

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 746

By: Garvin

4
5
6 AS INTRODUCED

7 An Act relating to long-term care; defining terms;
8 directing State Department of Health to create and
9 maintain certain database for specified purposes;
10 requiring database to be searchable by name; limiting
11 entering of information to Department; authorizing
12 use of certain registry under certain condition;
13 providing certain exemption and confidentiality;
14 providing for investigation and recording of
15 substantiated claims; providing penalties for certain
16 offenses; requiring recording of certain information;
17 providing for reapplication of certification;
18 providing for appeals; allowing administrator to
19 require certain reimbursement; directing reporting of
20 certain information; providing for codification; and
21 providing an effective date.

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

23 SECTION 1. NEW LAW A new section of law to be codified
24 in the Oklahoma Statutes as Section 1-1981 of Title 63, unless there
25 is created a duplication in numbering, reads as follows:

26 A. As used in this section:

27 1. "Home care agency", "home care agency administrator" and
28 "home health aide" shall have the same meaning as provided by
29 Section 1-1961 of Title 63 of the Oklahoma Statutes;

1 2. "Long-term care administrator" shall have the same meaning
2 as provided by Section 330.51 of Title 63 of the Oklahoma Statutes;

3 3. "Long-term care facility" means:

- 4 a. a nursing facility, specialized facility or
5 residential care home as defined by Section 1-1902 of
6 Title 63 of the Oklahoma Statutes,
7 b. an adult day care center as defined by Section 1-872
8 of Title 63 of the Oklahoma Statutes,
9 c. skilled nursing care provided in a distinct part of a
10 hospital as defined by Section 1-701 of Title 63 of
11 the Oklahoma Statutes,
12 d. an assisted living center as defined by Section 1-
13 890.2 of Title 63 of the Oklahoma Statutes,
14 e. the nursing care component of a continuum of care
15 facility as defined under the Continuum of Care and
16 Assisted Living Act,
17 f. the nursing care component of a life care community as
18 defined by the Long-term Care Insurance Act, or
19 g. a residential care home as defined by Section 1-820 of
20 Title 63 of the Oklahoma Statutes;

21 3. "No call/no show" means the absence of an employee from work
22 without notifying the employer; and

23 4. "Nurse aide" means any person who provides, for
24 compensation, nursing care or health-related services to residents
25

1 in a nursing facility, a specialized facility, a residential care
2 home, continuum of care facility, assisted living center or an adult
3 day care center and who is not a licensed health professional. Such
4 term also means any person who provides such services to individuals
5 in their own homes as an employee or contract provider of a home
6 health or home care agency, or as a contract provider of the
7 Medicaid State Plan Personal Care Program.

8 B. The State Department of Health shall create, maintain and
9 make available to long-term care administrators, home care agency
10 administrators, hospice administrators, hospital administrators and
11 designees of such administrators an electronic database for looking
12 up occurrences of no call/no show by certified nurse aides and home
13 health aides, disciplinary action imposed including, but not limited
14 to, disciplinary action imposed under subsection C of this section
15 and occurrences of refusal to reimburse the costs described in
16 subsection D of this section. The database shall be searchable by
17 name of the employee. The database shall be read-only for
18 administrators and designees, and all information contained in the
19 database shall be entered by the Department. If allowed under
20 federal law and regulation, the Department may use the registry
21 created under Section 1-1951 of Title 63 of the Oklahoma Statutes to
22 implement the provisions of this section. The database shall not be
23 subject to the Oklahoma Open Records Act and shall, except for the
24 purposes of this section and, if applicable, such other purposes as

1 are authorized for the registry created under Section 1-1951 of
2 Title 63 of the Oklahoma Statutes, be confidential.

3 C. When a long-term care administrator, home care agency
4 administrator, hospice administrator, hospital administrator or
5 designee of such administrator reports an occurrence of no call/no
6 show to the Department, the Department shall investigate the claim.
7 If the claim is substantiated, the Department shall record the
8 occurrence of no call/no show in the file of the certified nurse
9 aide or home health aide in the database. The Department shall
10 issue a warning to a certified nurse aide or home health aide who
11 commits a first no call/no show. The Department shall suspend for a
12 period not to exceed ninety (90) calendar days the certification of
13 a certified nurse aide or home health aide if he or she commits a
14 second no call/no show within three (3) years after the first
15 occurrence. The Department shall revoke the certification of a
16 certified nurse aide or home health aide if he or she commits a
17 third no call/no show within the same three-year period. The
18 Department shall record all disciplinary action imposed by the
19 Department in the database created under this section. The
20 Department may allow a certified nurse aide or home health aide
21 whose certification has been revoked under this subsection to
22 reapply for certification after a period to be determined by the
23 Department. The Department may permanently revoke certification
24 upon the second revocation. Any certified nurse aide or home health

1 aide who is aggrieved by a disciplinary action taken by the
2 Department under this subsection may appeal the action as provided
3 by the Administrative Procedures Act.

4 D. A long-term care administrator, home care agency
5 administrator, hospice administrator or hospital administrator may
6 require a certified nurse aide or home health aide whose
7 certification was or is currently being financed by the long-term
8 care facility, home care agency, hospice agency or hospital at which
9 the certified nurse aide or home health aide is currently employed
10 who commits a no call/no show to reimburse the facility or agency
11 that financed or is financing the certification for any costs
12 incurred by the facility or agency related to the certification. If
13 the certified nurse aide or home health aide refuses to reimburse
14 such costs, the administrator or designee may report such refusal to
15 the Department and the Department shall record such information in
16 the file of the certified nurse aide or home health aide in the
17 database created under this section.

18 SECTION 2. This act shall become effective November 1, 2021.

19
20 58-1-567 DC 1/21/2021 1:47:06 PM
21
22
23
24
25