the State Board of Health;

2. "Certification" means verification of appropriate training and competence established by the State Commissioner of Health by rules promulgated pursuant to the Home Care Act for home health aides and home care agency administrators;

3. "Department" means the State Department of Health;

4. ~~"Healthcare provider"~~ "Health care provider" means a physician, physician assistant or Advanced Practice Registered Nurse recognized by the Oklahoma Board of Nursing as a Certified Nurse Practitioner or a Clinical Nurse Specialist;

5. "Home care agency" means any sole proprietorship, partnership, association, corporation or other organization which administers, offers or provides home care services, for a fee or pursuant to a contract for such services, to clients in their place of residence. The term ~~"home care agency"~~ home care agency shall not include:

- a. individuals who contract with the Department of Human Services to provide personal care services, provided such individuals shall not be exempt from certification as home health aides,
- b. organizations that contract with the Oklahoma Health Care Authority as Intermediary Services Organizations

(ISO) to provide federal Internal Revenue Service fiscal and supportive services to Oklahoma Consumer-Directed Personal Assistance ~~Supports and Services~~ and ~~Supports~~ (CD-PASS) waiver program participants who have employer responsibility for hiring, training, directing and managing an individual personal care attendant, ~~or~~

- c. CD-PASS waiver program employer participants, or
- d. PACE organizations as defined by 42 C.F.R., Section 460.6;

6. "Home care services" means skilled or personal care services provided to clients in their place of residence for a fee;

7. "Home health aide" means an individual who provides personal care to clients in their temporary or permanent place of residence for a fee;

8. "Home care agency administrator" means a person who operates, manages, or supervises, or is in charge of a home care agency;

9. "Personal care" means assistance with dressing, bathing, ambulation, exercise or other personal needs;

10. "Skilled care" means home care services performed on a regular basis by a trained ~~Respiratory Therapist/Technician~~ respiratory therapist/technician or by a person currently licensed by this state including but not limited to a Licensed Practical Nurse, Registered Nurse, ~~Physical Therapist, Occupational Therapist, Speech Therapist~~ physical therapist, occupational therapist, speech therapist, or ~~Social Worker~~ social worker;

11. "Standby assistance" means supervision of client directed activities with verbal prompting and infrequent, incidental hands-on intervention only; and

12. "Supportive home assistant" means an individual employed by a home care agency who provides standby assistance to ambulatory clients, in conjunction with other companionship or homemaker services, in the temporary or permanent place of residence of the client for a fee.

SECTION 4. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.