



**Long-Term Care Facility Advisory Board  
Regular Meeting  
October 13, 2021 at 1:30 PM  
Location of meeting: 123 Robert S. Kerr Ave  
Oklahoma City, Ok 73102**

**AGENDA**

1. Call to Order ..... Wendell Short, Chair
2. Roll Call .....LaShawn Lewis
3. Review and Action to Approve/Amend  
the April 14, 2021 Regular Meeting minutes ..... Wendell Short, Chair
4. Nurse Aide Registry Update .....Jason Noreen  
*Updates on program activity and new developments*
5. Health Facility Services.....Espa Bowen  
*SB No. 654 - Changes in License renewal for Adult Day Care, residential Care, Assisted Living and Continuum of Care Facility*
6. Long Term Care Service Update .....Janene Stewart
  1. *HB No. 2566 – Visitation*
  2. *HB No. 1794 – Alzheimer’s Disease Special Care Disclosure Act*
  3. *Top 5 Deficiencies for all facility types*
7. Discussion ..... Dr. LaTrina Frazier  
*Current Facility staffing issues, enforcement of care standards from LTC non-profit and for-profit providers*
8. New Business.....Wendell Short, Chair
9. Public Comment
10. Adjourned



Oklahoma State  
Department of Health

## LONG-TERM CARE FACILITY ADVISORY BOARD

Regular Meeting

April 14, 2021 at 1:30

Oklahoma State Department of Health, 123 Robert S. Kerr Ave., OKC, OK 73102

### MINUTES

April 14, 2021

#### 1) Call to Order

Wendell Short, Chair called the meeting to order at 1:30 p.m.

#### 2) Roll Call

LaShawn Lewis called roll with the following Long-Term Care Facility Advisory Board (LTCFAB) members present: Donald Pyeatt, Stephen Ross, Jimmy McWhirter, Lori Peck Morton, Debra Weaver, Gene Reid, Esther Houser, Angela Heikes, Adam Jordan, Jeffery Gregston, Wendell Short, Denise Wilson, Alan Mason, William Whited, Modina Allen

The following LTCFAB members were absent: Joanna Martin, Joanne Alderman, Charles Schwarz, and Lisa Morgan

The following guests were present: James Joslin, Leading Age – OK; Melissa Holland, Paula Terrel, OSDH; Rocky McElvany, OSDH; Vicki Kirtley, OSDH; Espaniola Bowen, OSDH; Mary Brinkley; Randle Lee, Grace Pelley, OSDH; Diane Henry, OSDH; Barry Edwards, OSDH; Beverly Clark, OSDH; Dr. LaTrina Frazier, OSDH; Lisa McAlister, OSDH;

Currently, there are ten vacancies on the LTCFAB, which consists of 27 members.

A quorum met with 14 members present.

Meetings are posted at:

<http://www.health.ok.gov/calendar/mtngs/index.html>

<http://www.sos.state.ok.us/meetings/agencymeets.asp?intAgency=316>

Approved minutes are posted at <http://www.health.ok.gov/calendar/mtngs/ltcab.html>

**3) Review and Action to Approve/Amend January 8, 2020 meeting minutes:**

**Agenda Item #3  
 Vote 1**

**Motion:** Approve/Amend January 8, 2020 Meeting Minutes

Motion Made by: Esther Houser Seconded: William Whited Motion Carried: Yes

**Aye: 8 Abstain: 6 Nay: 0 Absent: 5**

Joanne Alderman	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Alan Mason	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Donald Pyeatt	<input type="checkbox"/> Aye <input checked="" type="checkbox"/> Abstain <input type="checkbox"/> Nay	Jim McWhirter	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Stephen Ross	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Jeffery Gregston	<input type="checkbox"/> Aye <input checked="" type="checkbox"/> Abstain <input type="checkbox"/> Nay
Lori Peck Morton	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Ronald Eimen	<input type="checkbox"/> Aye <input checked="" type="checkbox"/> Abstain <input type="checkbox"/> Nay
Debra Weaver	<input type="checkbox"/> Aye <input checked="" type="checkbox"/> Abstain <input type="checkbox"/> Nay	Charles Schwarz	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Modina Allen	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Lisa Morgan	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Esther Houser	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Wendell Short	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Joanna Martin	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	William Whited	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Adam Jordan	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Denise Wilson	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Gene Reid	<input type="checkbox"/> Aye <input checked="" type="checkbox"/> Abstain <input type="checkbox"/> Nay	Paula Porter	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Angela Heikes	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay		<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Brandy Chiles	<input type="checkbox"/> Aye <input checked="" type="checkbox"/> Abstain <input type="checkbox"/> Nay		<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
			Shading = Absent

**4) Election for 2021 LTCFAB Officers:**

**Agenda Item #4  
 Vote 1**

**Motion:** Nomination for Chair- Wendell Short, Vice Chair –William Whited, Secretary – Adam Jordan

Motion Made by: Alan Mason Seconded: Esther Houser Motion Carried: Yes

**Aye: 14 Abstain: 0 Nay: 0 Absent: 5**

Joanne Alderman	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Alan Mason	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Donald Pyeatt	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Jim McWhirter	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Stephen Ross	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Jeffery Gregston	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
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Aye  Abstain  Nay

Aye  Abstain  Nay

Shading = Absent

## 5) Long Term Care Service Update: Dr. LaTrina Frazier

### Why are we able to meet via video conference?

Senate Bill 1031 – Allows LTCFAB to hold meetings by video conferencing/virtually effective until February 15, 2022 or until 30 days after the termination of the state emergency declaration.

- Each member must be audible to each other. If you have audio issues, please send a message in the chat to receive assistance. A quick remedy if you are unable to hear, please call the number attached to the meeting invite.
- We have a 27-member advisory board and 14 must be present for a quorum.
- If there is an audio issue you must come back into the meeting within 15 minutes, we will have to stop the meeting. (Per OSDH General Council)
- Each board meeting will be recorded.
- Public comments are just for comments and no discussion should occur.  
(Example) Item number 7 Esther Houser, any board member(s) are welcome to join in discussion with Ms. Esther Houser.

### What our LTC team has been doing?

The LTC team has been very busy during the course of the COVID-19 Health Emergency.

- We have been active in the roles of consultation
- Care investigation/Contract Tracing
- COVID-19 Testing
- Vaccination Planning Assistance.
- COVID – Focused Infection Control Surveys, Complaints and we have recently resumed standard surveys.
- We are also tracking incidents and working with Acute Disease Services regarding Vaccine Breakthrough cases in LTC facilities.

Keep in mind that our initial focus was COVID Focused Infection Control Surveys and High priority Complains.

### **Top Five Deficiencies Cited F-Tags (Federal)**

1. F880 (Infection Control) - Revolves around establishment and maintenance of the Infection Prevention and control program - written standards, policies and procedures, surveillance, isolation, hand hygiene, etc.
2. F886 (COVID Testing) – Centers around Resident and Staff Testing frequency, identification of COVID positive, criteria for conducting testing
3. F684 (Quality of Care) – Quality of care based on comprehensive assessment of a resident.

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4. F885 (Reporting) –Specifically to Residents Representative and Family – Notification of confirmed COVID -19 in the facility by the next calendar day.
5. F609 (Reporting Alleged Violations) – This tag revolves around reporting requirements of alleged violations involving abuse, neglect, exploitation or mistreatment, misappropriations to be reported according to reporting requirements.

2 Hours after allegation made. 24 hours no involvement of abuse/bodily injury. 5 days according to state law for incidents.

#### **Top Five Deficiencies Cited L – Tags Licensure (State)**

1. L810 (Infection Control) – Which again speaks to the Infection Control Policy and Procedures preventions and transmission.
2. L816 (Basic Nursing and Personal Care) – Basic nursing and personal care vital signs, weights, offering fluids etc.
3. L242 (Resident Rights) – Right of residents to receive adequate and appropriate medical care, advised in advance of proper treatment.
4. L812 (Infection Control) – Infection Control policies to prevent the transmission of infection.
5. L811 (Infection Control) – The facility shall maintain a sanitary environment and prevent development and transmission of infection.

#### **Complaints**

For Complaints, we had 15 IJ allegations that connected to 13 facilities, Non IJ highs we had 123 connected to 87 facilities.

We focused on the high priority based on our requirements to CMS. The non IJ mediums 610 at a total of 226 facilities.

#### **Total Allegations**

We had 847 allegations and 390 facilities were affiliated with those 847 allegations.

CMP Imposition (Civil Money Penalty) – From April to June you will notice there are no imposition dollars noted, during the time we halted surveys. We had a total \$441,990.00 civil money impositions for July – December. We will have January and March available for you at the next council meeting.

Keep in mind no surveys due to halt of surveys for the April – June period.

### **6) Program Area Reports:**

#### **Vicki Kirtley presented on Nurse Aide Registry (NAR)**

- Nurse Aide Registry (NAR) report shows the current certifications for FY 2020
  - FY 2021 was broken down to first and second quarters.
- Certifications have dropped some in Long-Term Care from 2020.
  - Due to the fact, the governor suspended the renewals until January 30, 2020.
- The totals for the end of the second quarter were 60,835 certified Aides.

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➤ New Certifications Inbound Reciprocity Certifications:

- Inbound Reciprocity Certifications first and second quarter for FY 2021,
- Certifications are coming close to year 2020 numbers.
- We have gained so many aides through reciprocity since the beginning of COVID.
- We are also seeing that corporations are having their aides have multiple state certifications.
- We had 612 Long Term Care reciprocity certifications just in the second quarter.

➤ New Certifications from Training:

- Due to schools being closed for COVID from March 2020 to January 2021 schools were unable to provide training.
- NAR started the training waivers for the facilities.
  - The numbers are somewhat steady for the first and second quarters.
  - Traditional numbers for past years are not represented.

➤ New Advanced CMA:

- The schools are able to do CMA Advanced and CMA training as well as be tested.
- We had a total of 214 at the end of the second quarter.

➤ Retesting:

- Did not see much of our retesting, due to the suspension of the renewals,
- During the second quarter retesting numbers are down.

➤ Outbound Reciprocity:

- Not seeing many of our Aides in Oklahoma going to other states.
- Number of renewal applications during first and second quarter,
  - First quarter was 4,959
  - Second quarter was 4,620

➤ Training Programs:

- Remain steady gained eight since FY 2020.
- No Onsite Surveys have been completed due to COVID.
- CMS had put training programs on hold right now.
  - Hoping to resume at some point.

➤ Current Temporary Emergency Waiver:

- Currently everyone is presumptively approved for the temporary emergency waiver.
  - Exception applications for the emergency training waiver.
- After the facilities have done the training for the new staff, staff are hired to become aides and their training exceptions and application with documents are submitted.
- We have received 1,967; Processed 1,198 for testing, and have about 766 waivers pending.
- The number pending is due to the facilities not provide all information required for certification.
- NAR is approximately three weeks behind. Staff working very hard and diligently to try to get everything done.

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**Questions & Answers:**

*Esther Houser:*

Q. How does the Emergency Waiver or CMS Training work? Were there any requirements for facilities that provided advance training?

*Vicki Kirtley:*

A. Yes, we gave the facilities the skills performance skill list and the information they needed to do the training for the Advanced. The only one that requires testing is the insulin administration and they have to test at the career tech. We felt like if we are going to let them do the training of the aides and CMA's that they were going to need the advanced training and schools were not open. This was one reason why we let the facilities and the agency's do the training, and then they send in the documents. NAR will review the documents to make sure they have trained and they have actually done the 20 med passes that is required by the traditional programs on those meds. The student and the instructor has to sign off on the documents. We made them work three months as a CMA and then they can try for the Advances. They can train them after three months as a CMA.

*Esther Houser:*

Q. For the sake of review and because of the screen shot is very tiny, can we review those categories for the Advanced?

*Vicki Kirtley:*

A. The Advanced IA is Glucose Monitoring, R stands for Respiratory, CMA stands for Respiratory Gastro for the RG.

*Esther Houser:* G is just Gastro, Feeding tubes and such.

**Espa Bowen presented on Health Facility Systems**

- Health Facility Systems continues to renewal LTC licensure applications.
  - Health Facility Systems do all the license for all LTC, Long Term Care; NH, Nursing Homes; AL, Assisted Living; RC, Residential Care and AD, Adult Daycare
- From July 1, 2020 through March 31, 2021. We have processed over (56) Standard CNs and (3) Psychiatric CNs Certificate of Need for the State of Oklahoma.
  - For the past (5) years we have averaged around 60 CNs a year.
  - Up to 100 CNs can be processed a year.
- We currently have (2) pending CNs in the pipeline.
  - Standard
  - Psychiatric.
- There are a few of things, I would like to request of the facilities, which would make the application process go smoother.

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- 1.) To make sure the application and the payment together, also make sure the facility Name and Facility Number are on the check and application.
- 2.) We cannot stress enough that all facilities submit a notice of change when have has been a change in the following;
  - Administrator, DON, Fax, Email, Phone and physical address.
- 3.) The administrator **cannot** sign the application, unless you have sent in an authorization/documentation so she can sign the application.

**Questions & Answer:**

Wendell Short – Chairman:

Q. Notice of change is there a time period? Is it 5 days, 2 weeks what is expected on that?

Espa Bowen:

A. ASAP but it could be up to 5 days. The longer we wait for it the longer the application will take to be processed.

**Diane Henry – (MDS) Minimal Data Set – (QIES Help Desk) Quality Improvement Evaluation Service:**

- Trained nursing homes on minimal data set (MDS) also helps with transmissions of their assessments.
- CMS implemented a waiver for nursing homes not to have to follow the (MDS) guidelines regarding transmission of their MDs during COVID.
  - Waiver ends May 10, 2021
  - A no submissions report is run to identify nursing homes that may have not been submitting during this period.
  - We have identified that all nursing homes have continued to submit
  - Waiver did not cover not completing the MDS, nurses were still required to set their assessment reference date and complete MDS.
    - But do not have to submit in the required period.
  - Based on findings while running the report this will not be an issue for Oklahoma because all nursing homes have continued to submit their MDS assessments.
  - CMS is no longer following the composite score cards, so that is not available. They are now using Care Compare, which is a five-star rating system.
  - Diane can provide Casper data for quality measures if you are interested in seeing any of that data.
- Restructuring occurred within the QIES department in March of 2020.
  - CMP Program was moved under Diane Henry, program manager of QIES.
  - The communication technology project as well as the in-person visitation project was implemented to help nursing homes communicate with loved ones during COVID.
  - Transitioned most of their findings over to the two programs

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- CMS had a requirement to have a million dollars on reserves in-order to fund the two programs
- The requirement was met to help the Oklahoma nursing home residents
- Current CMP funds received so far in 2021
  - One hundred and forty-seven thousand dollars in CMP funds.
- We have two current projects in addition to the Cola projects
  - Anticipating offering RFP prior to October. Will discuss further with Dr. Frazier.

**Barry Edwards – Oklahoma National Background Check program (OK-SCREEN)**

Barry Edwards is the Program Manager for the Oklahoma National Background screen program, also known as OK-SCREEN.

Provided was a comparison for the last 5-year fiscal years:

- Numbers remain relatively the same across the board
- Fiscal year 2020 the applicants that were made eligible at that time was 25, 367
- Those that were determined not eligible was 388
- The 42, 885 are auto determinations that applicants are already in the system already eligible or not eligible
- Appeals completed 162 and the granted is 100
  - The appeals are primarily granted by Administrative Judges
  - Hope to modify the rules with the 7-year barriers with time restraints
- 7-year barriers are based off the completion of the sentence.
  - Example: If they have probation and they haven't paid a fine, until they complete probation and the fine, the 7-years isn't tagged on to that. If they had 10 years' probation then its 7-years on top of that, so that 17 years that they wouldn't be eligible. The Administrative Judges weighs in on that making that determination, based on references, work history, and any further criminal history.
- Three quarters are granted
- Fiscal year 2020 we had 64 Appeals denied
- 21 appeals withdrawn – typically individuals that withdrawal are those individuals that are separated from the provider prior to the appeal hearing
- The applicants with in state charges 2, 909 with out of state charges, meaning on an FBI report are 1, 825 for that Fiscal year.
- Rap Backs are records of arrest and prosecution.
  - If an individual is in the system, they are made eligible and we continue to monitor their criminal history is called a Rap Back.
  - If they have a subsequent arrest after the eligibility time determination, we will receive a Rap Back, we review the Rap Back for barriers.
  - If they have an arrest for a non-barrier offense will be notified.
  - Rap Back are physically reviewed and determine whether or not it is a barrier offense go and will through the process.
- Out of the 524 Rap Backs that we received 58 of those Rap Backs had barrier offenses and were subsequently determined not eligible for employment.

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- FBI is actually looking at doing the Rap Back system, and would like us annually to go in there and turn off any Rap Backs that we do not need.
  - (If the individual isn't working and hasn't worked for quite a bit of time, then we would have to notify the FBI that we don't need that Rap Back.
- We get so many Rap Backs on individuals' that are no longer employed in Long-Term Care. We still have to go through them to determine whether or not they are still employed or if they are the still working.
- Rap Backs are staff time intensive, so they are working on that.

### **Questions & Answer:**

William Whited:

Q. Can you describe changes that have occurred in regards to requiring physical signatures, what steps or process has changed during COVID for the Rap Back background system? This has been a hot topic among some individuals, whether or not we still need the in-person signatures or digital signatures can be accepted on those background check forms.

Barry Edwards:

- A. That has not come to my office it hasn't been brought up to us, on the digital signatures. I would determine that a digital signature would be acceptable.
- Barry will have to run that through OSBI and the FBI.
  - FBI actually audits our system every three years. A lot of the stuff on the medical release form is dictated by State and Federal Law.
  - Barry will get back will William Whited on this situation.

William Whited:

Q. In the past audits that we have been through the FBI has always required that the employer keep a physical copy of the background check document with a copy of their driver license and have the original signature on that. Do we still have to keep the hard copies of those documents or are we allowed to keep those documents electronically?

Barry Edwards:

- A. They have to be hard copies, to be available for auditing, for not only the FBI, but as well as the surveyors and the clearance letter.
- Yes, you should have a copy of the social security card and photo ID along with a consent release form.
  - We do request this during the audit, we will also request this during the appeal status all that information would need to be turned into them.
  - Barry will find out whether or not you can maintain those electronically.

Esther Houser:

Q. Is this going to need legislative change or done entirely by rule? Do you know and if so, will the board be enfolded in that development of the proposed changes?

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Barry Edwards:

- A. Yes, we were in the process of modifying the rules a possible the state statue as to barrier offenses. The time frame the 7-year barrier we would like to reduce that to a 5-year barrier, it would, could count from the time sentenced, or the time ending incarceration verses counting probation for 5 years. They've been clean 5 years we then have to put another 7 years on top of that What we would like to do is count that five years as being clean and make them eligible. There are also offenses that when we go thought the screening process that aren't barriers, identity theft, taking credit cards stuff of that nature. There are some offenses there as well, as well as individuals that have warrants for barrier offenses. Typically, we'll see individuals from out of state, that come here and they have a pending warrant in another state, and we know what the arrest offense is, we like to have something in there about warrants. That way it is right now if they have a warrant, we cannot do anything you have to make them eligible even if it's a warrant for a barrier offense, based on the rules and regulations.

Dr. LaTrina Frazier:

- A. Any proposed changes would be brought to the board. We defiantly value the insight and input from the LTCFAB.

#### 7) **Visitation Complaints, and Investigations:**

- Esther Houser stated that consumers have many concerns.
- All over the media were descriptions of problems finding out information about loved ones living in Long-Term Facilities.
- The State Health Department did a lot to try to mitigate that isolation by offering Long Term Care facilities with money.
- Specifically, money from the CMP fund to purchase iPads, iPhones, ways in which residents could be connected virtually with their loved ones.
- The weight of the burden was on facilities, besides having staffing issues, with staff concerns about being exposed.
- The guidance for in-person visitation from the state health department was pretty extensive on what level the in-person meeting shall be.
- Also provided advice and direction on offering each resident an opportunity for virtual visits at least twice a week as well as allowing window visits.
- Visitation Guidance were revised with information about essential caregivers, to allow them more liberal in-person visitation for family members or friends.

#### **Dr. LaTrina Frazier:**

- Initially there were several iterations to the guidance and changes, so what we did try to do was to make sure we were providing education not just to the facilities, but to the family as well.
- We received many calls from family members who didn't necessarily want to lodge complaints they just wanted information.
  - they wanted to be armed with, what was the expectation. So, they could advocate for themselves.
  - We stayed in touch with many of them and said if this does not go according to your wishes please reach out back to us and we can.
  - Some instances we followed up.

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- We had some that we did pursue as a complaint.
- Do not have an exact number for you.
- We tried to really be an advocated for the resident and in many instances where we can advocate for the family.
- It was more of the desire of them seeing their loved one as opposed to them filing any type of complaint.

**Esther Houser:**

- Concerned that LTC will not find deficiencies of social harm as easily once you pull complaints & investigations and inspections.
- Esther also heard that people who could not even get the telephone answered at facility let alone that phone taken to the resident for discussion.
- Some facilities that did not facilitate virtual visits didn't access themselves of the CMP money that would have helped them cover the cost.
- Do you have any idea what was going on in the facility, as far as why they refused to follow even that basic guidance to connect people with their loved ones?

**Dr. LaTrina Frazier:**

- Those that were not unreasonable and having a hard time with visitation.
- We pursued those as complaints we did investigate and if it was found there was a violation, they were cited in reference to the resident rights.
- CMP was a voluntary application.
- We did a report per our CMP manager who identified that there was not as much interest or application as she had hoped.

**Esther Houser:**

- Glad there were actual investigations done.
- Asked William Whited State Ombudsman to share insights,
  - He's a member of the board, also vital component the state wide LTC ombudsman program.
- Aware of access issues coming from the top,
  - The Federal government's in-person visitation by ombudsman.
- We had PPE for the ombudsman staff around the state.
- To what extent were they able to address complaints that came into your program, how are they resolved, any insights there?

**William Whited:**

- If board allows I will speak at next meeting to share our state wide data as to what complaints the ombudsman program was seeing during the COVID emergency.
- We are opening up more and more, the ombudsman are back out there in the facilities now.
- Seeing residents helping staff members, friends and family try to resolve the problems and issues.
- March 10<sup>th</sup> when CMS issued the memo saying everybody, stay out for now we need to get this COVID situation under control.
- We have been keeping data compliance.
  - Still coming in pretty hot and heavy.
- The Ombudsman Program has received 61 complaints in regards to visitation

Meetings are posted at:

<http://www.health.ok.gov/calendar/mtngs/index.html>

<http://www.sos.state.ok.us/meetings/agencymeets.asp?intAgency=316>

Approved minutes are posted at <http://www.health.ok.gov/calendar/mtngs/lcab.html>

- That number is quite low because,
  - A lot of the time it was just telephone calls from family members and loved ones wanting information.
  - Some guidance about what the rules are regarding visitation and many times they choose not to open up a complaint.
  - They wanted that information and guidance.
  - About 2/3 of complaints verified by the ombudsman were a resident and their family members or love ones who were not getting to visit whether it be via telephone, in person, window visits whatever the case may have been during the phase of the COVID emergency.
- We did see a large intake of abuse allegations.
- Specifically related to resident to resident abuse, Psychological abuse which usually falls into the verbal category.
  - We saw an uptick in numbers don't think the uptick was all directly related to COVID
- We also saw some process changes during that time, were we have working relationship with Adult Protective Services, Long Term Care investigations.
- These agencies send us a lot of referrals that are regarding residential resident abuse, and or referrals related to verbal abuse.
  - COVID crisis definitely created stressors within the facilities with the residents; family, long term care facilities and how we can move forward to help mitigate these things in the future.
- William Whited is happy to share the data with everyone.

**Esther Houser:**

- The reality trying to separate out residents who tested positive from residents who were still COVID free caused horrible stressors on residents' families and staff and operators like Long Term Care.
- It is important for the care investigations and inspection for the weight placed on RN's on the inspection teams and the health department staff.
- MSW, Social Worker should be on those teams to look at those concerns and how to mitigate them.

**Dr. LaTrina Frazier:**

- Interdisciplinary team, this is actually what we have discussed as a Long-Term care team, and we have actually started to diversify our application or our listing for those surveyors' positions and specifically calling out some of those specialties such as Social Workers.

**Diane Henry:**

- We had two hundred participate in the communication technology,
- Which involved the purchase of tablets and iPhone for residents to communicate with their loved ones.
- Then we had forty-seven to date participate in in-person visitation that involved purchasing tents and Plexiglas.

Meetings are posted at:

<http://www.health.ok.gov/calendar/mtngs/index.html>

<http://www.sos.state.ok.us/meetings/agencymeets.asp?intAgency=316>

Approved minutes are posted at <http://www.health.ok.gov/calendar/mtngs/lcab.html>

- To be able to have family and friends come in and actually visit with the residents. Hopefully we will start to see a little more participation in the in-person visitation now that some of the guidelines have let up.

**8) New Business: Meeting Dates for 2021:**

January 13, 2021 – Cancelled  
April 14, 2021 – Virtual Microsoft Teams  
July 14, 2021  
October 13, 2021

**9) Public Comments:**

Public comment made throughout the meeting.

**10) Adjournment:**

The meeting adjourned at 3:00 p.m.

Meetings are posted at:

<http://www.health.ok.gov/calendar/mtngs/index.html>

<http://www.sos.state.ok.us/meetings/agencymeets.asp?intAgency=316>

Approved minutes are posted at <http://www.health.ok.gov/calendar/mtngs/lcab.html>

**Nurse Aide Registry Report**  
**Long Term Care Facility Advisory Board Meeting for October 13, 2021**



**CURRENT CERTIFICATIONS**

TYPES OF CERTIFICATIONS	FY2020	FY21 Qtr-1	FY21 Qtr-2	FY21 Qtr-3	FY21 Qtr-4
Adult Day Care (ADC)	31	30	31	16	16
Long Term Care (LTC)	36,129	35,677	35,576	35,401	35,677
Certified Medication Aide (CMA)	5,136	5,232	5,142	5,718	5,952
Advanced CMA Gastrology (CMA/G)	2,703	2,734	2,728	2,939	3,072
Advanced CMA Glucose Monitoring (CMA/GM)	1,208	1,240	1,237	1,356	1,425
Advanced CMA Insulin Administration (CMA/IA)	835	870	865	941	987
Advanced CMA Respiratory (CMA/R)	2,749	2,788	2,772	2,981	3,118
Feeding Assistant (FA)	307	284	259	227	212
Home Health Aide (HHA)	11,642	11,329	11,158	10,600	10,675
Developmentally Disabled Direct Care Aides (DDDCA)	1,135	1,051	1,036	973	979
Residential Care Aide (RCA)	31	31	31	28	28
<b>TOTALS</b>	<b>61,906</b>	<b>61,266</b>	<b>60,835</b>	<b>61,180</b>	<b>62,141</b>

NEW CERTIFICATIONS	FY2020	FY21 Qtr-1	FY21 Qtr-2	FY21 Qtr-3	FY21 Qtr-4
<b>INBOUND RECIPROCITY CERTIFICATIONS</b>					
LTC	1,521	500	612	737	411
HHA	33	5	0	2	22
<b>NEW CERTIFICATIONS FROM TRAINING</b>					
	FY2020	FY21 Qtr-1	FY21 Qtr-2	FY21 Qtr-3	FY21 Qtr-4
LTC	4,320	954	1,012	1,135	2,054
HHA	2,021	477	496	631	841
DDDCA	218	16	57	30	41
RCA	0	0	0	0	0
ADCA	0	0	0	0	0
CMA	866	100	249	216	353
FA	72	2	6	8	9
<b>TOTALS</b>	<b>7,497</b>	<b>1,549</b>	<b>1,820</b>	<b>2,020</b>	<b>3,298</b>
<b>NEW ADVANCED CMA</b>					
	FY2020	FY21 Qtr-1	FY21 Qtr-2	FY21 Qtr-3	FY21 Qtr-4
CMA-R	589	44	76	61	79
CMA-G	554	24	75	60	70
CMA-GM	289	14	40	36	45
CMA-IA	198	9	23	19	26
<b>TOTALS</b>	<b>1,630</b>	<b>71</b>	<b>214</b>	<b>176</b>	<b>220</b>
<b>RETEST</b>					
	FY2020	FY21 Qtr-1	FY21 Qtr-2	FY21 Qtr-3	FY21 Qtr-4
Retest - CMA	57	14	7	11	13
Retest - HHA	32	15	0	8	11
Retest - LTC	151	47	9	37	36

**Nurse Aide Registry Report**  
**Long Term Care Facility Advisory Board Meeting for October 13, 2021**

Retest - DDCA	1	0	0	0	0
<b>TOTALS</b>	<b>241</b>	<b>76</b>	<b>16</b>	<b>56</b>	<b>60</b>

<b>OUTBOUND RECIPROcity</b>	<b>FY2020</b>	<b>FY21 Qtr-1</b>	<b>FY21 Qtr-2</b>	<b>FY21 Qtr-3</b>	<b>FY21 Qtr-4</b>
Reciprocity - LTC	450	88	79	44	80

<b>COMPLETED RENEWAL APPLICATIONS</b>	<b>FY2020</b>	<b>FY21 Qtr-1</b>	<b>FY21 Qtr-2</b>	<b>FY21 Qtr-3</b>	<b>FY21 Qtr-4</b>
	19,354	4,959	4,620	5,636	5,675

**TRAINING PROGRAMS**

<b>APPROVED TRAINING PROGRAMS</b>	<b>FY2020</b>	<b>FY21 Qtr-1</b>	<b>FY21 Qtr-2</b>	<b>FY21 Qtr-3</b>	<b>FY21 Qtr-4</b>
LTCA	147	149	150	149	149
HHA	0	0	0	0	0
DDDCA	11	11	11	11	11
RCA	0	0	0	0	0
ADC	0	0	0	0	0
CMA	46	47	47	47	48
CMA/Continuing Education Units(CEUs)	38	38	39	40	40
CMA/IA	26	27	27	27	27
CMA/GM	4	4	4	4	4
CMA/R	2	2	2	2	2
CMA/RG	29	31	31	31	31
CMA/G	1	1	1	1	1
<b>TOTALS</b>	<b>304</b>	<b>310</b>	<b>312</b>	<b>312</b>	<b>313</b>

<b>ONSITE SURVEYS PERFORMED</b>	<b>FY2020</b>	<b>FY21 Qtr-1</b>	<b>FY21 Qtr-2</b>	<b>FY21 Qtr-3</b>	<b>FY21 Qtr-4</b>
LTCA	82	0	0	0	0
HHA	0	0	0	0	0
DDDCA	9	0	0	0	0
RCA	0	0	0	0	0
ADCA	0	0	0	0	0
CMA	19	0	0	0	0
CMA / CEU	15	0	0	0	0
CMA/IA	8	0	0	0	0
CMA/GM	1	0	0	0	0
CMA/R	3	0	0	0	0
CMA/RG	9	0	0	0	0
<b>TOTALS</b>	<b>146</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>CURRENT TEMPORARY EMERGENCY WAIVERS</b>	0
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Now presumptively approved with waiver.

<b>Exception Applications for The Emergency Training Waiver</b>	3,445	received
	3,440	processed
	5	pending

Waiver testing approval letters now include testing site contact information to improve testing access/options



# An Act

ENROLLED SENATE  
BILL NO. 654

By: Standridge of the Senate

and

Caldwell (Chad) of the  
House

An Act relating to long-term care; amending 63 O.S. 2011, Section 1-822, as amended by Section 1, Chapter 367, O.S.L. 2017 (63 O.S. Supp. 2020, Section 1-822), which relates to residential care; modifying licensure fees; modifying duration of license; amending 63 O.S. 2011, Section 1-873, which relates to adult day care; modifying entity responsible for licensure requirements and rules; modifying duration of licensure; amending 63 O.S. 2011, Section 1-874, which relates to license application for adult day care; modifying license fees; amending 63 O.S. 2011, Section 1-890.4, as amended by Section 2, Chapter 183, O.S.L. 2013 (63 O.S. Supp. 2020, Section 1-890.4), which relates to continuum of care facilities and assisted living centers; modifying entity responsible for developing a sliding fee scale; modifying licensure fees; providing for expiration of licenses; 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. 2011, Section 1-822, as amended by Section 1, Chapter 367, O.S.L. 2017 (63 O.S. Supp. 2020, Section 1-822), is amended to read as follows:

Section 1-822. A. An application for a license, or renewal thereof, to establish or operate a residential care home shall be

accompanied by a fee of Fifty Dollars (\$50.00) for the probationary license and Twenty-five Dollars (\$25.00) per year for the renewal license. The fee shall not be refunded. Except as provided for in Section 1-824 of this title, a license shall expire ~~twenty-four (24)~~ thirty-six (36) months from the date of issuance, unless sooner revoked, and may be renewed ~~biannually~~ by the State Department of Health pursuant to the provisions of the Residential Care Act. Renewal licenses may be issued for a period of more than twenty-four (24) months, but not more than thirty-six (36) months, for the license period immediately following November 1, 2021, in order to permit an equitable distribution of license expiration dates. All licenses shall be on a form prescribed by the State Commissioner of Health, and shall include, but not be limited to, the maximum bed capacity for which the license is granted, the date the license was issued, and the expiration date of the license. The provisions of the license shall require that the license shall:

1. Not be transferable or assignable except as authorized by the provisions of the Residential Care Act;
2. Be posted in a conspicuous place on the licensed premises; and
3. Be issued only for the premises named in the application, and may be renewed ~~for twenty-four month periods~~ upon application, inspection, and payment of the license fee, as required by the provisions of the Residential Care Act.

B. An application shall contain the following information:

1. The name and address of the owner of the home. If the owner is a firm or partnership, the name and address of each member thereof shall be included in the application. If the owner is a corporation, the name and address of the corporation and the name and address of each officer and registered agent of the corporation shall be included in the application;
2. The name and address of the applicant if the applicant is not the owner and is acting as agent for the owner;
3. The name and location of the home for which a license is sought;

4. The name of the administrator of the home;

5. The number and type of residents for whom services are to be provided; and

6. The staffing pattern for providing resident care. In the case of an application for an initial license, the staffing pattern shown may be the projected staffing pattern.

C. Each initial application shall be accompanied by a statement from the unit of local government having zoning jurisdiction over the location of the home stating that the location is not in violation of a zoning ordinance.

D. 1. An applicant shall be twenty-one (21) years of age or older and meet the specific requirements for licensure as specified in rules promulgated by the State ~~Board~~ Commissioner of Health pursuant to the provisions of the Residential Care Act.

2. No person who has been convicted of a felony in connection with the management or operation of a home, or facility as defined in Section 1-1902 of this title or in the care and treatment of the residents of a home, or facility as defined in Section 1-1902 or 1-1950.1 of this title shall be eligible to be licensed or to participate in the management or operation of a home.

3. If the applicant is a firm, partnership, or corporation, the applicant shall not be eligible to be licensed if any member of the firm or partnership or any officer or major stockholder of the corporation has been convicted of a felony in connection with the operation or management of a home or facility or the care and treatment of the residents of a home or facility as defined in Section 1-1902 of this title.

E. 1. The application for a license or renewal of a license shall be accompanied by a statement of ownership which shall include the following:

- a. the name, address, telephone number, occupation or business activity, business address, and business telephone number of the owner of the home and of every

person who owns the building in which the home is located. If the owner is a partnership or corporation, the name and address of each partner and stockholder with an ownership interest of five percent (5%) or more shall be included in the statement, and

- b. the name and address of any other home in which the owner has a full or partial financial interest or, if the owner is a partnership or corporation, any other home in which the partnership or corporation has a full or partial financial interest. The statement shall indicate whether or not any other home wherein a full or partial financial interest is held would, if located in this state, be required to be licensed.

2. The applicant shall agree in writing, prior to the issuance of a license, to notify the Department if there is any change in the information required to be included in the statement of ownership thirty (30) days in advance of such change. The information contained in the statement of ownership shall be public information and shall be available upon request from the Department.

F. Upon application of a licensee, a license may be modified in accordance with the provisions of the Residential Care Act. Such application for modification of a license shall be accompanied by a fee of Twenty Dollars (\$20.00) and shall be submitted in such form and manner as required by the Department.

G. Upon payment of the required application fees, the Commissioner may issue and renew licenses which substantially comply with the provisions of the Residential Care Act and rules promulgated pursuant thereto; provided, however, a plan of correction shall be submitted and accepted by both parties prior to licensure.

H. All residential care homes shall be required to have or employ a licensed administrator for the home.

SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-873, is amended to read as follows:

Section 1-873. A. The State ~~Board~~ Commissioner of Health, with the advice of the Long-Term Care Facility Advisory Board, created pursuant to Section 1-1923 of this title, shall define minimum adult day care licensure requirements and rules including standards for:

1. Health and social services which may be provided to participants;
2. The range of services to be provided by a center based on the type of participants to be served;
3. Staff to participant ratios;
4. Staff and volunteer qualifications;
5. Staff training;
6. Food services;
7. Participant records and care plans;
8. Antidiscrimination policies;
9. Sanitary and fire standards; and
10. Any other requirements necessary to ensure the safety and well-being of frail elderly and disabled adults.

B. Centers to be licensed shall include all adult day care centers. Sheltered workshops and senior recreational centers which do not receive participant fees for services are not required to be licensed. It shall be unlawful to operate a center without first obtaining a license for such operation as required by the Adult Day Care Act, regardless of other licenses held by the operator. Organizations operating more than one center shall obtain a license for each site.

C. The license for operation of a center shall be issued by the State Department of Health. The license shall:

1. Not be transferable or assignable;

2. Be posted in a conspicuous place on the licensed premises;
  3. Be issued only for the premises named in the application;
- and

4. Expire ~~twelve (12)~~ thirty-six (36) months from the date of issuance, provided an initial license shall expire one hundred eighty (180) days after the date of issuance. Licenses may be issued for a period of more than twelve (12) months, but not more than ~~twenty-four (24)~~ thirty-six (36) months, for the licensing period immediately following November 1, ~~2011~~ 2021, in order to permit an equitable distribution of license expiration dates to all months of the year.

D. A center shall meet the safety, sanitation and food service standards of the State Department of Health.

E. Local health, fire and building codes relating to adult day care centers shall be classified as an education use group.

F. The issuance or renewal of a license after notice of a violation has been sent shall not constitute a waiver by the State Department of Health of its power to subsequently revoke the license or take other enforcement action for any violations of the Adult Day Care Act committed prior to issuance or renewal of the license.

SECTION 3. AMENDATORY 63 O.S. 2011, Section 1-874, is amended to read as follows:

Section 1-874. A. An applicant for a license to operate an adult day care center must file an application on a form approved by the State Department of Health and pay an initial license fee which shall be determined by the Department.

B. Applications for license renewal must be filed at least forty-five (45) days before the expiration date of the current license on a form approved by the Department and a license renewal fee must be paid which shall be determined by the Department. The ~~annual~~ license renewal fee shall ~~not exceed~~ be Seventy-five Dollars (\$75.00) per year of licensure. Revenue generated by the collection of license fees shall be deposited into the Department revolving

fund, and shall be used to help finance the costs associated with the licensing of such center.

C. The applicant must provide evidence of compliance with the requirements of all applicable federal, state and local laws and regulations. In addition to other requirements, an applicant shall provide a statement of ownership and a financial statement.

SECTION 4. AMENDATORY 63 O.S. 2011, Section 1-890.4, as amended by Section 2, Chapter 183, O.S.L. 2013 (63 O.S. Supp. 2020, Section 1-890.4), is amended to read as follows:

Section 1-890.4. A. Each application for establishment of a continuum of care facility or assisted living center shall be accompanied by a nonrefundable application fee. The State ~~Board~~ Commissioner of Health shall develop a sliding fee scale not to exceed One Thousand Dollars (\$1,000.00) for each application, except that any facility operated by the Oklahoma Department of Veterans Affairs shall be exempt from the fee. The scale shall be based upon the bed capacity of the continuum of care facilities or assisted living centers.

B. Each application for an initial license, or ~~annual~~ renewal of the license, to operate a continuum of care facility or assisted living center shall be accompanied by a license fee ~~of~~. The initial license fee shall be Ten Dollars (\$10.00) for each bed included in the maximum bed capacity at such facility or center and the renewal license fee shall be Ten Dollars (\$10.00) for each bed included in the maximum bed capacity at such facility or center, per year of licensure, except that any facility operated by the Oklahoma Department of Veterans Affairs shall be exempt from ~~this fee~~ these fees. Each application for an initial or renewal license for a continuum of care facility that includes an adult day care component shall be accompanied by an additional license fee in an amount to be determined by the ~~Board~~ Commissioner, but not to exceed Seventy-five Dollars (\$75.00) per year of licensure, except that any facility operated by the Oklahoma Department of Veterans Affairs shall be exempt from the fee.

C. Each application to establish or license a continuum of care facility or assisted living center shall be on a form approved by the Commissioner to include, but not be limited to, the following:

1. Disclosure of the applicant's identity and background in the operation of continuum of care and assisted living services; and

2. Evidence of the adequacy of the applicant's financial resources and ability to ensure adequate staffing.

D. The renewal license shall expire three (3) years from the date of issuance. An initial license shall expire one hundred eighty (180) days after the date of issuance. Renewal licenses may be issued for a period of more than twelve (12) months, but not more than thirty-six (36) months, for the license period immediately following November 1, 2021, in order to permit an equitable distribution of license expiration dates.

SECTION 5. This act shall become effective November 1, 2021.



Passed the Senate the 10th day of March, 2021.

\_\_\_\_\_  
Presiding Officer of the Senate

Passed the House of Representatives the 13th day of April, 2021.

\_\_\_\_\_  
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. 2566

By: Caldwell (Chad), Davis,  
West (Tammy), Stark,  
Conley, Dills, Boles, Lepak  
and Russ of the House

and

McCortney and Bergstrom of  
the Senate

An Act relating to long-term care; providing for visitation of residents in long-term care facilities; defining term; providing for health care provider access to residents of long-term care facilities; requiring long-term care facilities to submit and make available certain procedures; allowing restrictions by the State Department of Health or Centers for Medicare and Medicaid Services; prohibiting unilateral elimination of visitation; allowing for temporary suspension of visitation in certain circumstances; 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 1-1919.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Except as provided by Section 10-111 of Title 43A of the Oklahoma Statutes, every long-term care facility, as defined in Section 1-1945 of Title 63 of the Oklahoma Statutes, must provide reasonable access to a resident by immediate family, compassionate caregivers, other relatives of the resident, essential support

persons, and the Oklahoma Long-Term Care Ombudsman subject to the resident's or, if they are incapacitated, their legally appointed representative's right to deny or withdraw consent at any time. Compassionate caregivers may be family members, friends, volunteers, or other individuals identified by a resident, the resident's family, or facility staff, who assist residents with activities of daily living, such as bathing, dressing, and eating, or who provide emotional, mental, or spiritual support to residents.


B. Every long-term care facility must provide reasonable access to a resident by health care providers who are contracted with the facility to provide such care, subject to the resident's right to deny or withdraw consent at any time.

C. Long-term care facilities shall include and submit to the State Department of Health in their emergency-preparedness plan procedures for visitation during an emergency. The visitation plan shall be made available by the facility to contracted health care providers, family members, essential support persons, and compassionate caregivers upon request. Visitation and access described in subsections A and B of this section may be subject to reasonable clinical and safety restrictions as ordered by the State Department of Health or the Centers for Medicare and Medicaid Services.


D. No long-term care facility shall unilaterally eliminate visitation for any reason; however, a facility may temporarily suspend visitation for a period not to exceed seventy-two (72) hours based upon the emergency-preparedness plan provided to the State Department of Health.

SECTION 2. 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.

Passed the House of Representatives the 9th day of March, 2021.

  
Presiding Officer of the House  
of Representatives

Passed the Senate the 21st day of April, 2021.

  
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 22<sup>nd</sup>  
day of April, 20 21, at 2:00 o'clock p. M.

By: Sumulbury

Approved by the Governor of the State of Oklahoma this 27<sup>th</sup>  
day of April, 20 21, at 10:27 o'clock a. M.

  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 27<sup>th</sup>  
day of April, 20 21, at 1:23 o'clock P. M.

By: Brian Blanton

# An Act

ENROLLED HOUSE  
BILL NO. 1794

By: Miller, Munson, Hill and  
Pittman of the House

and

Pugh of the Senate

An Act relating to long-term care; amending 63 O.S. 2011, Section 1-879.2a, which relates to the Alzheimer's Disease Special Care Disclosure Act; modifying act name; amending 63 O.S. 2011, Section 1-879.2b, which relates to definitions; modifying term; defining term; amending 63 O.S. 2011, Section 1-879.2c, which relates to disclosure; modifying reference; modifying applicable facilities; requiring development of certain form; modifying disclosure recipients; providing for timing of certain submission; requiring the State Department of Health to examine and review disclosures at certain times and to verify certain disclosures; modifying terms; requiring certain disclosures; requiring the State Commissioner of Health to promulgate rules; creating the Alzheimer-Dementia Disclosure Act Advisory Council; providing for membership, service without compensation, organization, quorum and staff assistance; requiring certain facilities to post certain form and information on the facilities' websites; providing for penalties; requiring certain information to be posted on the Department's website; 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. 2011, Section 1-879.2a, is amended to read as follows:

Section 1-879.2a This act shall be known and may be cited as the "Alzheimer's Disease Dementia and Other Forms of Dementia Special Care Disclosure Act".

SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-879.2b, is amended to read as follows:

Section 1-879.2b As used in the Alzheimer's Disease Dementia and Other Forms of Dementia Special Care Disclosure Act:

1. "~~Alzheimer's disease special~~ Special care" means care that is provided to persons with a diagnosis of probable Alzheimer's ~~disease dementia or related disorders~~ other forms of dementia by an entity that provides such care ~~in a special unit or under a special program designed to prevent or limit access to areas outside the designated unit or program;~~ and
2. "Department" means the State Department of Health;
3. "Dementia" means the impaired ability to remember, think, or make decisions that interferes with a person's everyday activities; and
4. "Alzheimer-Dementia Disclosure Act Advisory Council" shall mean the advisory council created in Section 3 of this act.

SECTION 3. AMENDATORY 63 O.S. 2011, Section 1-879.2c, is amended to read as follows:

Section 1-879.2c A. 1. Pursuant to rules promulgated under the provisions of the Alzheimer's Disease Dementia and Other Forms of Dementia Special Care Disclosure Act, ~~any facility including, but not limited to,~~ a nursing facility, residential care facility, assisted living facility, ~~adult congregate living facility,~~ adult day care center, ~~or a continuum of care facility retirement community,~~ or special care facility that publicly advertises, intentionally markets, or otherwise promotes itself as providing engages in promotional campaigns for the purpose of communicating that said facility offers care or treatment methods within the facility that distinguish it as being especially applicable to or suitable to persons with Alzheimer's disease dementia or related disorders in a special unit or under a special program other forms

of dementia diagnoses shall disclose the type of care, memory care or treatment provided that distinguishes it as being especially applicable to or suitable for such persons.

2. The disclosure shall be made using a form developed by the State Department of Health and shall be made to:

- a. the state licensing agency Department,
- b. any person seeking placement on behalf representative of a person with Alzheimer's disease dementia or related disorders other form of dementia who is considering placement within an Alzheimer's disease a special care unit, program, or facility, and
- c. the State Long-Term Care Ombudsman.

3. The facility shall submit the disclosure form to the Department prior to entering into any agreement to provide care or services.

4. The Department shall examine each disclosure for completeness and accuracy at the time the disclosure is submitted to the Department.

5. The State Department of Health shall examine all such disclosures review the most recent disclosure in the Department's records as part of during the facility's license renewal process regular inspection to verify accuracy. The disclosure shall be made prior to the facility or entity entering into any agreement to provide care that the disclosure is current and that the services described in the disclosure are provided to residents as described in the disclosure.

B. The information disclosed as required by this section shall include the following areas:

1. A written description of the Alzheimer's disease special care unit's unit, program, or facility's overall philosophy and mission as it relates to the needs of residents with Alzheimer's disease dementia or related disorders other forms of dementia;

2. The process and criteria for placement in, or transfer or discharge from, the unit, program, or facility;

3. The process used for assessment, establishment, and implementation of a patient resident plan of care, as it relates to Alzheimer's dementia and other forms of dementia, including the method by which the plan evolves, the frequency of assessment, and is responsive to how the facility will respond to changes in the condition of the patient resident;

4. Staff-to-resident ratios, staff training and continuing education that are in addition to all regularly prescribed training and are commensurate with Alzheimer's disease residents' needs the need for increased care and supervision for residents with Alzheimer's dementia and other forms of dementia;

5. The physical environment and design features appropriate to support the functioning of cognitively impaired adult residents;

6. The types and frequency of resident activities designed for residents with Alzheimer's dementia or other forms of dementia and descriptions of those therapeutic activities designed to address cognitive function and engage residents with varying stages of dementia;

7. The involvement of families in care planning and other aspects of care, and the availability of family support programs; and

8. The fees for care and any additional fees; and

9. Any accreditations or certifications issued to the facility related to the care and services provided to residents with Alzheimer's dementia or other forms of dementia.

C. The Department, with ~~equal opportunity for~~ input from ~~consumer and provider representatives~~ the Alzheimer-Dementia Disclosure Act Advisory Council, shall develop a standardized disclosure form and shall review the information submitted on the disclosure form by the facility or other entity to verify the accuracy of the information reported. Any significant change in the information initially submitted by the facility or other entity shall be reported to the Department at the time the change is made.

D. The provisions of this section shall not be construed to preclude a nursing facility without an Alzheimer's disease a special care unit or program from admitting a person with Alzheimer's disease dementia or related disorders other forms of dementia.



E. The Department State Commissioner of Health, with equal opportunity for input from consumer and provider representatives the Alzheimer-Dementia Disclosure Act Advisory Council, shall promulgate rules to effectuate the provisions of the Alzheimer's Disease Dementia and Other Forms of Dementia Special Care Disclosure Act.

F. There is hereby created the Alzheimer-Dementia Disclosure Act Advisory Council. The Council shall make recommendations to the State Commissioner of Health regarding the disclosure form and rules promulgated pursuant to the Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act.

1. The Council shall consist of nine (9) members to be appointed by the State Commissioner of Health for such terms as he or she chooses. The members shall be individuals who have knowledge and expertise in the field of memory care or individuals who are consumer representatives directly impacted by memory-care services, provided that neither the members with knowledge and expertise in the field nor the members who are consumer representatives shall comprise more than two-thirds (2/3) of the total membership. The members who are consumer representatives shall be individuals with immediate family members who have received or are currently receiving memory-care services in Oklahoma and shall not be employees or board members of any facilities or entities subject to the Alzheimer's Dementia and Other Forms of Dementia Special Care Disclosure Act.

2. The members of the Council shall serve without compensation.

3. The Council shall conduct an organizational meeting at a date and location to be chosen by the Commissioner and as frequently thereafter as necessary to perform the duties imposed upon it. A majority of the members present shall constitute a quorum.

4. Staff assistance for the Council shall be provided by the staff of the State Department of Health.

G. Violation of any of the provisions of this act or the rules issued pursuant to this act shall subject the offending facility to the notice and enforcement provisions established for the facility's license by the Department.

H. Any facility that offers specialized memory or dementia care through a specific unit or program shall post the disclosure form,

including the information required to be included by this section, on the facility's website.

I. The Department shall establish a website with a list of those facilities that have filed a disclosure form pursuant to this act. The website shall contain a link to the submitted disclosure form and a table containing items from the disclosure form, including staffing ratios, staff training, special programming and activities, and accreditations or certifications.

SECTION 4. This act shall become effective November 1, 2021.

Passed the House of Representatives the 19th day of May, 2021.

*Thye Hill*

Presiding Officer of the House  
of Representatives

Passed the Senate the 24th day of May, 2021.

*McCarty*

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 25<sup>th</sup>

day of May, 2021, at 10:05 o'clock a. M.

By: *Dumler*

Approved by the Governor of the State of Oklahoma this 28<sup>th</sup>

day of May, 2021, at 10:18 o'clock a. M.

*K. J. ...*  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 28<sup>th</sup>

day of May, 2021, at 12:23 o'clock P. M.

By: *Brian ...*



## Top Five Deficiencies

### Five Deficiencies Cited F-Tags (Federal):

1. F884 (Reporting – National Health Safety Network)
2. F880 (Infectious Prevention & Control)
3. F684 (Quality of Care)
4. F677 (ADL Care Provided for Dependent Residents)
5. F689 (Free of Accident Hazards/Supervision/Devices)

### Five Deficiencies Cited L-Tags Licensure (State):

1. L816 (Basic Nursing and Personal Care)
2. L810 (Infection Control)
3. L242 (Resident Rights)
4. L900 (Required Staff)
5. L864 (Food Storage, Supply and Sanitation)

# *Oklahoma Open Meeting Act: The Basics*



**Office of Attorney General**

# It's The Law

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**“Oklahoma Open Meeting Act”  
25 O.S. §§ 301-314**

# There are consequences for willful violations of the Act:

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## Civil Implications:

- Actions taken in willful violation are invalid. 25 O.S. § 313
- Minutes of an Executive Session will be made public where the Open Meeting Act is willfully violated. 25 O.S. § 307(F)(2).

## Criminal Penalty (25 O.S. § 314):

- Misdemeanor
- Punishable by fine up to \$500 and/or up to one (1) year in county jail.

# Willful Violation

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*Rogers v Excise Bd. of Greer County, 1984 OK 95, 701 P.2d 754*

- “The Act provides that any action taken in willful violation shall be invalid. Willfulness does not require a showing of bad faith, malice, or wantonness, but rather, encompasses conscious, purposeful violations of law or ***blatant or deliberate disregard of the law by those who know, or should know*** ... Notice of meetings of public bodies which are deceptively vague or likely to mislead constitute a willful violation.” (Emphasis added.)



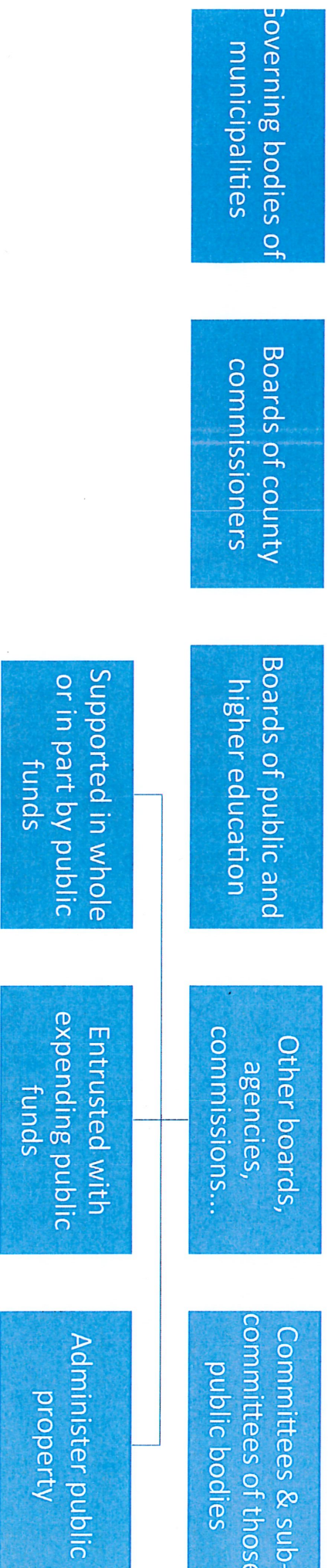
# Two critical definitions in the Act:

**Public body  
&  
Meeting**

**If you don't have a "public body" AND a  
"meeting",  
the Act does not apply.**

# “Public Body” Defined

(25 O.S. § 304(1))



# “Public Body” Does Not Include:

- Judiciary
- Legislature
- Administrative staff of public bodies (including faculty meetings and athletic staff meetings of institutions of higher ed when not meeting with public body)
- Other specific exceptions, i.e. racing stewards, Council on Judicial Complaints, etc.

# “Public Body” Does Not

## Include:

- Committees that are purely fact finding, informational, recommendatory, or advisory with no decision-making authority. *Andrews v. Ind. School District No. 29 of Cleveland Co.*, 1987 OK 40, 737 P.2d 929.

- Private organizations which contract to provide goods or services to the public on behalf of a governmental agency and receive payment from public funds merely as reimbursement for goods or services provided. 2002 OK AG 37.

# “Meeting” Defined

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(25 O.S. § 304(2))

## Generally:

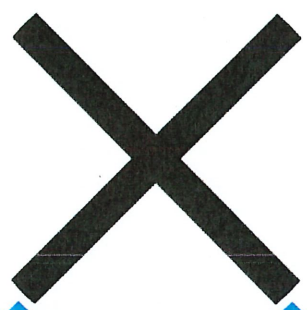
- When “conducting business” of public body
- By majority of members
- Being personally together
- Or by teleconference, as authorized by § 307.1

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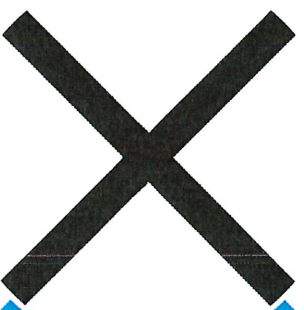
“Meeting” does not include informal gatherings of a majority of members when no business of the public body is being discussed.

# Electronic and Telephonic Communications

(25 O.S. § 306)



Prohibits deciding or  
taking action (voting) on  
any matter by phone or e-  
mail

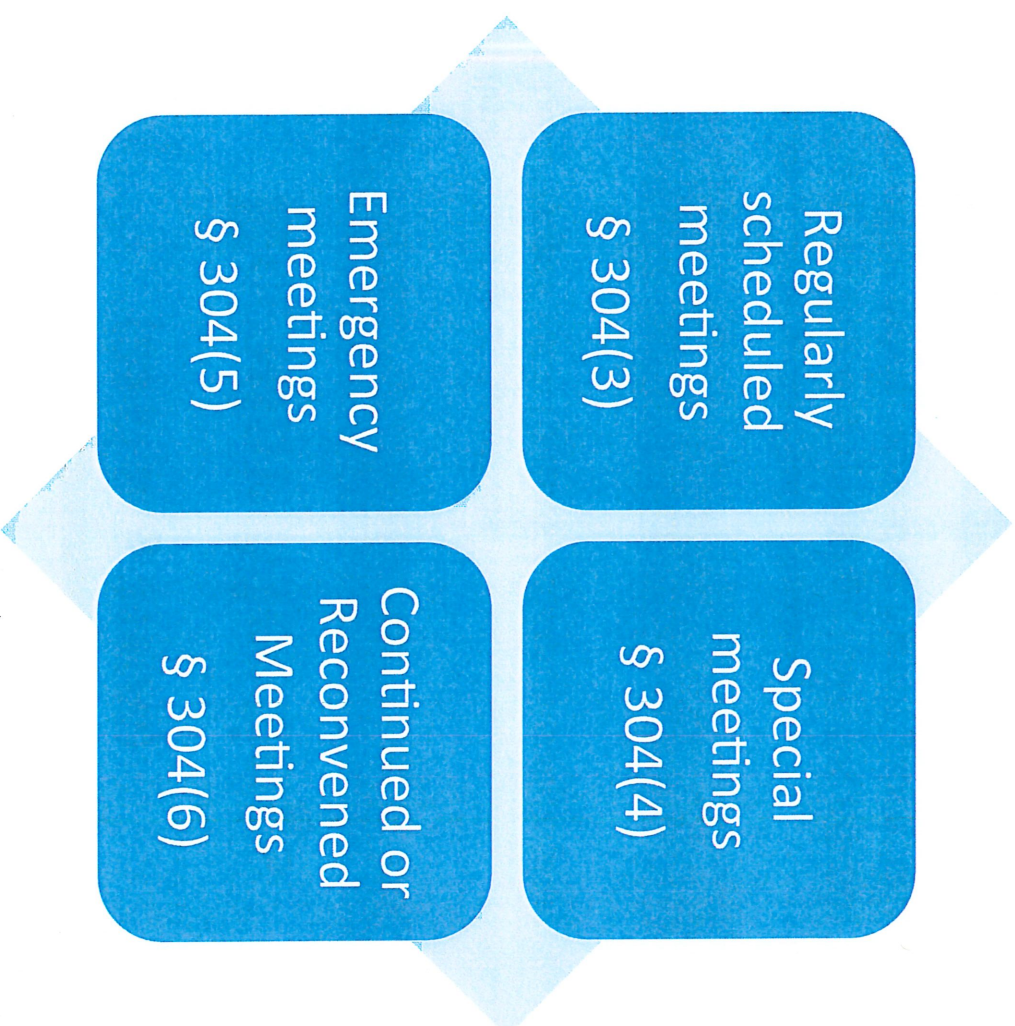


Also prohibits deciding or  
taking action on any  
matter at an “informal”  
gathering

# Four Types of Meetings

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(25 O.S. § 304)



# Notice & Agenda

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(25 O.S. § 311(A))

## Regular Meetings

Annually give appropriate office advance public notice of all regular meetings by Dec. 15

- Notice must include date, time, & place of meetings
- Date, time, &/or place can be changed with 10 days advance notice given to appropriate office

24 hours prior to meeting post publicly in prominent view Notice and Agenda

- Excludes Saturday, Sunday, and Oklahoma State Holidays
- Must be visible entire 24 hours in advance of meeting (1997 OK AG 98)
- Posted at principal office (if no office exists, posted at meeting location)

New business is permissible

Any matter not known about or which could not have been reasonably foreseen prior to the time of posting (24 hours prior to meeting). 25 O.S. § 311(A)(9).



# NOTICE & Agenda

## Continued

(25 O.S. § 311(A))

### Special Meetings

48 hours prior to meeting:

- Give notice to appropriate office of date, time, & place of meeting
- Mail said notice to those who have filed written request (may charge up to \$18 annually)

24 hours prior to meeting post publicly in prominent view Notice and Agenda

- Excludes Saturday, Sunday, and Oklahoma State Holidays
- Must be visible entire 24 hours in advance of meeting (1997 OK AG 98)
- Posted at principal office (if no office exists, posted at meeting location)

New business is NOT permissible

# Continued

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(25 O.S. §§ 304(6) & 311(A)(10))

## **Continued or Reconvened Meetings**

- **Recess original meeting and announce time, date, and place where meeting will be reconvened.**
- **Cannot add items to agenda for reconvened meeting. Limited to original agenda.**

# Notice & Agenda Continued

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25 O.S. §§ 304(5) & 311(A)(12))

## Emergency Meetings

- Item to be discussed must involve “injury to persons or injury and damage to public or personal property or immediate financial loss” .
- Waiting to hold a special meeting with 48 hours notice would be impractical and would likely increase injury or damage or immediate financial loss.
- Must give as much advance public notice as is reasonable and possible under the circumstances.

# Agendas

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**(25 O.S. § 311(B))**

Must contain sufficient information for the public to identify the items of business and purpose

*“Agendas must be worded in plain language, directly stating the purpose ... the language used should be simple, direct and comprehensible to a person of ordinary education and intelligence.” Haworth Bd. Of Ed. v. Havens, 637 P.2d 902 (Okla. Civ. App.1981)*

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# Agendas cont...

*Haworth Bd. Of Ed. v. Havens*, 637 P.2d 902 (Okla. Civ. App. 1981)

Agenda said purpose of meeting was to:

1. Appoint new board member
2. Interview a new administrator
3. Hire principals

The court found the agenda was deceptively vague and a willful violation where the school board hired a superintendent.

# Agenda Item Best Practices

## **THIS**

1. Executive Director's Report, with possible discussion and/or action on the following:
  - A. Status of FY2014 audit
  - B. New Deputy Executive Director.
  - C. Remodel of Board offices.
2. Report on and possible discussion of committee assignments made by Board Chair.
3. Report and possible discussion on public informational meetings held on recently enacted permanent rules.

## **NOT THIS**

1. Executive Director's Report
2. Miscellaneous
3. Old Business

# Executive Sessions

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(25 O.S. § 307)

General rule: No executive sessions unless specifically authorized in this section (307) or other statute

## Limited Permissible Purposes:

- Personnel matters – 25 O.S. § 307(B)(1)
  - Not job openings (2006 OK AG 17)
  - Not hiring independent contractors (2005 OK AG 29)
  - Must identify individual or unique position (1997 OK AG 61)
- Purchase or appraisal of real property – 25 O.S. § 307(B)(3)
- Confidential communications w/ attorney concerning pending investigation, claim or action – 25 O.S. § 307(B)(4)
- Other specific instances

# Executive Sessions

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(25 O.S. §§ 307 & 311)

## Miscellaneous:

- Strict procedures for agendas (§§ 307(E) & 311(B)). State specific provision authorizing.
- Must take vote & have majority to convene executive session.
- Votes cannot be taken in executive session
- Must take & keep minutes
- *Berry v Bd of Gov of Registered Dentists*, 1980 OK 45, 611 P.2d 628.



## Executive Session Agenda Item (Example)

—Possible discussion and vote to enter Executive

Session pursuant to 25 O.S. § 307(B)(4)<sup>1</sup> for confidential communications between the Board and its attorney concerning the pending tort claim filed by John Doe<sup>2</sup> against the Board where the Board’s attorney has determined that disclosure will seriously impair the ability of the Board to process the claim in the public interest.<sup>3</sup>

<sup>1</sup> State applicable 307(B) provision.

<sup>2</sup> Identify the claim, investigation, or proceeding.

<sup>3</sup> Board’s attorney must make determination.

# Executive Session Agenda Item (Example)

- Possible discussion and vote to enter Executive Session pursuant to 25 O.S. § 307(B)(1)<sup>1</sup> to discuss annual review of Executive Director and possible merit raise increase<sup>2</sup> for Executive Director.<sup>3</sup>
  - A. Vote to Enter Executive Session
  - B. Exit Executive Session and vote to re-enter open session
  - C. Vote on items discussed in Executive Session

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1 Citation of specific 307(B) provision

2 Salary can be discussed in Executive Session (1996 OK AG 40)

3 Name or unique position identified.

# Votes

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(25 O.S. § 305)

## **Vote of each member must be:**

### Publicly cast

- Roll call vote recommended

### Recorded

- Failure to do so results in action being invalid.
- *Oldham v Drummond Bd of Ed*, 1975 OK 147, 542 P.2d 1309

# Minutes

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(25 O.S. § 312)

Requires written minutes including:

- Official summary of the proceeding
- Identifies all members present and absent (2012 OK AG 24)
- Identifies all matters considered
- Identifies all actions taken
- Reflects manner and time notice was given

Minutes of public meeting are open to the public

# Minutes Continued

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## Minutes for Emergency Meetings

- Must state nature of emergency
- Must include reasons for declaring emergency meeting

## Recording Meetings (§ 312(c))

- Any person may record the meeting
- Provided it does not interfere with meeting

# Miscellaneous

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## Public Comments

A public body is not required to provide opportunity for citizens to speak  
(2002 OK AG 26; 1998 OK AG 45)

If public body chooses to allow public comments, it is advisable to set policy

Could limit comments to agenda items only

If public comments are not limited to agenda items, members must be careful not to engage in discussion

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# Teleconference

(25 O.S. § 307.1)

*Pending legislation to change: SB1117*

Permissible, but certain conditions must be met:

- Must have quorum of public body at agenda site
- Notice & agenda must list video site(s)
- Notice & agenda must identify each member and site each will participate from
- Off-site location must be in district
- Public must have access to all sites
- Audio and visual at each site
- No executive sessions



**Thank you !**