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Table of Contents

Agency/Action/Subject Index	iii
Rules Affected Index	v
Agency Index (Title numbers assigned)	viii
Notices of Rulemaking Intent	
Accountancy Board, Oklahoma (Title 10)	327
Agriculture, Food, and Forestry, Oklahoma Department of (Title 35)	328, 329
Education, State Department of (Title 210)	329, 330
Environmental Quality, Department of (Title 252)	330
Grand River Dam Authority (Title 300)	331
Health Care Authority, Oklahoma (Title 317)	331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354
Human Services, Department of (Title 340)	354, 355, 356, 357, 358
Insurance Department (Title 365)	359, 361, 362, 363
Investigation, Oklahoma State Bureau of (Title 375)	364, 365
Labor, Department of (Title 380)	366, 367
Mental Health and Substance Abuse Services, Department of (Title 450)	368, 369, 370
Real Estate Appraiser Board (Title 600)	370
Tax Commission, Oklahoma (Title 710)	371, 372, 373, 374, 375, 376, 378, 379, 380
Transportation, Department of (Title 730)	381
Submissions for Review	
Employment Security Commission, Oklahoma (Title 240)	383
Teacher Preparation, Oklahoma Commission for (Title 712)	383
Gubernatorial Approvals	
Corporation Commission (Title 165)	385
Employment Security Commission, Oklahoma (Title 240)	385
Emergency Adoptions	
Construction Industries Board (Title 158)	387, 388, 390
Education, State Department of (Title 210)	398
Health Care Authority, Oklahoma (Title 317)	401, 408, 409
Human Services, Department of (Title 340)	411, 413, 415
Pharmacy, Oklahoma State Board of (Title 535)	417
Central Services, Department of (Title 580)	418
Real Estate Commission, Oklahoma (Title 605)	428
Wildlife Conservation, Department of (Title 800)	431

Agency/Action/Subject Index

<p>ACCOUNTANCY Board, Oklahoma (Title 10) <i>Notices of Rulemaking Intent</i> Licensure and Regulation of Accountancy (Chapter 15) 327</p> <p>AGRICULTURE, Food, and Forestry, Oklahoma Department of (Title 35) <i>Notices of Rulemaking Intent</i> Fees (Chapter 2) 328 Market Development (Chapter 40) 329</p> <p>CONSTRUCTION Industries Board (Title 158) <i>Emergency Adoptions</i> Fine Schedule (Chapter 10) 387 Mechanical Industry Regulations (Chapter 50) 388 <u>Home Inspection Industry Regulations</u> (Chapter 70) 390</p> <p>CORPORATION Commission (Title 165) <i>Gubernatorial Approvals</i> Electric Utility Rules (Chapter 35) 385</p> <p>EDUCATION, State Department of (Title 210) <i>Notices of Rulemaking Intent</i> School Administration and Instructional Services (Chapter 10) 329 Curriculum and Instruction (Chapter 15) 330 <i>Emergency Adoptions</i> School Administration and Instructional Services (Chapter 10) 398</p> <p>EMPLOYMENT Security Commission, Oklahoma (Title 240) <i>Submissions for Review</i> Board of Review Procedures (Chapter 15) 383 <i>Gubernatorial Approvals</i> Unemployment Insurance Program (Chapter 10) 385 Workforce Investment Act (Chapter 21) 385</p> <p>ENVIRONMENTAL Quality, Department of (Title 252) <i>Notices of Rulemaking Intent</i> Rules of Practice and Procedure (Chapter 4) 330</p> <p>GRAND River Dam Authority (Title 300) <i>Notices of Rulemaking Intent</i> Public Purpose Support and Assistance (Chapter 10) 331</p> <p>HEALTH Care Authority, Oklahoma (Title 317) <i>Notices of Rulemaking Intent</i> Administrative Operations (Chapter 1) 331 Grievance Procedures and Process (Chapter 2) 332, 333 SoonerCare Choice (Chapter 25) 333 Medical Providers-Fee for Service (Chapter 30) 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344 Medical Assistance for Adults and Children-Eligibility (Chapter 35) 345, 346, 347, 348, 349, 350, 351 Developmental Disabilities Services (Chapter 40) 351 <u>Insure Oklahoma/ Oklahoma Employer and Employee Partnership for Insurance Coverage</u> (Chapter 45) 352, 353, 354 <i>Emergency Adoptions</i> SoonerCare Choice (Chapter 25) 401 Medical Assistance for Adults and Children-Eligibility (Chapter 35) 408 <u>Insure Oklahoma/ Oklahoma Employer and Employee Partnership for Insurance Coverage</u> (Chapter 45) 409</p> <p>HUMAN Services, Department of (Title 340) <i>Notices of Rulemaking Intent</i> Temporary Assistance for Needy Families (TANF) (Chapter 10) 354 <u>Oklahoma Child Support Enforcement Division Services</u> (Chapter 25) 355 Child Care Services <u>Subsidy Program</u> (Chapter 40) 356 <u>Food Stamp Supplemental Nutrition Assistance program</u> (Chapter 50) 357</p>	<p>HUMAN Services, Department of – continued <i>Notices of Rulemaking Intent – continued</i> Public Assistance Procedures (Chapter 65) 357 Child Welfare (Chapter 75) 358 <i>Emergency Adoptions</i> Child Support Enforcement Division (Chapter 25) 411 Child Welfare (Chapter 75) 413 Licensing Services (Chapter 110) 415</p> <p>INSURANCE Department (Title 365) <i>Notices of Rulemaking Intent</i> Administrative Operations (Chapter 1) 359 Life, Accident and Health (Chapter 10) 359 Property and Casualty (Chapter 15) 361 Licensure of Producers, Adjusters, Bail Bondsmen, Companies, Prepaid Funeral Benefits, and Viatical <u>And Life</u>-settlements Providers and Brokers (Chapter 25) 362, 363</p> <p>INVESTIGATION, Oklahoma State Bureau of (Title 375) <i>Notices of Rulemaking Intent</i> Records Retention and Destruction (Chapter 8) 364 Oklahoma Open Records (Chapter 9) 365 Oklahoma Self-Defense Act (Chapter 25) 365</p> <p>LABOR, Department of (Title 380) <i>Notices of Rulemaking Intent</i> Welding Rules (Chapter 20) 366 Boiler and Pressure Vessel Rules (Chapter 25) 366 Amusement Ride Safety Rules (Chapter 55) 367</p> <p>MENTAL Health and Substance Abuse Services, Department of (Title 450) <i>Notices of Rulemaking Intent</i> Administration (Chapter 1) 368 Consumer Rights (Chapter 15) 368 Standards and Criteria for Community Mental Health Centers (Chapter 17) 369 <u>Standards and Criteria For State-Operated Inpatient Services</u> (Chapter 30) 370</p> <p>PHARMACY, Oklahoma State Board of (Title 535) <i>Emergency Adoptions</i> Pharmacists; Interns, Preceptors and Training Areas (Chapter 10) 417 Manufacturers, Packagers, and Wholesalers (Chapter 20) 417</p> <p>CENTRAL Services, Department of (Title 580) <i>Emergency Adoptions</i> Central Purchasing (Chapter 15) 418</p> <p>REAL Estate Appraiser Board (Title 600) <i>Notices of Rulemaking Intent</i> Licensure and Certification Requirements (Chapter 10) 370</p> <p>REAL Estate Commission, Oklahoma (Title 605) <i>Emergency Adoptions</i> Requirements, Standards and Procedures (Chapter 10) ... 428</p> <p>TAX Commission, Oklahoma (Title 710) <i>Notices of Rulemaking Intent</i> Administrative Operations (Chapter 1) 371 Ad Valorem (Chapter 10) 372 Alcohol, Mixed Beverages and Low-Point Beer (Chapter 20) 373 Boats and Motors (Chapter 22) 373 Gross Production (Chapter 45) 374 Income (Chapter 50) 375 Motor Vehicles (Chapter 60) 376 Sales and Use Tax (Chapter 65) 378 Withholding (Chapter 90) 379</p>
---	---

Agency/Action/Subject Index – continued

TAX Commission, Oklahoma – continued

Notices of Rulemaking Intent – continued

Miscellaneous Areas of Regulatory and Administrative
Authority (Chapter 95) 380

**TEACHER Preparation, Oklahoma Commission for
(Title 712)**

Submissions for Review

Teacher Preparation Program Accreditation
(Chapter 10) 383

TRANSPORTATION, Department of (Title 730)

Notices of Rulemaking Intent

Maintenance and Control of State Highway System
(Chapter 35) 381

WILDLIFE Conservation, Department of (Title 800)

Emergency Adoptions

Wildlife Rules (Chapter 25) 431

Rules Affected Index

[(E) = *Emergency action*]

Rule	Register Page	Rule	Register Page
5:10-7-1.	[NEW] (E) 163	210:20-9-99.1.	[AMENDED] (E) 98
5:10-9-1.	[NEW] (E) 164	210:20-9-102.	[AMENDED] (E) 248
35:15-40-90.	[AMENDED] (E) 165	210:30-5-1.	[AMENDED] (E) 55
35:15-40-90.1.	[NEW] (E) 165	210:35-3-201.	[AMENDED] (E) 99
87:10-1-2.	[AMENDED] (E) 5	210:35-9-31.	[AMENDED] (E) 10
87:10-26-1.	[NEW] (E) 7	317:25-7-1.	[AMENDED] (E) 402
87:10-26-2.	[NEW] (E) 7	317:25-7-2.	[AMENDED] (E) 402
87:10-26-3.	[NEW] (E) 7	317:25-7-3.	[AMENDED] (E) 403
87:10-26-4.	[NEW] (E) 7	317:25-7-5.	[AMENDED] (E) 403
87:10-26-5.	[NEW] (E) 7	317:25-7-6.	[AMENDED] (E) 404
87:10-26-6.	[NEW] (E) 7	317:25-7-10.	[AMENDED] (E) 404
87:10-26-7.	[NEW] (E) 7	317:25-7-12.	[AMENDED] (E) 405
87:10-26-8.	[NEW] (E) 7	317:25-7-13.	[AMENDED] (E) 405
87:10-26-9.	[NEW] (E) 8	317:25-7-25.	[AMENDED] (E) 405
87:10-26-10.	[NEW] (E) 8	317:25-7-26.	[AMENDED] (E) 405
87:10-26-11.	[NEW] (E) 8	317:25-7-27.	[AMENDED] (E) 405
150:105-1-2.	[AMENDED] (E) 87	317:25-7-28.	[AMENDED] (E) 406
150:105-1-3.	[AMENDED] (E) 90	317:25-7-29.	[AMENDED] (E) 406
150:105-1-4.	[AMENDED] (E) 91	317:25-7-30.	[AMENDED] (E) 407
158:10-3-5.	[NEW] (E) 387	317:25-7-40.	[NEW] (E) 407
158:50-1-2.	[AMENDED] (E) 388	317:30-3-5.1.	[AMENDED] (E) 100
158:50-5-1.	[AMENDED] (E) 389	317:30-3-25.	[AMENDED] (E) 249
158:50-5-2.	[AMENDED] (E) 389	317:30-3-27.	[NEW] (E) 250
158:70-1-1.	[NEW] (E) 391	317:30-5-11.	[AMENDED] (E) 252
158:70-1-2.	[NEW] (E) 391	317:30-5-22.	[AMENDED] (E) 101
158:70-1-3.	[NEW] (E) 392	317:30-5-22.	[AMENDED] (E) 255
158:70-3-1.	[NEW] (E) 395	317:30-5-22.1.	[AMENDED] (E) 102
158:70-5-1.	[NEW] (E) 395	317:30-5-47.	[AMENDED] (E) 252
158:70-5-2.	[NEW] (E) 395	317:30-5-95.33.	[AMENDED] (E) 263
158:70-9-1.	[NEW] (E) 396	317:30-5-122.	[AMENDED] (E) 249
158:70-9-2.	[NEW] (E) 396	317:30-5-216.	[AMENDED] (E) 257
158:70-9-3.	[NEW] (E) 396	317:30-5-241.	[AMENDED] (E) 103
158:70-9-4.	[NEW] (E) 396	317:30-5-275.	[AMENDED] (E) 258
158:70-9-5.	[NEW] (E) 396	317:30-5-336.5.	[AMENDED] (E) 262
158:70-9-6.	[NEW] (E) 397	317:30-5-356.	[AMENDED] (E) 114
158:70-9-8.	[NEW] (E) 397	317:30-5-361.	[AMENDED] (E) 253
158:70-11-1.	[NEW] (E) 397	317:30-5-664.10.	[AMENDED] (E) 253
158:70-11-2.	[NEW] (E) 397	317:30-5-1076.	[AMENDED] (E) 256
158:170-9-7.	[NEW] (E) 397	317:30-5-1090.	[AMENDED] (E) 254
160:3-1-1.1.	[AMENDED] (E) 166	317:30-5-1200.	[NEW] (E) 259
160:45-9-2.	[AMENDED] (E) 167	317:30-5-1201.	[NEW] (E) 259
160:55-3-1.2.	[AMENDED] (E) 245	317:30-5-1202.	[NEW] (E) 260
160:55-3-1.4.	[AMENDED] (E) 245	317:30-5-1203.	[NEW] (E) 260
160:55-9-10.	[NEW] (E) 8	317:30-5-1204.	[NEW] (E) 260
210:10-9-1.	[AMENDED] (E) 399	317:30-5-1205.	[NEW] (E) 261
210:10-9-2.	[AMENDED] (E) 399	317:30-5-1206.	[NEW] (E) 261
210:10-13-4.	[AMENDED] (E) 91	317:35-5-25.	[AMENDED] (E) 115
210:10-13-10.	[AMENDED] (E) 94	317:35-5-45.	[AMENDED] (E) 119
210:10-13-11.	[AMENDED] (E) 94	317:35-5-46.	[AMENDED] (E) 119
210:10-13-18.	[AMENDED] (E) 95	317:35-9-26.	[AMENDED] (E) 408
210:15-3-114.2.	[AMENDED] (E) 35	317:35-17-3.	[AMENDED] (E) 264
210:15-3-115.	[AMENDED] (E) 39	317:35-19-6.	[AMENDED] (E) 408
210:15-3-116.	[AMENDED] (E) 40	317:35-23-1.	[NEW] (E) 266
210:15-3-117.	[AMENDED] (E) 41	317:35-23-2.	[NEW] (E) 266
210:15-3-118.	[AMENDED] (E) 42	317:35-23-3.	[NEW] (E) 267
210:15-3-119.	[AMENDED] (E) 44	317:35-23-4.	[NEW] (E) 267
210:15-3-120.	[AMENDED] (E) 46	317:45-11-10.	[AMENDED] (E) 409
210:15-3-121.	[AMENDED] (E) 49	317:45-11-11.	[AMENDED] (E) 411
210:15-3-122.	[AMENDED] (E) 51	330:36-1-4.	[AMENDED] (E) 304
210:15-31-2.	[AMENDED] (E) 97	330:36-2-1.	[AMENDED] (E) 309
210:15-33-2.	[AMENDED] (E) 54	330:36-2-2.	[AMENDED] (E) 309

Rules Affected Index – *continued*

330:36-2-7. [AMENDED] (E)	310	340:110-5-7. [AMENDED] (E)	415
330:36-2-9. [AMENDED] (E)	310	340:110-5-8. [AMENDED] (E)	415
330:36-2-11. [AMENDED] (E)	310	340:110-5-12. [AMENDED] (E)	415
330:36-2-16. [AMENDED] (E)	310	340:110-5-30. [AMENDED] (E)	415
330:36-2-17. [AMENDED] (E)	311	340:110-5-57. [AMENDED] (E)	415
330:36-4-2. [AMENDED] (E)	311	340:110-5-61.1. [AMENDED] (E)	415
330:36-4-2.1. [AMENDED] (E)	314	365:10-11-4.1. [NEW] (E)	182
330:36-6-3. [AMENDED] (E)	316	365:25-3-19. [NEW] (E)	16
330:36-6-7. [AMENDED] (E)	316	365:25-11-1. [AMENDED] (E)	180
340:10-2-1. [AMENDED] (E)	169	365:25-11-2. [REVOKED] (E)	181
340:10-2-5. [AMENDED] (E)	170	365:25-11-2.1. [NEW] (E)	181
340:10-2-6. [AMENDED] (E)	171	365:25-11-3. [AMENDED] (E)	181
340:10-2-6.1. [AMENDED] (E)	171	365:25-11-4. [REVOKED] (E)	182
340:10-2-7. [AMENDED] (E)	171	365:25-11-5. [AMENDED] (E)	182
340:10-3-5. [AMENDED] (E)	174	365:25-11-6. [AMENDED] (E)	183
340:10-15-1. [AMENDED] (E)	177	365:25-11-7. [NEW] (E)	184
340:25-5-123. [AMENDED] (E)	412	365:25-11-8. [NEW] (E)	184
340:25-5-171. [AMENDED] (E)	413	365:25-11-9. [NEW] (E)	184
340:40-7-5. [AMENDED] (E)	178	365:25-11-10. [NEW] (E)	184
340:50-7-2. [AMENDED] (E)	12	365:25-11-11. [NEW] (E)	184
340:50-7-3. [AMENDED] (E)	15	365:25-13-1. [REVOKED] (E)	184
340:60-1-3. [AMENDED] (E)	179	365:25-13-2. [REVOKED] (E)	185
340:75-7-24. [AMENDED] (E)	414	365:25-13-3. [REVOKED] (E)	185
340:110-1-4.1. [AMENDED] (E)	415	365:25-13-4. [REVOKED] (E)	185
340:110-1-5. [AMENDED] (E)	415	365:25-13-5. [REVOKED] (E)	185
340:110-1-6. [AMENDED] (E)	415	365:25-13-6. [REVOKED] (E)	185
340:110-1-8. [AMENDED] (E)	415	365:25-13-7. [REVOKED] (E)	186
340:110-1-8.1. [AMENDED] (E)	415	365:25, App. U. [NEW] (E)	189
340:110-1-8.3. [AMENDED] (E)	415	365:25, App. V. [NEW] (E)	193
340:110-1-9. [AMENDED] (E)	415	365:25, App. W. [NEW] (E)	197
340:110-1-9.2. [AMENDED] (E)	415	380:20-1-3. [AMENDED] (E)	198
340:110-1-9.3. [AMENDED] (E)	415	380:20-1-14. [AMENDED] (E)	199
340:110-1-9.4. [AMENDED] (E)	415	380:20-1-15. [NEW] (E)	200
340:110-1-10. [AMENDED] (E)	415	435:65-1-1. [NEW] (E)	200
340:110-1-13. [AMENDED] (E)	415	435:65-1-2. [NEW] (E)	200
340:110-1-17. [AMENDED] (E)	415	435:65-1-3. [NEW] (E)	200
340:110-1-43.1. [AMENDED] (E)	415	435:65-1-4. [NEW] (E)	200
340:110-1-44. [AMENDED] (E)	415	435:65-1-5. [NEW] (E)	201
340:110-1-45. [AMENDED] (E)	415	435:65-1-6. [NEW] (E)	201
340:110-1-46. [AMENDED] (E)	415	435:65-1-7. [NEW] (E)	201
340:110-1-47. [AMENDED] (E)	415	435:65-1-8. [NEW] (E)	201
340:110-1-47.1. [AMENDED] (E)	415	535:10-7-8. [AMENDED] (E)	417
340:110-1-47.2. [AMENDED] (E)	415	535:20-7-7.7. [AMENDED] (E)	418
340:110-1-51. [AMENDED] (E)	415	580:15-2-2. [AMENDED] (E)	419
340:110-1-52. [AMENDED] (E)	415	580:15-4-5. [AMENDED] (E)	421
340:110-1-54.1. [NEW] (E)	415	580:15-4-6. [AMENDED] (E)	422
340:110-3-3. [AMENDED] (E)	415	580:15-4-7. [AMENDED] (E)	424
340:110-3-5. [AMENDED] (E)	415	580:15-4-11. [AMENDED] (E)	424
340:110-3-5.1. [AMENDED] (E)	415	580:15-6-6. [AMENDED] (E)	425
340:110-3-6. [AMENDED] (E)	415	590:1-1-7. [REVOKED] (E)	120
340:110-3-7.1. [AMENDED] (E)	415	590:10-3-14. [NEW] (E)	121
340:110-3-37. [AMENDED] (E)	415	590:10-7-18. [AMENDED] (E)	121
340:110-3-39. [AMENDED] (E)	415	605:10-3-5. [AMENDED] (E)	428
340:110-3-40. [AMENDED] (E)	415	605:10-5-1. [AMENDED] (E)	429
340:110-3-41. [AMENDED] (E)	415	610:25-23-5. [AMENDED] (E)	202
340:110-3-42. [AMENDED] (E)	415	610:25-23-6. [AMENDED] (E)	202
340:110-3-82. [AMENDED] (E)	415	650:18-1-1. [NEW] (E)	122
340:110-3-85. [AMENDED] (E)	415	650:18-1-2. [NEW] (E)	123
340:110-3-88. [AMENDED] (E)	415	650:18-1-3. [NEW] (E)	123
340:110-3-89.1. [AMENDED] (E)	415	650:18-1-4. [NEW] (E)	123
340:110-3-222. [AMENDED] (E)	415	650:18-1-5. [NEW] (E)	123
340:110-3-223. [AMENDED] (E)	415	650:18-1-6. [NEW] (E)	123
340:110-3-224. [AMENDED] (E)	415	650:18-1-7. [NEW] (E)	123
340:110-3-225. [AMENDED] (E)	415	650:18-1-8. [NEW] (E)	123
340:110-3-226. [AMENDED] (E)	415	650:18-1-9. [NEW] (E)	123
340:110-5-4. [AMENDED] (E)	415	650:18-1-10. [NEW] (E)	124
340:110-5-6. [AMENDED] (E)	415	650:18-1-11. [NEW] (E)	124

650:18-1-12. [NEW] (E)	124	710:1-9-8. [NEW] (E)	18
650:18-1-13. [NEW] (E)	124	710:1-9-9. [NEW] (E)	18
650:18-1-14. [NEW] (E)	125	710:1-9-10. [NEW] (E)	19
650:18-1-15. [NEW] (E)	125	710:22-5-10. [NEW] (E)	267
710:1-9-1. [NEW] (E)	17	715:10-11-7. [AMENDED] (E)	319
710:1-9-2. [NEW] (E)	17	715:10-15-26. [AMENDED] (E)	320
710:1-9-3. [NEW] (E)	17	730:30-5-1. [AMENDED] (E)	19
710:1-9-4. [NEW] (E)	18	800:10-3-5. [AMENDED] (E)	203
710:1-9-5. [NEW] (E)	18	800:25-7-92.2. [NEW] (E)	431
710:1-9-6. [NEW] (E)	18	800:25-7-132.1. [NEW] (E)	207
710:1-9-7. [NEW] (E)	18		

Agency/Title Index

[Assigned as of 1-15-09]

Agency	Title	Agency	Title
Oklahoma ACCOUNTANCY Board	10	Oklahoma FUNERAL Board (<i>Formerly:</i> Oklahoma State Board of	
State ACCREDITING Agency	15	EMBALMERS and Funeral Directors)	235
AD Valorem Task Force (<i>abolished 7-1-93</i>)	20	Oklahoma Department of EMERGENCY Management	
Oklahoma AERONAUTICS Commission	25	(<i>Formerly:</i> Department of CIVIL Emergency Management) -	
Board of Regents for the Oklahoma AGRICULTURAL and Mechanical		<i>See</i> Title 145	
Colleges	30	Oklahoma EMPLOYMENT Security Commission	240
Oklahoma Department of AGRICULTURE , Food, and Forestry	35	Oklahoma ENERGY Resources Board	243
Oklahoma Board of Licensed ALCOHOL and Drug Counselors	38	State Board of Licensure for Professional ENGINEERS and Land	
Board of Tests for ALCOHOL and Drug Influence	40	Surveyors (<i>Formerly:</i> State Board of Registration for Professional	
ALCOHOLIC Beverage Laws Enforcement Commission	45	ENGINEERS and Land Surveyors)	245
ANATOMICAL Board of the State of Oklahoma	50	Board of Trustees for the ENID Higher	
Board of Governors of the Licensed ARCHITECTS , Landscape		Education Program	250
Architects and Interior Designers of Oklahoma	55	Department of ENVIRONMENTAL Quality	252
ARCHIVES and Records Commission	60	State Board of EQUALIZATION	255
Board of Trustees for the ARDMORE Higher		ETHICS Commission (<i>Title revoked</i>)	257
Education Program	65	ETHICS Commission	258
Oklahoma ARTS Council	70	Office of State FINANCE	260
Oklahoma State ATHLETIC Commission (<i>Formerly:</i> Oklahoma		State FIRE Marshal Commission	265
Professional BOXING Commission) - <i>See</i> Title 92		Oklahoma Council on FIREFIGHTER Training	268
ATTORNEY General	75	Oklahoma FIREFIGHTERS Pension and Retirement System	270
State AUDITOR and Inspector	80	[RESERVED]	275
State BANKING Department	85	State Board of Registration for FORESTERS	280
Oklahoma State Employees BENEFITS Council	87	FOSTER Care Review Advisory Board	285
Council of BOND Oversight	90	Oklahoma FUNERAL Board (<i>Formerly:</i> Oklahoma State Board of	
Oklahoma State ATHLETIC Commission (<i>Formerly:</i> Oklahoma		Embalmers and Funeral Directors) - <i>See</i> Title 235	
Professional BOXING Commission)	92	Oklahoma FUTURES	290
State BURIAL Board (<i>abolished 7-1-92</i>)	95	GOVERNOR	295
[RESERVED]	100	GRAND River Dam Authority	300
Oklahoma CAPITAL Investment Board	105	Group Self-Insurance Association GUARANTY Fund Board	302
Oklahoma CAPITOL Improvement Authority	110	Individual Self-Insured GUARANTY Fund Board	303
State CAPITOL Preservation Commission	115	STATE Use Committee (<i>Formerly:</i> Committee on Purchases of Products	
CAPITOL-MEDICAL Center Improvement and Zoning		and Services of the Severely HANDICAPPED)	304
Commission	120	Office of DISABILITY Concerns (<i>Formerly:</i> Office of	
Oklahoma Department of CAREER and Technology Education		HANDICAPPED Concerns)	305
(<i>Formerly:</i> Oklahoma Department of VOCATIONAL and		Oklahoma State Department of HEALTH	310
Technical Education) - <i>See</i> Title 780		Oklahoma Basic HEALTH Benefits Board (<i>abolished 11-1-97</i>)	315
Board of Regents of CARL Albert State College	125	Oklahoma HEALTH Care Authority	317
Department of CENTRAL Services (<i>Formerly:</i> Office of PUBLIC		HIGHWAY Construction Materials Technician Certification	
Affairs) - <i>See</i> Title 580		Board	318
CEREBRAL Palsy Commission	130	Oklahoma HISTORICAL Society	320
Commission on CHILDREN and Youth	135	Oklahoma HORSE Racing Commission	325
Board of CHIROPRACTIC Examiners	140	Oklahoma HOUSING Finance Agency	330
Oklahoma Department of EMERGENCY Management		Oklahoma HUMAN Rights Commission	335
(<i>Formerly:</i> Department of CIVIL Emergency Management)	145	Department of HUMAN Services	340
Oklahoma Department of COMMERCE	150	Committee for INCENTIVE Awards for State Employees	345
COMMUNITY Hospitals Authority	152	Oklahoma INDIAN Affairs Commission	350
COMPSOURCE Oklahoma (<i>Formerly:</i> State INSURANCE		Oklahoma INDIGENT Defense System	352
Fund) - <i>See</i> Title 370		Oklahoma INDUSTRIAL Finance Authority	355
Oklahoma CONSERVATION Commission	155	INJURY Review Board	357
CONSTRUCTION Industries Board	158	Oklahoma State and Education Employees Group INSURANCE	
Department of CONSUMER Credit	160	Board	360
CORPORATION Commission	165	INSURANCE Department	365
Department of CORRECTIONS	170	COMPSOURCE Oklahoma	
State Board of COSMETOLOGY	175	(<i>Formerly:</i> State INSURANCE Fund)	370
Oklahoma State CREDIT Union Board	180	Oklahoma State Bureau of INVESTIGATION	375
CRIME Victims Compensation Board	185	Council on JUDICIAL Complaints	376
Joint CRIMINAL Justice System Task Force Committee	190	Office of JUVENILE Affairs	377
Board of DENTISTRY	195	Department of LABOR	380
Oklahoma DEVELOPMENT Finance Authority	200	Department of the Commissioners of the LAND Office	385
Office of DISABILITY Concerns (<i>Formerly:</i> Office of		Council on LAW Enforcement Education and Training	390
HANDICAPPED Concerns) - <i>See</i> Title 305		Oklahoma LAW Enforcement Retirement System	395
Board of Regents of EASTERN Oklahoma State College	205	Board on LEGISLATIVE Compensation	400
EDGE Fund Policy Board	208	Oklahoma Department of LIBRARIES	405
State Department of EDUCATION	210	LIEUTENANT Governor	410
EDUCATION Oversight Board	215	Oklahoma LINKED Deposit Review Board	415
Oklahoma EDUCATIONAL Television Authority	220	Oklahoma LIQUEFIED Petroleum Gas Board	420
[RESERVED]	225	Oklahoma LIQUEFIED Petroleum Gas Research, Marketing and Safety	
State ELECTION Board	230	Commission	422
		LITERACY Initiatives Commission	425

Agency	Title	Agency	Title
LONG-RANGE Capital Planning Commission	428	Oklahoma Commission on SCHOOL and County Funds Management	635
Oklahoma State Board of Examiners for LONG-TERM Care Administrators (<i>Formerly</i> : Oklahoma State Board of Examiners for NURSING Home Administrators) - <i>See</i> Title 490		Advisory Task Force on the Sale of SCHOOL Lands (<i>functions concluded 2-92</i>)	640
LOTTERY Commission, Oklahoma	429	The Oklahoma School of SCIENCE and Mathematics	645
Board of Trustees for the MCCURTAIN County Higher Education Program	430	Oklahoma Center for the Advancement of SCIENCE and Technology	650
Commission on MARGINALLY Producing Oil and Gas Wells	432	SECRETARY of State	655
State Board of MEDICAL Licensure and Supervision	435	Department of SECURITIES	660
MEDICAL Technology and Research Authority of Oklahoma	440	Board of Regents of SEMINOLE State College	665
Board of MEDICOLEGAL Investigations	445	SHEEP and Wool Commission	670
Department of MENTAL Health and Substance Abuse Services	450	State Board of Licensed SOCIAL Workers	675
MERIT Protection Commission	455	SOUTHERN Growth Policies Board	680
MILITARY Planning Commission, Oklahoma Strategic	457	Oklahoma SOYBEAN Commission (<i>abolished 7-1-97</i>)	685
Department of MINES	460	Board of Examiners for SPEECH-LANGUAGE Pathology and Audiology	690
Oklahoma MOTOR Vehicle Commission	465	STATE Employee Charitable Contributions, Oversight Committee for (<i>Formerly</i> : STATE Agency Review Committee)	695
Board of Regents of MURRAY State College	470	STATE Use Committee (<i>Formerly</i> : Committee on Purchases of Products and Services of the Severely HANDICAPPED) – <i>See</i> Title 304	
Oklahoma State Bureau of NARCOTICS and Dangerous Drugs Control	475	Oklahoma STUDENT Loan Authority	700
Board of Regents of NORTHERN Oklahoma College	480	TASK Force 2000	705
Oklahoma Board of NURSING	485	Oklahoma TAX Commission	710
Oklahoma State Board of Examiners for LONG-TERM Care Administrators (<i>Formerly</i> : Oklahoma State Board of Examiners for NURSING Home Administrators)	490	Oklahoma Commission for TEACHER Preparation	712
Board of Regents of OKLAHOMA City Community College	495	TEACHERS' Retirement System	715
Board of Regents of OKLAHOMA Colleges	500	State TEXTBOOK Committee	720
Board of Examiners in OPTOMETRY	505	Oklahoma TOURISM and Recreation Department	725
State Board of OSTEOPATHIC Examiners	510	Department of TRANSPORTATION	730
PARDON and Parole Board	515	Oklahoma TRANSPORTATION Authority (<i>Name changed to Oklahoma TURNPIKE Authority 11-1-05</i>) - <i>See</i> Title 731	
Oklahoma PEANUT Commission	520	Oklahoma TURNPIKE Authority (<i>Formerly</i> : Oklahoma TRANSPORTATION Authority AND Oklahoma TURNPIKE Authority) - <i>See</i> also Title 745	731
Oklahoma State PENSION Commission	525	State TREASURER	735
State Board of Examiners of PERFUSIONISTS	527	Board of Regents of TULSA Community College	740
Office of PERSONNEL Management	530	Oklahoma TURNPIKE Authority (<i>Name changed to Oklahoma TRANSPORTATION Authority 11-1-99 - no rules enacted in this Title - See</i> Title 731)	745
Oklahoma State Board of PHARMACY	535	Board of Trustees for the UNIVERSITY Center at Tulsa	750
PHYSICIAN Manpower Training Commission	540	UNIVERSITY Hospitals Authority	752
Board of PODIATRIC Medical Examiners	545	UNIVERSITY Hospitals Trust	753
Oklahoma POLICE Pension and Retirement System	550	Board of Regents of the UNIVERSITY of Oklahoma	755
State Department of POLLUTION Control (<i>abolished 1-1-93</i>)	555	Board of Regents of the UNIVERSITY of Science and Arts of Oklahoma	760
POLYGRAPH Examiners Board	560	Oklahoma USED Motor Vehicle and Parts Commission	765
Oklahoma Board of PRIVATE Vocational Schools	565	Oklahoma Department of VETERANS Affairs	770
State Board for PROPERTY and Casualty Rates (<i>abolished 7-1-06; see also Title 365</i>)	570	Board of VETERINARY Medical Examiners	775
State Board of Examiners of PSYCHOLOGISTS	575	Oklahoma Department of CAREER and Technology Education (<i>Formerly</i> : Oklahoma Department of VOCATIONAL and Technical Education)	780
Department of CENTRAL Services (<i>Formerly</i> : Office of PUBLIC Affairs)	580	Oklahoma WATER Resources Board	785
PUBLIC Employees Relations Board	585	Board of Regents of WESTERN Oklahoma State College	790
Oklahoma PUBLIC Employees Retirement System	590	Oklahoma WHEAT Commission	795
Department of PUBLIC Safety	595	Department of WILDLIFE Conservation	800
REAL Estate Appraiser Board	600	WILL Rogers and J.M. Davis Memorials Commission	805
Oklahoma REAL Estate Commission	605		
Board of Regents of REDLANDS Community College	607		
State REGENTS for Higher Education	610		
State Department of REHABILITATION Services	612		
Board of Regents of ROGERS State College	615		
Board of Regents of ROSE State College	620		
Oklahoma SAVINGS and Loan Board (<i>abolished 7-1-93</i>)	625		
SCENIC Rivers Commission	630		

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained.

For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 10. OKLAHOMA ACCOUNTANCY BOARD CHAPTER 15. LICENSURE AND REGULATION OF ACCOUNTANCY

[OAR Docket #08-1528]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 15. Licensure and Regulations of Accountancy
[AMENDED]

SUMMARY:

Chapter 15 sets for the rules for administering the licensure for and regulation of the accounting profession.

Subchapter 18, Computer Based Examination, deletes obsolete provisions regarding conditional credit for the paper and pencil examination. They are no longer applicable because any candidate who held credit that needed to be transferred to the computer based test (CBT) and who has not passed the examination as of this time, has lost that credit due to the length of time. A Board policy is added which allows a letter from the registrar's office in lieu of an official transcript providing official transcripts are submitted prior to any score release. Additional amendments give guidance if a candidate's application must be denied and clarify applicants as qualification applicants to become candidates for examination.

Subchapter 27, Fees, establishes applicants as qualification applicants to be consistent with other changes.

Subchapter 30, Continuing Professional Education, amendments establish that if the ethics examination course required for issuance of either an initial permit or the renewal of a lapsed permit is to be counted toward the forty (40) hours of CPE required for the permit, it must have been completed in the same period as the remaining CPE required for the permit. Amendments also clarify that any ethics course meeting the requirements for issuance of an original permit or the renewal of a lapsed permit must be one course recommended for at least eight (8) hours of CPE and must have been passed with a score of 90% or above. Language is added to clarify that CPE reporting will take place annually by July 31. Language is added to clarify to industry permit holders that CPE credit in the areas of taxation, accounting, or assurance must be earned each calendar year. Finally, the rules on re-entering active status are amended to clarify that the three-year CPE cycle begins in the year the registrants returns to active status, and that if the hours required to return to active status are fewer than one hundred twenty (120), two hours of professional

ethics are required. Amendments provide that forty (40) hours earned to return to active status will be counted toward the three (3)-year CPE cycle; Amendments would also simplify the CPE requirement, modifying it to make it comparable to what registrants would have had to earn if they had remained on active status and allowing registrants one year to make up any hours required above sixty (60) instead of the six months currently allowed.

Subchapter 32, Standards for Continuing Professional Education (CPE) Programs, amendment would require that sponsors of self-study CPE programs be registered with the National Association of State Boards of Accountancy's National Registry of CPE Sponsors, courses offered by the AICPA, or other such organizations as determined by the Board in order for their courses to qualify for CPE credit.

Subchapter 33, Peer Review, amendment would change the effect of consecutive deficient peer review reports from the requirement of an accelerated peer review to a pre-issuance review or team captain revisit within eighteen (18) months from the year end of the firm's last peer review. Language in the rule discussing the pre-issuance review or team captain revisit results is modified from resulting in "a modified or adverse report" to resulting in "continued oversight." Additional amendments change the name of the Peer Review Committee to the Peer Review Oversight Committee.

Subchapter 35, Reinstatement, amendments clarify that individuals applying for reinstatement of a certificate or license must meet requirements for returning to active status if they will be providing any services associated with accounting work and must provide evidence of successful completion of the AICPA ethics examination or its equivalent as determined by the Board.

Subchapter 37, Enforcement Procedures, language regarding the Board providing information in investigation files and hearing records to any board of accountancy or commission of the District of Columbia or other state or territory of the United States exercising disciplinary authority over accountants or to any law enforcement agency showing such information is necessary to conduct a pending investigation is stricken. The rule is in conflict with Section 15.6A of the Oklahoma Accountancy Act.

Subchapter 39, Rules of Professional Conduct, amendment corrects the name of the Public Company Accounting Oversight Board (PCAOB). Amendment is added to clarify that it is professional misconduct for a registrant to receive a censure, suspension, cancellation, or revocation from another state or federal regulatory agency concerning the registrant's right to practice before a state or federal agency.

Notices of Rulemaking Intent

Subchapter 43, Audits Performed in Accordance with Government Auditing Standards, amendment is added that would disqualify a firm and remove the firm's name from the list of Registrants Performing Governmental Audits in Accordance with Government Auditing Standards if the firm's registration or permit to practice public accounting in Oklahoma is revoked, cancelled, dissolved or suspended. An additional amendment provides for reinstatement to the list.

AUTHORITY:

Oklahoma Accountancy Board, 59 O.S. Section 15.5

COMMENT PERIOD:

Written and oral comments will be accepted through close of business February 19, 2009. Comments can be submitted directly through the Oklahoma Accountancy Board (OAB) website at www.ok.gov/oab. Click on the link in the "In the Spotlight" section to submit your comments. Comments can also be submitted by contacting Barbara Walker, CPE Coordinator, or Edith Steele, Executive Director, Oklahoma Accountancy Board, 4545 North Lincoln Boulevard, Suite 165, Oklahoma City, Oklahoma 73105-3413. Telephone: 405-521-2397, E-mail: okaccybd@oab.ok.gov or FAX: 405-521-3118.

PUBLIC HEARING:

A public hearing to take comments on the proposed rules will be held by the Board at 9:00 a.m. on February 18, 2009, Suite 284, Lincoln Office Plaza, 4545 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Edith Steele at the above address during the period from January 15, 2009 through February 18, 2009.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the OAB website at www.ok.gov/oab or from the Oklahoma Accountancy Board, 4545 North Lincoln Boulevard, Suite 165, Oklahoma City, Oklahoma 73105-3413.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement will be prepared and will be available January 30, 2009 on the OAB website or from the OAB at the address and contact numbers listed above.

CONTACT PERSONS:

Edith Steele or Barbara Walker at 405-521-2397

[OAR Docket #08-1528; filed 12-22-08]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 2. FEES

[OAR Docket #08-1511]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 3. Fee Schedules

35:2-3-2.2 [AMENDED]

35:2-3-2.3 [AMENDED]

35:2-3-2.4 [AMENDED]

35:2-3-2.6 [AMENDED]

SUMMARY:

The proposed rules amend certain fees contained in Subchapter 3 pertaining to feed and fertilizer, elemental analysis, meat chemistry, dairy, food, water, and microbiological. These rules allow the Oklahoma Department of Agriculture, Food, and Forestry's Laboratory Services Division to recoup some of the costs associated with conducting the specific tests addressed by the amendments.

AUTHORITY:

Oklahoma State Board of Agriculture; 2 O.S. 2001 §§ 2-4(20) and 14-83; Article 6, Section 31, Constitution of the State of Oklahoma

COMMENT PERIOD:

Persons may submit written comments to Teena Gunter at teena.gunter@oda.state.ok.us, 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from January 15, 2009 through February 17, 2009.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m., February 17, 2009, in the Board Room of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from January 15, 2009 through February 17, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules or by contacting Teena Gunter at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above address.

CONTACT PERSON:

Teena Gunter, (405) 522-4576, e-mail address: teena.gunter@oda.state.ok.us

[OAR Docket #08-1511; filed 12-19-08]

**TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 40. MARKET DEVELOPMENT**

[OAR Docket #08-1510]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 5. Agriculture Enhancement and Diversification Program [AMENDED]

SUMMARY:

The purpose of the proposed rules is to revise the processes for obtaining a loan or a grant through the Department's Agriculture Enhancement and Diversification Program. The program currently operates pursuant to rules developed when the statutory authority was originally passed by the Oklahoma Legislature. Since that time, many lessons have been learned by the Department regarding the processes identified in those original rules that may need to be modified.

AUTHORITY:

State Board of Agriculture; 2 O.S. §§ 2-4 and 5-3.1; Article 6, Section 31, Constitution of the State of Oklahoma.

COMMENT PERIOD:

Persons may submit written comments to Teena Gunter at teena.gunter@oda.state.ok.us, 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from January 15, 2009 through February 17, 2009.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m., February 17, 2009, in the Board Room of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from January 15, 2009 through February 17, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules or by contacting Teena Gunter at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above address.

CONTACT PERSON:

Teena Gunter, (405) 522-4576, e-mail address: teena.gunter@oda.state.ok.us

[OAR Docket #08-1510; filed 12-19-08]

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL SERVICES**

[OAR Docket #08-1495]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 9. Lifelong Learning
210:10-9-1. General provisions [AMENDED]
210:10-9-2. Adult basic education [AMENDED]

SUMMARY:

The proposed rule amendments bring Adult Basic Education into compliance with federal guidelines. The amendments establish state policies for adult education income, student assessment, student goal setting, state and federal fund allocation, teacher and director qualifications, administrative cost limits, state performance measures, and data collection.

AUTHORITY:

70 O.S. § 3-104, State Board of Education

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., February 25, 2009, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on Thursday, February 26, 2009, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 9:35 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies are on file for public viewing in the office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 70 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building,

Notices of Rulemaking Intent

2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on January 30, 2009.

CONTACT PERSON:

Connie Holland, 405-521-3308

[OAR Docket #08-1495; filed 12-17-08]

**TITLE 210. STATE DEPARTMENT OF
EDUCATION
CHAPTER 15. CURRICULUM AND
INSTRUCTION**

[OAR Docket #08-1494]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Priority Academic Student Skills
Part 11. Social Studies

210:15-3-102. United States History 1850 to the present for
high school [AMENDED]

SUMMARY:

The proposed rule amendments revise the core curriculum *Priority Academic Student Skills (PASS)*, United States History: 1850 to Present, to comply with the requirements set forth in 70 O. S. § 11-103.6(a)

AUTHORITY:

70 O.S. § 3-104, State Board of Education

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., February 25, 2009, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on Thursday, February 26, 2009, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 9:35 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies are on file for public viewing in the office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 70 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on January 30, 2009.

CONTACT PERSON:

Connie Holland, 405-521-3308

[OAR Docket #08-1494; filed 12-17-08]

**TITLE 252. DEPARTMENT OF
ENVIRONMENTAL QUALITY
CHAPTER 4. RULES OF PRACTICE AND
PROCEDURE**

[OAR Docket #08-1586]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 9. Administrative Proceedings
Part 3. Individual Proceedings
252:4-9-32 [AMENDED]

SUMMARY:

The proposed amendments are intended to address a gap in the DEQ's procedural rules pertaining to petitions for declaratory rulings. As currently written, the procedural rules provide that any person negatively impacted by a DEQ order may file a petition for a declaratory ruling. However, the rule does not specify the time frame within which the petition for declaratory ruling must be filed. The proposed amendment establishes that the petition must be filed with the DEQ within twenty (20) days of receipt of the order.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; Executive Director powers and duties, § 2-3-201; Filing and disposition of petitions for declaratory rulings, 75 O.S. § 307

COMMENT PERIOD:

Written comments may be submitted to the contact person from January 16, 2009, through February 15, 2009. Oral comments may be made at the Environmental Quality Board meeting on February 27, 2009.

PUBLIC HEARING:

Before the Environmental Quality Board on February 27, 2009, at 9:30 a.m. at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The DEQ requests that business entities affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person, reviewed at the Department of Environmental

Quality, 707 N. Robinson, Oklahoma City, Oklahoma, or reviewed online at www.deq.ok.gov.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the contact person or may be reviewed online at www.deq.ok.gov.

CONTACT PERSON:

The contact person is Martha Penisten. Ms. Penisten can be reached at Martha.Penisten@deq.ok.gov (e-mail), (405) 702-7184 (phone) or (405) 702-7101 (fax). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three (3) days in advance of the hearing. For hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #08-1586; filed 12-24-08]

**TITLE 300. GRAND RIVER DAM
AUTHORITY
CHAPTER 10. PUBLIC PURPOSE SUPPORT
AND ASSISTANCE**

[OAR Docket #08-1585]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

300:10-1-2 [AMENDED]

SUMMARY:

The proposed amendments to the Grand River Dam Authority's policy on public purpose support and assistance add political subdivisions and industrial committees to the list of organizations that may be supported. The proposed revisions also increase the amount that may be expended for support and assistance as authorized by statute.

AUTHORITY:

Grand River Dam Authority; 82 O.S.Supp.2008, § 861A(B)(1); 82 O.S.Supp.2008, § 863.2(B), 82 O.S.Supp.2008, § 862(t).

COMMENT PERIOD:

Written and oral comments will be accepted January 16, 2009 through February 16, 2009 at Grand River Dam Authority, 226 West Dwain Willis Avenue, P.O. Box 409, Vinita, OK 74301, Attention: Gretchen Zumwalt-Smith.

PUBLIC HEARING:

A public hearing will be conducted to provide an opportunity for persons to orally present their views on the content of the proposed rules. Each person will be allowed a maximum of five minutes to speak and each person must sign in at the door. The public hearing will be held on Wednesday, March 11, 2009 at 9:00 a.m. in the Board Room of Grand

River Dam Authority, 226 West Dwain Willis Avenue, Vinita, Oklahoma 74301.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Grand River Dam Authority requests that business entities or any other members of the public affected by these rules provide the agency, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity or public member due to compliance with the proposed rules. This information may be submitted in writing from January 16, 2009 through February 16, 2009 at Grand River Dam Authority, 226 West Dwain Willis Avenue, P.O. Box 409, Vinita, Oklahoma 74301, Attention: Gretchen Zumwalt-Smith.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained by contacting Gretchen Zumwalt-Smith at Grand River Dam Authority, 226 West Dwain Willis Avenue, P.O. Box 409, Vinita, Oklahoma 74301, (918) 256-5545.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement has been prepared and is available at the offices of Grand River Dam Authority, Legal Division, 226 West Dwain Willis Avenue, P.O. Box 409, Vinita, Oklahoma 74301.

CONTACT PERSON:

Gretchen Zumwalt-Smith, General Counsel, (918) 256-5545

[OAR Docket #08-1585; filed 12-24-08]

**TITLE 317. OKLAHOMA HEALTH CARE
AUTHORITY
CHAPTER 1. ADMINISTRATIVE
OPERATIONS**

[OAR Docket #08-1567]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Organization and Administration

317:1-1-1. through 317:1-1-2. [AMENDED]

317:1-1-4. [AMENDED]

317:1-1-10. through 317:1-1-11. [AMENDED]

317:1-1-13. [AMENDED]

317:1-1-17. [AMENDED]

Subchapter 3. Formal and Informal Procedures

317:1-3-3.1. [AMENDED]

317:1-3-3.2. [REVOKED]

Subchapter 5. Compliance with Section 504 of the Rehabilitation Act of 1973

317:1-5-3. [AMENDED]

317:1-5-5. [AMENDED]

Supchapter 7. Compliance with the Americans with Disabilities Act of 1990

317:1-7-1. [AMENDED]

Notices of Rulemaking Intent

317:1-7-2. through 317:1-7-8. [REVOKED]
Subchapter 9. Civil Rights and Nondiscrimination
317:1-9-6. [AMENDED]
317:1-9-10. [AMENDED]
(Reference APA WF #08-42)

SUMMARY:

Rules are revised to clarify current procedures, remove obsolete language and bring policy up to date with current practices.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 USC Sec. 2000e

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, February 19, 2009, at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1567; filed 12-24-08]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 2. GRIEVANCE PROCEDURES AND PROCESS

[OAR Docket #08-1565]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

317:2-1-7. [AMENDED]

(Reference APA WF # 08-40)

SUMMARY:

Rules are revised to ensure policy is consistent with the agency's practices.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes;

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for February 19, 2009, at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1565; filed 12-24-08]

**TITLE 317. OKLAHOMA HEALTH CARE
AUTHORITY
CHAPTER 2. GRIEVANCE PROCEDURES
AND PROCESS**

[OAR Docket #08-1568]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- 317:2-1-2. [AMENDED]
- 317:2-1-7. through 317:2-1-9. [AMENDED]
- 317:2-1-12. through 317:2-1-13. [AMENDED]

(Reference APA WF #08-43)

SUMMARY:

Rules are revised to clarify current procedures, remove obsolete language and bring policy up to date with current practices.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 431.200

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, February 19, 2009, at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1568; filed 12-24-08]

**TITLE 317. OKLAHOMA HEALTH CARE
AUTHORITY
CHAPTER 25. SOONERCARE CHOICE**

[OAR Docket #08-1554]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 7. SoonerCare
- Part 1. General Provisions
- 317:25-7-1. through 317:25-7-2. [AMENDED]
- 317:25-7-3. [AMENDED]
- 317:25-7-5. through 317:25-7-6. [AMENDED]
- Part 3. Enrollment Criteria
- 317:25-7-10. [AMENDED]
- 317:25-7-12. through 317:25-7-13. [AMENDED]
- Part 5. Enrollment Process
- 317:25-7-25. through 317:25-7-28. [AMENDED]
- Part 7. Coordination and Continuity of Care [NEW]
- 317:25-7-29. through 317:25-7-30. [AMENDED]
- Part 9. Reimbursement [NEW]
- 317:25-7-40. [NEW]

(Reference APA WF # 08-19)

SUMMARY:

SoonerCare rules are revised to incorporate the patient-centered medical home model of care in which providers are paid a monthly care coordination payment in addition to reimbursement for SoonerCare compensable services at the fee-for-service rate. The medical home model provides a partnership between a patient and a personal physician built around preventive and primary care. Currently, primary care providers (PCPs) in the SoonerCare Choice program are paid a capitated rate per member per month. This monthly fee assures the delivery of medically necessary primary care services and any non-capitated services are reimbursed at the traditional fee-for-service rate. After reviewing claims data, OHCA determined that an improvement to the current payment methodology would include the removal of the base capitation rate, reimbursement of all services based on OHCA's fee-for-service rate, and a monthly care coordination payment to the member's PCP. The care coordination payment would vary based on the scope of services provided by the PCP. Currently, SoonerCare Choice members select or are aligned with a primary care provider (PCP). Beginning January 1, 2009, PCPs will be responsible for serving as the medical home for enrolled members. Building on the success of the existing network, the OHCA believes this transition will help ensure that members get the

Notices of Rulemaking Intent

right care at the right time from the right provider. OHCA intends to make this transition seamless to SoonerCare Choice members. SoonerCare rules are also amended to: (1) require provider or physician groups to designate a medical director to serve as primary contact with OHCA; (2) include a section on provider networks; and (3) include language regarding the development of a payment for excellence program. Without this transition, SoonerCare Choice members would be directly impacted by not allowing them the coordination of preventive and primary care services at the level promoted by the patient centered medical home model that is widely endorsed by primary care physicians' professional groups.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for February 19, 2009, at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1554; filed 12-24-08]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #08-1551]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties

Part 79. Dentists

317:30-5-695. [AMENDED]

317:30-5-696. [AMENDED]

317:30-5-698. [AMENDED]

(Reference APA WF #08-04)

SUMMARY:

Dental rules are revised to: (1) require a clinical examination preceding any radiographs, and consideration of patient history, prior radiographs, caries risk assessment and dental and general health needs of the patient; (2) add definitions for certain terminology; and (3) clarify that permanent restoration is not billable to the OHCA when performing pulpotomy or pulpal debridement on a permanent tooth. Additional changes add a provision stating panoramic films are allowable once in a three year period and clarify placement of a stainless steel crown includes all related follow up service for a two year period. Changes are necessary to avoid potential complications as a result of procedures performed on members who may be at risk due to previously undetected health problems.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma; 42 CFR 440.100

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, February 19, 2009, at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to

Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1551; filed 12-24-08]

**TITLE 317. OKLAHOMA HEALTH CARE
AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE
FOR SERVICE**

[OAR Docket #08-1552]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties
Part 1. Physicians
317:30-5-9. [AMENDED]
(Reference APA WF # 08-13)

SUMMARY:

Rules are revised to clarify that additional reimbursement is not allowed for joint injection codes that have a global coverage designation. Current rules are too broad and state that payment is made for both an office visit and an injection of joints performed during the visit. Although in some cases it is appropriate to reimburse for both the visit and the injection, in most cases the CPT joint injection code has a global coverage designation and should be excluded from additional reimbursement because it has been established to include an evaluation prior to the injection.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes;

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, February 19, 2009, at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1552; filed 12-24-08]

**TITLE 317. OKLAHOMA HEALTH CARE
AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE
FOR SERVICE**

[OAR Docket #08-1553]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties
Part 65. Case Management Services For Over 21
317:30-5-585. [REVOKED]
317:30-5-586. [REVOKED]
Part 67. Behavioral Health Case Management Services For
Individuals Under 21 Years of Age
317:30-5-595. [AMENDED]
317:30-5-596. [AMENDED]
317:30-5-596.1. [AMENDED]
317:30-5-596.2. [REVOKED]
Part 97. Case Management Services for Under Age 18 at
Risk of or in the Temporary Custody or Supervision of
Office of Juvenile Affairs
317:30-5-970. [REVOKED]
317:30-5-971. [REVOKED]
317:30-5-972. [REVOKED]
317:30-5-973. [REVOKED]
317:30-5-974. [REVOKED]
Part 99. Case Management Services for Under Age 18
in Emergency, Temporary ~~or~~ Permanent Custody
Supervision of the Department of Human Services

Notices of Rulemaking Intent

317:30-5-990. [REVOKED]

317:30-5-991. [REVOKED]

317:30-5-992. [REVOKED]

317:30-5-993. [REVOKED]

317:30-5-994. [REVOKED]

Part 105. Residential Behavioral Management Services in Group Settings and Non-Secure Diagnostic and Evaluation Centers

317:30-5-1040. [AMENDED]

317:30-5-1041. [AMENDED]

317:30-5-1042. [AMENDED]

317:30-5-1043. [AMENDED]

317:30-5-1044. [AMENDED]

317:30-5-1045. [AMENDED]

317:30-5-1046. [AMENDED]

317:30-5-1047. [AMENDED]

(Reference APA WF #08-18)

SUMMARY:

Agency rules are revised to comply with federal mandates affecting targeted case management services. Revisions prohibit employees or contractors of the Oklahoma Department of Human Services (OKDHS) and the Oklahoma Office of Juvenile Affairs (OJA) from providing case management services to individuals under 21 who are in child welfare/child protective services or are on probation/parole, respectively. Revisions also establish November 1, 2009 as the date when all targeted case management services must be provided by a single case manager, as per the federal mandate. Rule revisions allow providers of residential behavior management services (RBMS) in group settings and non-secure Diagnostic and Evaluation (D&E) Centers to directly contract with the Oklahoma Health Care Authority. Revisions also reflect procedural changes in contracting and payment terms between the OHCA, OJA and individual providers of RBMS in group settings and D&E Centers.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Sections 5003 through 5016 of Title 63 of Oklahoma Statutes, Public Law 109-171 Deficit Reduction Act of 2005 and CMS-2237-IFC.

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, February 19, 2009, at 1:00 p.m. at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such

as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1553; filed 12-24-08]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #08-1559]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties

Part 85. ADvantage Program Waiver Services

317:30-5-764. [AMENDED]

Part 95. Agency Personal Care Services

317:30-5-953. [AMENDED]

(Reference APA WF #08-29A)

SUMMARY:

Rules are revised to require the use of the new Interactive Voice Response Authentication (IVRA) system to document time and attendance for all Personal Care and certain in-home ADvantage services provided to SoonerCare members. Currently, claims for Personal Care and associated in-home ADvantage services represent the highest volume of claim records processed through the Medicaid Management Information System. In-home services are necessarily provided in the individual homes of persons with physical and cognitive disabilities. The verification of service delivery is typically a paper time sheet signed by the member receiving services with a high potential for errors. Additionally, a paper based time and attendance system which requires transcription of time units from paper to computer is both inefficient and affords many opportunities for inadvertent errors.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes, 42 440.167;

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, February 19, 2009, at 1:00 p.m. at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1559; filed 12-24-08]

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE**

[OAR Docket #08-1563]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties

Part 85. Advantage Program Waiver Services

317:30-5-761. [AMENDED]

317:30-5-763. [AMENDED]

(Reference APA WF # 08-37A)

SUMMARY:

Advantage Program Waiver Services rules are revised to add Assisted Living services as a compensable service under the ADvantage Waiver program. Assisted Living services are personal care and supportive services that are

furnished to ADvantage members who reside in a homelike, non-institutional setting. Services include 24-hour on-site response capability to meet scheduled or unpredictable resident needs and to provide supervision, safety and security. ADvantage reimbursement for Assisted Living Services includes personal care, housekeeping, laundry, meal preparation, periodic nursing evaluations, nursing supervision during nursing intervention, intermittent or unscheduled nursing care, medication administration, assistance with cognitive orientation, assistance with transfer and ambulation, planned programs for socialization, activities and exercise and for arranging or coordinating transportation to and from medical appointments. Services, except for planned programs for socialization, activities and exercise, are to meet specific needs of the participant as determined through individualized assessment and documented on the participant's service plan. Provider standards regarding physical environment, sanitation, health and safety, staff to resident ratios, staff training and qualifications, staff supervision, residents' rights, incident reporting, and provision of or arrangement for necessary health services are included. Three per diem reimbursement rate levels based on different levels of the member's need for service are established. ADvantage members who reside in an Advantage Assisted Living Services Center have a personal needs allowance set at 150% of the SSI Federal Benefit Rate; the member is responsible for room and board costs which will not exceed 90% of the SSI Federal Benefit Rate.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 440.180; 42 CFR 440.181

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, February 19, 2009, at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

Notices of Rulemaking Intent

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1563; filed 12-24-08]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #08-1566]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties

Part 79. Dentists

317:30-5-696. [AMENDED]

317:30-5-698. through 317:30-5-699. [AMENDED]

(Reference APA WF #08-41)

SUMMARY:

Dental rules are revised to allow, with prior authorization, panoramic x-rays more than once every 36 months, for the detection and treatment of oral disease. The request for authorization must be submitted with a detailed medical need narrative and will not be prior authorized without sufficient justification. A second set of panoramic x-rays allows providers, discovering preliminary evidence of oral disease to treat and eliminate the pathology. Rules are also revised to allow the OHCA Dental Director to prior authorize the correction of poorly rendered or insufficient treatment of restorative procedures by a different provider than the original provider of sub-standard treatment. Lastly, rules are revised to restrict the application of ceramic based and cast metal based crowns to natural teeth only.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 440.100

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, February 19, 2009, at 1:00 p.m., at the Oklahoma Health Care Authority,

4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1566; filed 12-24-08]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #08-1570]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties

Part 85. ADvantage Program Waiver Services

317:30-5-763. [AMENDED]

(Reference APA WF # 08-45)

SUMMARY:

ADvantage Waiver Services rules are revised to add private duty nursing as a compensable service in order to better meet ADvantage members' needs in the home. The ADvantage Waiver program offers an array of home and community-based services to eligible members as an alternative to nursing facility care. Services available to the member through ADvantage are intended to meet the need for care and assistance. Currently, the ADvantage program only offers skilled nursing services. Some members, however, require private duty nursing services to supplement family provided services. The provision of private duty nursing services will work to prevent or postpone the nursing facility placement of the member.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 440.80

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for February 19, 2009, at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1570; filed 12-24-08]

**TITLE 317. OKLAHOMA HEALTH CARE
AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE
FOR SERVICE**

[OAR Docket #08-1571]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 5. Individual Providers and Specialties
- Part 41. Family Support Services
317:30-5-410. [AMENDED]
- Part 43. Agency Companion, Specialized Foster Care,
Daily Living Supports, Group Homes, and Community
Transition Services

317:30-5-422. [AMENDED]

Part 101. Targeted Case Management Services for Persons with Mental Retardation and/or Related Conditions
317:30-5-1010. through 30-5-1010.1. [AMENDED]
(Reference APA WF # 08-46A)

SUMMARY:

Developmental Disabilities Services rules are revised to: (1) provide clarification relating to service utilization, provisions, authorizations, limitations, and eligibility requirements; (2) specify provider requirements and related activities of targeted case management to meet federal requirements; (3) clarify provider responsibilities and limitations in the agency companion program; (4) specify devices and services allowable through assistive technology; (5) specify criteria for performance of architectural modifications and the requirements and standards thereof; (6) clarify physical plant expectations for services provided in center-based settings; and (7) amend policy to reflect appropriate terminology.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes;

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, February 19, 2009, at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

Notices of Rulemaking Intent

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development,
405-522-7153.

[OAR Docket #08-1571; filed 12-24-08]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #08-1574]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties

Part 3. Hospitals

317:30-5-42.14. [AMENDED]

Part 63. Ambulatory Surgical Centers (ASC)

317:30-5-565. through 30-5-567. [AMENDED]

(Reference APA WF # 08-47)

SUMMARY:

Agency rules are revised to reflect upcoming changes to the reimbursement methodology for outpatient surgery services. Currently, OHCA does not use the same methodology to process Ambulatory Surgical Center/Ambulatory Payment Classification (ASC/APC) claims as Medicare. OHCA currently pays for outpatient surgery under a "hierarchical" methodology that does not align with any other payer. This current methodology creates an administrative burden for facilities submitting claims and makes it difficult for OHCA to coordinate benefits with other payers. Beginning January 1, 2009, OHCA will no longer process outpatient surgery claims under a "hierarchical" payment methodology. This change in payment methodology will more closely align OHCA's payment methodology with Medicare's, thereby relieving the administrative burden on contracted SoonerCare outpatient surgery providers and facilitating the coordination of benefits between OHCA and other third party payers.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 440.20

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for February 19, 2009, at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development,
405-522-7153.

[OAR Docket #08-1574; filed 12-24-08]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #08-1575]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties

Part 85. ADvantage Program Waiver Services

317:30-5-761. [AMENDED]

317:30-5-763. through 317:30-5-763. [AMENDED]

Part 95. Agency Personal Care Services

317:30-5-950. [AMENDED]

317:30-5-952. [AMENDED]

(Reference APA WF # 08-48A)

SUMMARY:

Rules are revised to change the references from the Long Term Care Authority Administrative Agent to Advantage Administration. The Oklahoma Department of Human Services has discontinued contracting with the Long Term Care Authority of Tulsa to perform the functions of the Administrative Agent for the ADvantage Program. Rules are amended to change the designation of "AA" as "Administrative Agent" provided by the Long Term Care Authority to instead designate "ADvantage Administration" administered by the Oklahoma Department of Human Services. Rules are also amended to remove all references to "Long Term Care

Authority" and "LTCA" from the ADvantage, State plan Personal Care and related rules.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 440.167

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, February 19, 2009, at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1575; filed 12-24-08]

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE**

[OAR Docket #08-1576]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties
Part 85. ADvantage Program Waiver Services

317:30-5-761. [AMENDED]

317:30-5-763. through 317:30-5-763.1. [AMENDED]

Part 95. Agency Personal Care Services

317:30-5-950. [AMENDED]

317:30-5-952. [AMENDED]

(Reference APA WF # 08-48B)

SUMMARY:

Rules are revised to change the references from the Long Term Care Authority Administrative Agent to Advantage Administration. The Oklahoma Department of Human Services has discontinued contracting with the Long Term Care Authority of Tulsa to perform the functions of the Administrative Agent for the ADvantage Program. Rules are amended to change the designation of "AA" as "Administrative Agent" provided by the Long Term Care Authority to instead designate "ADvantage Administration" administered by the Oklahoma Department of Human Services. Rules are also amended to remove all references to "Long Term Care Authority" and "LTCA" from the ADvantage, State plan Personal Care and related rules.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 440.167

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, February 19, 2009, at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

Notices of Rulemaking Intent

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development,
405-522-7153.

[OAR Docket #08-1576; filed 12-24-08]

**TITLE 317. OKLAHOMA HEALTH CARE
AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE
FOR SERVICE**

[OAR Docket #08-1577]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties
Part 32. SoonerRide Non-Emergency Transportation
317:30-5-326. [AMENDED]

(Reference APA WF #08-49)

SUMMARY:

Agency rules are revised in order to remove specific reimbursement language from the Non-Emergency Transportation rules and instead refer only to the reimbursement methodology found in the Oklahoma Title XIX State Plan. This revision will bring OHCA rules in line with current OHCA practice and Oklahoma Title XIX State Plan requirements thereby avoiding a potential PERM error.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, and Sections 5003 through 5016 of Title 63 of Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, February 19, 2009, at 1:00 p.m. at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development,
405-522-7153.

[OAR Docket #08-1577; filed 12-24-08]

**TITLE 317. OKLAHOMA HEALTH CARE
AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE
FOR SERVICE**

[OAR Docket #08-1578]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties
Part 21. Outpatient Behavioral Health Services
317:30-5-240. [AMENDED]
317:30-5-240.1. [NEW]
317:30-5-240.2. [NEW]
317:30-5-240.3. [NEW]
317:30-5-241. [AMENDED]
317:30-5-241.1. [NEW]
317:30-5-241.2. [NEW]
317:30-5-241.3. [NEW]
317:30-5-241.4. [NEW]
317:30-5-241.5. [NEW]
317:30-5-241.6. [NEW]
317:30-5-244. [AMENDED]
317:30-5-248. [AMENDED]
317:30-5-249. [NEW]

(Reference APA WF #07-74)

SUMMARY:

Outpatient behavioral health rules are revised to (1) expand the scope of provider qualifications for Psychiatric Social Rehabilitation Specialists; (2) expand the scope of provider qualifications for Licensed Behavioral Health Professionals; and (3) amend policy to reflect appropriate terminology; and (4) revise rules to remove details related to billing procedures and terminology and refer providers to the Behavioral Health Provider Billing Manual.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Sections 5003 through 5016 of Title 63 of Oklahoma Statutes, Public Law 109-171 Deficit Reduction Act of 2005 and CMS-2237-IFC.

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, February 19, 2009, at 1:00 p.m. at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1578; filed 12-24-08]

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE**

[OAR Docket #08-1580]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties
Part 112. Public Health Clinic Services
317:30-5-1161. [AMENDED]
317:30-5-1162. [NEW]
(Reference APA WF #08-52)

SUMMARY:

Public health clinic rules are revised to require Oklahoma State Department of Health trained and certified nurses to be case managers for first time mothers receiving assistance through county and city/county health departments. Case management training is required to ensure that nurses have the appropriate knowledge concerning case management principles and techniques, interviewing techniques, child development, the pregnancy cycle and cultural differences which impact pregnancy and child care. Rules are also revised to add minimum standards for prenatal services provided by county and city/county health departments.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 440.90

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, February 19, 2009, at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1580; filed 12-24-08]

Notices of Rulemaking Intent

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #08-1581]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties

Part 25. Psychologists

317:30-5-276. [AMENDED]

317:30-5-278.1. [AMENDED]

(Reference APA WF #08-53)

SUMMARY:

Agency rules are revised in order to remove provider eligibility requirements for psychologists from the coverage section of the psychologist rules. Revisions also update terminology and bring rules in to line with current OHCA practices.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, and Sections 5003 through 5016 of Title 63 of Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, February 19, 2009, at 1:00 p.m. at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development,
405-522-7153.

[OAR Docket #08-1581; filed 12-24-08]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #08-1582]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. General Provider Policies

Part 4. Early and Periodic Screening, Diagnosis and
Treatment (EPSDT) Program/Child Health Services

317:30-3-65.4. [AMENDED]

Subchapter 5. Individual Providers and Specialties

Part 1. Physicians

317:30-5-2. [AMENDED]

Part 3. Hospitals

317:30-5-49. [AMENDED]

Part 6. Inpatient Psychiatric Hospitals

317:30-5-97. [AMENDED]

Part 73. Early Intervention Services

317:30-5-641.3. [AMENDED]

Part 103. Qualified Schools as Providers of Health Related
Services

317:30-5-1026. [AMENDED]

(Reference APA WF # 08-54)

SUMMARY:

Rules are revised to update sections referencing an incorrect citation regarding a health care provider's obligation to report suspected child abuse and/or neglect discovered through screenings and regular examinations. Section 7103 of Title 10 of Oklahoma Statutes requires health care providers to report suspected abuse or neglect to the Oklahoma Department of Human Services. Section 7104 of Title 10 of Oklahoma Statutes requires health care providers to report criminally injurious conduct to the nearest law enforcement agency.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Section 7103 of Title 10 of Oklahoma Statutes; Section 7104 of Title 10 of Oklahoma Statutes

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7272.

PUBLIC HEARING:

A public hearing is scheduled for February 19, 2009, at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Director, Policy Development, 405-522-7153.

[OAR Docket #08-1582; filed 12-24-08]

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY**

[OAR Docket #08-1555]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 22. Pregnancy Related Benefits Covered Under Title ~~Xxi~~XXI 317:35-22-9 through 317:35-22-11 [AMENDED] (Reference APA WF # 08-21)

SUMMARY:

Pregnancy Related Benefits Covered Under Title XXI (Soon to be Sooners program) eligibility rules are revised to make a correction regarding computer generated notices. Currently, rules state that a notice is sent to both the applicant/member whenever the application is certified or denied, or an active case is closed. Rules are revised to state that the notice generated when an eligibility decision on an application is made or when an active case is closed is sent to the applicant/member only. A notice is not sent to the provider.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through

5016 of Title 63 of Oklahoma Statutes; 42 CFR 431.200 through 431.214

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, February 19, 2009, at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1555; filed 12-24-08]

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY**

[OAR Docket #08-1556]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 15. Personal Care Services 317:35-15-1. through 317:35-15-10. [AMENDED] 317:35-15-11. [AMENDED] 317:35-15-15. [AMENDED] (Reference APA WF # 08-22)

SUMMARY:

Personal Care rules are revised to transfer the responsibilities for the authorization of service units and

Notices of Rulemaking Intent

monitoring of service provisions from the OKDHS nurses to Personal Care agency nurses. Personal Care services are provided to SoonerCare members to help them carry out activities of daily living, such as bathing, grooming, meal preparation, and laundry. Medical need for Personal Care services is determined by the OKDHS nurse using the Uniform Comprehensive Assessment Tool (UCAT) criteria and professional judgment. Due in part to the current nurse shortage, the OKDHS Aging Services Division has requested these revisions to remove the current duplication of responsibilities by their nurses and Personal Care agency nurses. The OKDHS nurses will still determine the level of care and maintain oversight of the units of Personal Care services authorized for all SoonerCare members. Also, they will have more time to attend to their other responsibilities including mandatory visits to nursing facilities in order to determine medical need for long term care for SoonerCare applicants. Other revisions update terminology, forms, and procedures.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 440.167

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, February 19, 2009, at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1556; filed 12-24-08]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY

[OAR Docket #08-1557]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Eligibility and Countable Income

Part 5. Countable Income and Resources

317:30-5-41.8 [AMENDED]

317:30-5-41.9 [AMENDED]

317:30-5-41.10 [AMENDED]

Subchapter 9. ICF/MR, HCBW/MR, and Individuals Age 65 or Older in Amental Health Hospitals

Part 7. Determination of Financial Eligibility

317:35-9-65 [AMENDED]

(Reference APA WF # 08-23)

SUMMARY:

Medical Assistance for Adults and Children rules are being revised to: (1)remove an incorrect procedure for legal action that was added to ABD LTC resource policy effective August 2007; (2) clarify how loans and transfers of property can possibly affect the member's eligibility for long term care; (3) clarify Workers' Compensation Medicare Set Aside Arrangements are not considered resources; (4) clarify transfer or disposal of capital resources, for ABD, are not applicable unless the individual enters a nursing home or receives waiver services; and (5) remove incorrect language that references AFDC and spend down. Without the rule changes members may possibly be denied service options based on an obsolete or ambiguous language.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for 1:00 p.m. on February 19, 2009, at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1557; filed 12-24-08]

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY**

[OAR Docket #08-1558]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Eligibility and Countable Income
Part 5. Countable Income and Resources
317:35-5-42. [AMENDED]

(Reference APA WF # 08-25)

SUMMARY:

Eligibility rules are revised to comply with Public Laws 104-204, 108-183, and 106-419. Public Law 104-204 requires payments made to certain Vietnam veterans' children with spina bifida to be disregarded for purposes of SoonerCare eligibility. Public Law 108-183 requires payments made to certain Korea service veterans' children with spina bifida to be disregarded for purposes of SoonerCare eligibility. Public Law 106-419 requires payments made to children of women Vietnam veterans who suffer from certain birth defects to be disregarded for purposes of SoonerCare eligibility. Proposed revisions are required to comply with state and federal regulations.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through

5016 of Title 63 of Oklahoma Statutes; Public Law 104-204; Public Law 108-183; Public Law 106-419

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, February 19, 2009, at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1558; filed 12-24-08]

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY**

[OAR Docket #08-1560]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 15. Personal Care Services
317:35-15-14. [AMENDED]
Subchapter 17. ADvantage Waiver Services
317:35-17-22. [AMENDED]

(Reference APA WF #08-29B)

SUMMARY:

Rules are revised to require the use of the new Interactive Voice Response Authentication (IVRA) system to document

Notices of Rulemaking Intent

time and attendance for all Personal Care and certain in-home ADvantage services provided to SoonerCare members. Currently, claims for Personal Care and associated in-home ADvantage services represent the highest volume of claim records processed through the Medicaid Management Information System. In-home services are necessarily provided in the individual homes of persons with physical and cognitive disabilities. The verification of service delivery is typically a paper time sheet signed by the member receiving services with a high potential for errors. Additionally, a paper based time and attendance system which requires transcription of time units from paper to computer is both inefficient and affords many opportunities for inadvertent errors.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes, 42 CFR 440.167;

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, February 19, 2009, at 1:00 p.m. at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1560; filed 12-24-08]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY

[OAR Docket #08-1561]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 9. ICF/MR, HCBW/MR, and Individuals Age 65 or Older in Mental Health Hospitals

Part 3. Application Procedures

317:35-9-26. [AMENDED]

Subchapter 19. Nursing Facility Services

317:35-19-6. [AMENDED]

(Reference APA WF # 08-33)

SUMMARY:

Agency rules are revised to allow individuals to apply for SoonerCare compensable nursing home and ICF/MR services at the OKDHS human services center of their choice. Current eligibility rules require individuals to apply at the local office in the county where the individual lives. Federal regulation 42 C.F.R. Section 435.902 requires eligibility to be determined in a manner that is consistent with simplicity of administration and the best interests of the applicant. Additionally, 42 C.F.R. Section 435.930 requires agencies to furnish Medicaid promptly to members without delay caused by the agency's administrative procedures. Allowing individuals to apply at the OKDHS human services center of their choice will help eliminate a barrier and serve the best interests of the individuals desiring to apply for and who qualify for SoonerCare services.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 C.F.R. Section 435.902; 42 C.F.R. Section 435.930

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for February 19, 2009, at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules.

Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1561; filed 12-24-08]

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY**

[OAR Docket #08-1564]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 17. ADvantage Waiver Services
- 317:35-17-1. through 317:35-17-5. [AMENDED]
- 317:35-17-9. through 317:35-17-12. [AMENDED]
- 317:35-17-14. through 317:35-17-24. [AMENDED]

(Reference APA WF # 08-37B)

SUMMARY:

ADvantage Program Waiver Services rules are revised to add Assisted Living services as a compensable service under the ADvantage Waiver program. Assisted Living services are personal care and supportive services that are furnished to ADvantage members who reside in a homelike, non-institutional setting. Services include 24-hour on-site response capability to meet scheduled or unpredictable resident needs and to provide supervision, safety and security. ADvantage reimbursement for Assisted Living Services includes personal care, housekeeping, laundry, meal preparation, periodic nursing evaluations, nursing supervision during nursing intervention, intermittent or unscheduled nursing care, medication administration, assistance with cognitive orientation, assistance with transfer and ambulation, planned programs for socialization, activities and exercise and for arranging or coordinating transportation to and from medical appointments. Services, except for planned programs for socialization, activities and exercise, are to meet specific needs of the participant as determined through individualized assessment and documented on the participant's service plan.

Provider standards regarding physical environment, sanitation, health and safety, staff to resident ratios, staff training and qualifications, staff supervision, residents' rights, incident reporting, and provision of or arrangement for necessary health services are included. Three per diem reimbursement rate levels based on different levels of the member's need for service are established. ADvantage members who reside in an Advantage Assisted Living Services Center have a personal needs allowance set at 150% of the SSI Federal Benefit Rate; the member is responsible for room and board costs which will not exceed 90% of the SSI Federal Benefit Rate.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 440.180; 42 CFR 440.181

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, February 19, 2009, at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1564; filed 12-24-08]

**TITLE 317. OKLAHOMA HEALTH CARE
AUTHORITY
CHAPTER 35. MEDICAL ASSISTANCE FOR
ADULTS AND CHILDREN-ELIGIBILITY**

[OAR Docket #08-1569]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Eligibility and Countable Income
Part 3. Non-Medical Eligibility Requirements
317:35-5-25. [AMENDED]
(Reference APA WF # 08-44)

SUMMARY:

SoonerCare rules regarding citizenship are revised to include Iraqis and Afghans with special immigrant status as qualified aliens. Iraqi and Afghan Special Immigrants are a relatively new category of special immigrants, created by Public Law 109-163. Each Federal fiscal year, a certain number of Iraqis and Afghans and their families who were employed by the U.S. military as translators and meet other requirements, may be granted Iraqi or Afghan Special Immigrant Status under section 101(a)(27) of the Immigration and Nationality Act (INA). Public Law 110-161 allows six months of eligibility for Afghan special immigrants and Public Law 110-181 allows eight months of eligibility for Iraqi special immigrants. All other eligibility requirements must be met in order to qualify for SoonerCare services during this time-limited period. After this time-limited period of eligibility, Iraqi and Afghan special immigrants will lose eligibility for SoonerCare services until they meet the 5-year bar or otherwise meet the citizenship or alien eligibility criteria.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Public Law 109-163; Public Law 110-181; Public Law 110-161

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for February 19, 2009, at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular

business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1569; filed 12-24-08]

**TITLE 317. OKLAHOMA HEALTH CARE
AUTHORITY
CHAPTER 35. MEDICAL ASSISTANCE FOR
ADULTS AND CHILDREN-ELIGIBILITY**

[OAR Docket #08-1572]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 9. ICF/MR, HCBW/MR, and Individuals Age 65 or Older in Mental Health Hospitals
Part 1. Services
317:35-9-5. [AMENDED]
(Reference APA WF # 08-46B)

SUMMARY:

Developmental Disabilities Services rules are revised to: (1) provide clarification relating to service utilization, provisions, authorizations, limitations, and eligibility requirements; (2) specify provider requirements and related activities of targeted case management to meet federal requirements; (3) clarify provider responsibilities and limitations in the agency companion program; (4) specify devices and services allowable through assistive technology; (5) specify criteria for performance of architectural modifications and the requirements and standards thereof; (6) clarify physical plant expectations for services provided in center-based settings; and (7) amend policy to reflect appropriate terminology.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes;

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care

Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, February 19, 2009, at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1572; filed 12-24-08]

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY**

[OAR Docket #08-1579]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Eligibility and Countable Income
Part 5. Countable Income and Resources
317:35-5-43. [AMENDED]

(Reference APA WF #08-51)

SUMMARY:

Agency rules are revised to allow the Oklahoma Health Care Authority to accept cash medical support payments by non-custodial parents if there is no access to health insurance for their child at a reasonable cost (5% or less of the non-custodial parent's income). The administration and collection of the payments will be handled by the Oklahoma Department of Human Services, Child Support Enforcement Division.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes, 43 Okla. Stat. 118F, and P.L. 109-171 Deficit Reduction Act of 2005.

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for February 19, 2009, at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1579; filed 12-24-08]

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 40. DEVELOPMENTAL DISABILITIES SERVICES**

[OAR Docket #08-1573]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
317:40-1-1. [AMENDED]
Subchapter 5. Member Services
Part 1. Agency Companion Services
317:40-5-1. [REVOKED]

Notices of Rulemaking Intent

317:40-5-3. [AMENDED]
317:40-5-5. [AMENDED]
Part 9. Service Provisions
317:40-5-100. through 30-5-101. [AMENDED]
Subchapter 7. Employment Services Through Home and
Community-Based Service Waivers
317:40-7-6. [AMENDED]
317:40-7-11. [AMENDED]
317:40-7-13. [AMENDED]
(Reference APA WF # 08-46C)

SUMMARY:

Developmental Disabilities Services rules are revised to: (1) provide clarification relating to service utilization, provisions, authorizations, limitations, and eligibility requirements; (2) specify provider requirements and related activities of targeted case management to meet federal requirements; (3) clarify provider responsibilities and limitations in the agency companion program; (4) specify devices and services allowable through assistive technology; (5) specify criteria for performance of architectural modifications and the requirements and standards thereof; (6) clarify physical plant expectations for services provided in center-based settings; and (7) amend policy to reflect appropriate terminology.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes;

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, February 19, 2009, at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1573; filed 12-24-08]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 45. INSURE OKLAHOMA/ OKLAHOMA EMPLOYER AND EMPLOYEE PARTNERSHIP FOR INSURANCE COVERAGE

[OAR Docket #08-1562]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 11. Insure Oklahoma/O-EPIC IP
Part 3. Insure Oklahoma/O-EPIC IP Member Health Care
Benefits

317:45-11-10. through 317:45-11-11. [AMENDED]

(Reference APA WF # 08-35)

SUMMARY:

Rules are revised to expand the Insure Oklahoma/O-EPIC IP benefits package to include physical therapy, occupational therapy and speech therapy in an outpatient hospital setting and outpatient behavioral health services provided by an individual LBHP. Currently, adult therapies is not offered as a covered service under the IP program. The added adult therapies benefit will only be compensable when provided in an outpatient hospital setting. This addition to the IP program is consistent with current benefit offerings within many private insurance plans. Without this added benefit, IP members will continue to be unable to have coverage for adult therapies that may be recommended as medically necessary. Following an injury or illness, the provision of adult therapies can help individuals more quickly and safely return to full working function and prevent further injury from occurring. Outpatient behavioral health services are currently offered under the IP program but only at mental health centers. The addition of outpatient behavioral health services by individual LBHPs is consistent will current benefit offerings within many private insurance plans. By allowing outpatient behavioral health services provided by individual LBHPs, IP members in rural parts of Oklahoma will be better able to access behavioral health services as currently there are limited resources in rural areas.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through

5016 of Title 63 of Oklahoma Statutes; Section 1010.1 et seq. of Title 56 of Oklahoma Statutes

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for February 19, 2009, at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1562; filed 12-24-08]

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 45. INSURE OKLAHOMA/OKLAHOMA EMPLOYER AND EMPLOYEE PARTNERSHIP FOR INSURANCE COVERAGE**

[OAR Docket #08-1583]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
317:45-1-1. through 317:45-1-3. [AMENDED]
- Subchapter 7. Insure Oklahoma/O-EPIC PA ESI Employer Eligibility
317:45-7-1. [AMENDED]
- Subchapter 11. Insure Oklahoma/O-EPIC IP

Part 5. Insure Oklahoma/O-EPIC Individual—Plan IP Member Eligibility

317:45-11-25. [AMENDED]

(Reference APA WF # 08-55)

SUMMARY:

Rules are revised to expand the Insure Oklahoma/O-EPIC ESI and IP programs from an employee size of 50 or fewer employees to 250 or fewer employees. In addition, Oklahoma full-time college students from 19 through 22 years of age whose household income is under 200% FPL will be able to participate in either the ESI or IP program. These revisions comply with Sections 1009.2, 1010.1 and 1011.10 of Title 56 of Oklahoma Statutes. This expansion to the Insure Oklahoma/O-EPIC program will help increase access to health care for Oklahomans thereby reducing the amount of uncompensated care provided by health care providers.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Section 1009.2, Section 1010.1 and Section 1011.10 of Title 56 of Oklahoma Statutes

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for February 19, 2009, at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Director, Policy Development, 405-522-7153.

[OAR Docket #08-1583; filed 12-24-08]

Notices of Rulemaking Intent

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 45. INSURE OKLAHOMA/ OKLAHOMA EMPLOYER AND EMPLOYEE PARTNERSHIP FOR INSURANCE COVERAGE

[OAR Docket #08-1584]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
317:45-1-4. [AMENDED]
- Subchapter 3. Insure Oklahoma/O-EPIC PA Carriers
317:45-3-1. through 317:45-3-2. [AMENDED]
- Subchapter 5. Insure Oklahoma/O-EPIC PA Qualified
Health Plans
317:45-5-1. through 317:45-5-2. [AMENDED]
- Subchapter 7. Insure Oklahoma/O-EPIC PA ESI Employer
Eligibility
317:45-7-2. through 317:45-7-3. [AMENDED]
317:45-7-5. [AMENDED]
317:45-7-8. [AMENDED]
- Subchapter 9. Insure Oklahoma/O-EPIC PA ESI Employee
Eligibility
317:45-9-1. through 317:45-9-4. [AMENDED]
317:45-9-6. through 317:45-9-7. [AMENDED]
- Subchapter 11. Insure Oklahoma/O-EPIC IP
Part 1. Individual Plan Providers
317:45-11-1. through 317:45-11-2. [AMENDED]
- Part 5. Insure Oklahoma/O-EPIC Individual Plan IP
Member Eligibility
317:45-11-20. through 317:45-11-24. [AMENDED]
317:45-11-26. through 317:45-11-27. [AMENDED]
(Reference APA WF # 08-56)

SUMMARY:

Rules are revised to update the premium assistance program name from O-EPIC to Insure Oklahoma/O-EPIC. Several current business processes within the Insure Oklahoma/O-EPIC program are also updated. The premium assistance program's name changed to Insure Oklahoma/O-EPIC to coincide with an extensive statewide marketing campaign.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Section 1010.1 et seq. of Title 56 of Oklahoma Statutes

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009, through February 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7272.

PUBLIC HEARING:

A public hearing is scheduled for February 19, 2009, at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Director, Policy Development, 405-522-7153.

[OAR Docket #08-1584; filed 12-24-08]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 10. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

[OAR Docket #08-1526]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 2. Temporary Assistance For Needy Families (TANF) Work Program
340:10-2-1 [AMENDED]
340:10-2-4 [AMENDED]
340:10-2-5 through 340:10-2-7 [AMENDED]
- Subchapter 3. Conditions of Eligibility - Need
Part 1. Resources
340:10-3-5 [AMENDED]
Part 3. Income
340:10-3-40 [AMENDED]
Part 5. Assistance Payments
340:10-3-56 through 340:10-3-57 [AMENDED]
- Part 7. Transitional Benefits
340:10-3-75 [AMENDED]
340:10-3-81 [AMENDED]
- Subchapter 7. Conditions of Eligibility - Residence
340:10-7-1 [AMENDED]

Subchapter 15. Conditions of Eligibility - Citizenship and Alienage

340:10-15-1 [AMENDED]

Subchapter 19. Eligibility requirements for Emergency Assistance to Needy Families with Children

340:10-19-2 [AMENDED]

Subchapter 22 Temporary Assistance for Needy Families (TANF) Supported Permanency Program

340:10-22-1 [AMENDED]

(Reference APA WF 08-09 and 08-25)

SUMMARY:

The proposed revisions to Subchapters 2, 3, 7, 15, 19, and 22 of Chapter 10 amend the rules to: (1) change reporting of excused absences in hours instead of days; (2) clarify required work participant hours for a non-incapacitated adult when deprivation is based on incapacity; (3) remove restriction of baccalaureate or advance degree in relation to vocational training; (4) update language regarding who is considered to be in a targeted group for the Work Opportunity Tax Credit; (5) reflect the current appendix numbers; (6) add Savings for Education, Entrepreneurship, and Downpayment (SEED) accounts and certain funds in education accounts as exempt resources; (7) clarify that Supplemental Security Income (SSI) income is not considered in determining the Temporary Assistance for Needy Families (TANF) benefit; (8) clarify consideration of reimbursements made to foster care and potential foster care parents; (9) add reference to child of a minor in foster care to those who may be included in TANF benefit; (10) clarify consideration of income from spouse of a needy caretaker and income of SSI dependents; (11) reflect the current form numbers; (12) update legal citation used for the Supplemental Nutrition Assistance Program (SNAP) formerly known as the Food Stamp Program; (13) remove reference to revoked rule; (14) change the maximum amount of time spent in job search and job readiness activities from weeks to hours; (15) remove reference to job search and job readiness activities from the education section; (16) replace outdated language with current terminology; (17) correct a rule citation; and (18) add language to allow certain Iraqi and Afghan persons admitted as special immigrants to receive time-limited TANF benefits.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Sections 230.50, 230.52, 230.62, 230.64, 230.65, and 4000 of Title 56 of the Oklahoma Statutes; the Deficit Reduction Act of 2005; Parts 261.2, 261.60, 261.61 and 262.2 of Title 45 of the Code of Federal Regulations (CFR); Section 525 of Division G of P.L. 110-161 of the Consolidated Appropriations Act of 2008, Section 101(a)(27) of the Immigration and Nationality Act [8 U.S.C. 1101(a)(27)]; and Section 1244 of P.L. 110-181 of the National Defense Authorization Act for Fiscal Year 2008.

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009 through February 16, 2009 during regular business hours by contacting Laura Brown, Oklahoma Department of

Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than February 16, 2009 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #08-1526; filed 12-22-08]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 25. OKLAHOMA CHILD SUPPORT ENFORCEMENT DIVISION SERVICES**

[OAR Docket #08-1522]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Scope and Applicability

340:25-1-1 [AMENDED]

340:25-1-1.1 [AMENDED]

340:25-1-1.2 [AMENDED]

340:25-1-2.1 [AMENDED]

340:25-1-5.1 [AMENDED]

Subchapter 3. Commissioned Peace Officers

340:25-3-1 [AMENDED]

340:25-3-1.1 [AMENDED]

340:25-3-3 [AMENDED]

340:25-3-5 [AMENDED]

Subchapter 5. Operational Policies

Part 9. Disclosure of Information

340:25-5-66 [AMENDED]

Part 11. ~~CSED~~ OCCS System Security

340:25-5-75 [AMENDED]

Part 13. Retention and Destruction of Records

340:25-5-95 [AMENDED]

Part 15. Case Initiation, Case Management, and Case Closure

340:25-5-117 [AMENDED]

340:25-5-123 [AMENDED]

340:25-5-124 [AMENDED]

Notices of Rulemaking Intent

340:25-5-124.2 [AMENDED]
340:25-5-124.3 [AMENDED]
Part 17. Past Support
340:25-5-140 [AMENDED]
Part 20. Medical Support
340:25-5-168 [AMENDED]
340:25-5-171 [AMENDED]
Part 21. Establishment
340:25-5-176 [AMENDED]
340:25-5-176.1 [AMENDED]
340:25-5-178 [AMENDED]
Part 23. Enforcement
340:25-5-201.1 [AMENDED]
340:25-5-203.2 [NEW]
340:25-5-212 [AMENDED]
340:25-5-214 [AMENDED]
Part 31. Consumer Reporting Agencies - Credit Bureaus
340:25-5-265.1 [AMENDED]
Part 39. Accounting and Distribution
340:25-5-345.2 [NEW]
340:25-5-350.3 [AMENDED]
340:25-5-350.4 [NEW]
340:25-5-352 [NEW]

(Reference APA WF 08-14 and 08-15)

SUMMARY:

The purposes of proposed amendments are to: (1) supersede emergency rules submitted in November 2008 to comply with provisions of the Code of Federal Regulations that became effective July 21, 2008 (Federal Register/Volume 73, No. 140); (2) codify provisions of state and federal legislation including Senate Bill (SB) 943, SB 1923, House Bill 2967 into Chapter 25 of Title 340 of the Oklahoma Administrative Code; (3) incrementally change division name in keeping with the national movement to focus on services; effective 1/1/09 the Child Support Enforcement Division (CSED) is changing its name to Oklahoma Child Support Services (OCSS); (4) implement policy changes recommended during CSED's annual policy review process; and (5) make housekeeping changes to improve the clarity of the rules.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Sections 453, 454, 454A, and 454B of the Social Security Act, codified in Sections 653, 654, 654a and 654b of Title 42 of the United States Code (U.S.C.); Section 1738B of Title 28 U.S.C.; United States House Resolution 3130, Public Law 105-200; Sections 302.31, 302.32, 302.33, 302.38, 303.6, 307.11, 307.13, and Part 310 of Title 45 of the Code of Federal Regulations; Sections 652 and 666 of Title 42 of the U.S.C. (federal Deficit Reduction Act of 2005); Sections 7700-605 and 7700-621 of Title 10 of the Oklahoma Statutes (Oklahoma State Senate Bill 1923 and Oklahoma State House Bill 2967); Section 1171.2 of Title 12 of the Oklahoma Statutes (federal Deficit Reduction Act of 2005); Sections 112, 139, and 139.1 of Title 43; Section 135 of Title 43 of the Oklahoma Statutes (Oklahoma State Senate Bill 943); Sections 237 and 240.20 of Title 56 of the Oklahoma

Statutes; Section 237B of Title 56 of the Oklahoma Statutes (Oklahoma State Senate Bill 943); and Section 240.10 of Title 56 of the Oklahoma Statutes (Oklahoma Senate Bill 2194).

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009 through February 16, 2009 during regular business hours by contacting Tammy Hall, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than February 16, 2009 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #08-1522; filed 12-22-08]

TITLE 340. DEPARTMENT OF HUMAN SERVICES

CHAPTER 40. CHILD CARE SERVICES

SUBSIDY PROGRAM

[OAR Docket #08-1527]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 13. Child Care Rates and Provider Issues
340:40-13-1 through 340:40-13-2 [AMENDED]

(Reference APA WF 08-26)

SUMMARY:

The proposed revisions to Subchapter 13 of Chapter 40 amend rules to: (1) move rules regarding the guidelines for use and approval of in-home child care from OAC 340:40-13-1 to OAC 340:40-13-2; (2) remove the requirement for an in-home provider to watch a training video prior to approval as the video doesn't relate to an in-home situation; (3) remove the exception allowing an in-home provider to be a member of the child's household; (4) change approval rights of an in-home child care provider from the county director to the Family Support Services Division (FSSD) Child Care Subsidy Section; (5) add the requirement that a caregiver must provide photo identification (ID) and a Social Security number before being

approved as an in-home provider; (6) change initial training requirements once a caregiver is approved as an in-home provider; and (7) update and reorganize language for clarity.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law (P.L.) 104-193; the Balanced Budget Act of 1997, P.L. 105-33; and 45 Code of Federal Regulations (CFR) Parts 98 and 99.

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009 through February 16, 2009 during regular business hours by contacting Laura Brown, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than February 16, 2009 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #08-1527; filed 12-22-08]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 50. ~~FOOD STAMP~~
SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM**

[OAR Docket #08-1524]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 9. Eligibility and Benefit Determination Procedures

340:50-9-5 [AMENDED]

(Reference APA WF 08-27)

SUMMARY:

The proposed revisions to Subchapter 9 of Chapter 50 amend the rules to: (1) change reporting requirements for annual reporter households to match semi-annual reporter requirements; (2) change the date that a benefit report form must be returned to the Oklahoma Department of Human

Services (OKDHS) for semi-annual and annual reporters; (3) clarify able-bodied adult without dependents (ABAWD) reporting requirements for semi-annual reporters; (4) update language to current terminology; and (5) remove internal procedures from the rule.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and the Food and Nutrition Act of 2008.

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009 through February 16, 2009 during regular business hours by contacting Laura Brown, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than February 16, 2009 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #08-1524; filed 12-22-08]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 65. PUBLIC ASSISTANCE PROCEDURES**

[OAR Docket #08-1525]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

340:65-1-2 through 340:65-1-3 [AMENDED]

Subchapter 3. Eligibility for Benefits

340:65-3-1 through 340:65-3-2 [AMENDED]

340:65-3-4 through 340:65-3-6 [AMENDED]

340:65-3-8 [AMENDED]

Subchapter 5. Procedures Relating to Case Changes

Part 1. General Provisions

340:65-5-2 through 340:65-5-3 [AMENDED]

(Reference APA WF 08-24)

Notices of Rulemaking Intent

SUMMARY:

The proposed revisions to Subchapters 1, 3, and 5 of Chapter 65 amend rules to: (1) add a legal citation; (2) change the name of the Food Stamp Program to the Supplemental Nutrition Assistance Program (SNAP); (3) remove a rule citation that is no longer applicable; (4) add other documents that are acceptable as verification of lawful status; (5) add that an interview may be completed face-to-face or by telephone depending on the program; (6) add language that funds expunged from a debit card can be reloaded if requested within 365 days of issuance; (7) add information about how to handle requests for unused benefits on a debit card at the time of the client's death; (8) remove the face-to-face interview requirement for SNAP at recertification; (9) add clarifying language regarding the worker's action when a change is reported that affects the amount of the cash benefit being received; (10) clarify which benefits administered by Family Support Services Division may be suspended; (11) update language to current terminology and procedures; and (12) remove internal procedures from rules.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Sections 161 et seq. of Title 56 of the Oklahoma Statutes; and Section 41.19 of Title 62 of the Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009 through February 16, 2009 during regular business hours by contacting Laura Brown, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than February 16, 2009 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #08-1525; filed 12-22-08]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 75. CHILD WELFARE

[OAR Docket #08-1523]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions of Child Welfare Services

Part 1. Scope and Applicability

340:75-1-26.2 [NEW]

Subchapter 3. Child Protective Services

340:75-3-1 [AMENDED]

340:75-3-2 [AMENDED]

340:75-3-4 [AMENDED]

340:75-3-6 [AMENDED]

340:75-3-8 [AMENDED]

340:75-3-8.1 [AMENDED]

340:75-3-8.5 [AMENDED]

340:75-3-8.6 [AMENDED]

340:75-3-10.1 [AMENDED]

Subchapter 7. Foster Home Care

Part 1. General Provisions

340:75-7-2 [AMENDED]

Part 2. Development of Resources

340:75-7-10 [AMENDED]

340:75-7-12 [AMENDED]

340:75-7-14 [AMENDED]

340:75-7-15 [AMENDED]

340:75-7-18 [AMENDED]

Part 4. Roles and Responsibilities

340:75-7-37 [AMENDED]

340:75-7-37.1 [AMENDED]

340:75-7-41 [AMENDED]

Part 5. Eligibility and Payments

340:75-7-51 [AMENDED]

340:75-7-52 [AMENDED]

340:75-7-52.1 [AMENDED]

Part 6. Foster Home Care Support Services

340:75-7-65 [AMENDED]

Part 27. Contract Foster Care Program

340:75-7-280 [NEW]

Subchapter 11. Child Welfare Community-Based Residential Care

Part 23. Specialized Community Homes

340:75-11-286 [AMENDED]

(Reference APA WF 08-28)

SUMMARY:

The proposed revisions to Chapter 75 amend the rules to: (1) update language to conform to the Practice Model and Bridge resource family initiatives being implemented by OKDHS; (2) further clarify and set out procedures that enhance the goals of safety and permanency for children and expand the availability of placement resources for children; (3) require the acquisition of a death certificate when the child

welfare worker becomes aware that a parent is deceased; (4) add contracted foster care to the investigation protocols; and (5) update language.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and the Oklahoma Children's Code of Title 10 of the Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2009 through February 16, 2009 during regular business hours by contacting Caprice Tyner, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 918-794-7538.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than February 16, 2009 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #08-1523; filed 12-22-08]

**TITLE 365. INSURANCE DEPARTMENT
CHAPTER 1. ADMINISTRATIVE
OPERATIONS**

[OAR Docket #08-1516]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
- 365:1-1-2. Office of the Insurance Commissioner
- Subchapter 13. Electronic Filings
- 365:1-13-1. ~~Agent and customer service representatives appointment forms~~ Electronic filings [AMENDED]

SUMMARY:

The proposed amendments to Rule 365:1-1-2 combine the Life, Accident and Health Division and the Property and Casualty Division into one division called the Rate and Form Compliance Division and set out a description of that division.

The proposed amendments to Rule 365:1-13-1 add continuing education course completion filings, schedule of continuing education course offerings, and filings made

with the Rate and Form Compliance Division to the list of filings to be made with the Insurance Department by electronic means. The proposed amendments to Rule 365:1-13-1 also add the option for regulated persons to request an exemption from electronic filing.

AUTHORITY:

Insurance Commissioner, 36 O.S. §§ 307, 307.1, and 12A O.S. § 15-118.

COMMENT PERIOD:

Written or oral comments regarding the proposed rule amendments shall be received on or before February 16, 2009. Comments shall be directed to Karl Kramer, Deputy Insurance Commissioner, Oklahoma Insurance Department, P.O. Box 53408, Oklahoma City, Oklahoma 73152-3408.

PUBLIC HEARING:

A public hearing regarding the proposed rule amendments will be held February 18, 2009, at 9:30 a.m. at the Oklahoma Insurance Department, 2401 N.W. 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities are requested to provide any increase in costs expected to be incurred due to compliance with the proposed rules. The comments shall be submitted to Karl Kramer, Deputy Insurance Commissioner, Oklahoma Insurance Department, at the mailing address above on or before February 16, 2009.

COPIES OF PROPOSED RULES:

Copies of the proposed rule amendments may be inspected at the Oklahoma Insurance Department at the physical address listed above. Office hours are from 8:00 a.m. through 5:00 p.m., Monday through Friday. Additional copies of the rules may also be obtained at the Oklahoma Insurance Department.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared prior to January 15, 2009, in accordance with 75 O.S. § 303(D). A copy of the statement may be obtained at the physical address above.

CONTACT PERSON:

Karl Kramer, Deputy Insurance Commissioner, (405) 521-2746.

[OAR Docket #08-1516; filed 12-22-08]

**TITLE 365. INSURANCE DEPARTMENT
CHAPTER 10. LIFE, ACCIDENT AND
HEALTH**

[OAR Docket #08-1517]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
- Part 1. General Provisions
- 365:10-1-13. Notification required upon rejection

Notices of Rulemaking Intent

Subchapter 5. Minimum Standards; Contract Guidelines
Part 5. Long-term Care Insurance
365:10-5-42. Policy definitions [AMENDED]
365:10-5-43. Policy practices and provisions [AMENDED]
365:10-5-43.1. Unintentional lapse [AMENDED]
365:10-5-44. Required disclosure provisions [AMENDED]
365:10-5-45. Requirements for application forms and for replacement coverage [AMENDED]
365:10-5-45.1. Reporting requirements [AMENDED]
365:10-5-45.2. Licensing [AMENDED]
365:10-5-48.6. Nonforfeiture benefit requirement [AMENDED]
365:10-5-53. Contingent benefit upon lapse [AMENDED]
365:10-5-54. State long-term care insurance partnership program [AMENDED]
365:10-5-55. Availability of New Services or Providers [NEW]
365:10-5-56. Right to Reduce Coverage and Lower Premiums [NEW]
Part 13. Medicare Supplement Insurance Minimum Standards
365:10-5-123. Definitions [AMENDED]
365:10-5-127. Benefit standards for 1990 Standardized Medicare Supplement Benefit Plan Policies ~~policies~~ or Certificates ~~certificates~~ issued or delivered on or after July 1, 1992 and Prior to June 1, 2010 [AMENDED]
365:10-5-127.1. Benefit Standards for 2010 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery on or After June 1, 2010 [NEW]
365:10-5-128. Standard Medicare Supplement Benefit Plans ~~plans~~ for 1990 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery on or After [insert effective date adopted by state] and Prior to June 1, 2010 [AMENDED]
365:10-5-128.1. Medicare Select Policies and Certificates [AMENDED AND RENUMBERED TO 365:10-5-128.3]
365:10-5-128.2. Standard Medicare Supplement Benefit Plans for 2010 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery on or After June 1, 2010 [NEW]
365:10-5-128.3. Medicare Select Policies and Certificates [NEW]
365:10-5-129. Open enrollment [AMENDED]
365:10-5-129.1. Guaranteed Issue for Eligible Persons [AMENDED]
365:10-5-131. Loss ratio standards and refund or credit of premium [AMENDED]
365:10-5-134. Required disclosure provisions
365:10-5-143. Prohibition Against Use of Genetic Information and Requests for Genetic Testing [NEW]
Part 21. Extension and Termination of Coverage Under Group Accident and Health Policy Contracts of Hospital and Medical Services or Indemnity [REVOKED]

365:10-5-190. Purpose. [REVOKED]
365:10-5-191. Applicability and scope [REVOKED]
365:10-5-192. Definitions [REVOKED]
365:10-5-193. Periods for which coverage is extended [REVOKED]
365:10-5-194. When extension period begins [REVOKED]
365:10-5-195. Required notification to employee whose insurance is terminated [REVOKED]
Subchapter 27. Preneed Life Insurance Minimum Standards For Determining Reserve Liabilities And Nonforfeiture Values Regulation [NEW]
365:10-27-1. Authority [NEW]
365:10-27-2. Scope [NEW]
365:10-27-3. Purpose [NEW]
365:10-27-4. Definitions [NEW]
365:10-27-5. Minimum Valuation Mortality Standards [NEW]
365:10-27-6. Transition Rules [NEW]
Appendix S. Outline of Coverage [REVOKED]
Appendix S. Outline of Coverage [NEW]
Appendix EE. Triggers For A Substantial Premium Increase [REVOKED]
Appendix EE. Triggers For A Substantial Premium Increase [NEW]
Appendix LL. Notice To Applicant Regarding Replacement Of Individual Accident And Sickness or Long-Term Care Insurance For Solicitations Other Than Direct Response [NEW]
Appendix MM. Notice To Applicant Regarding Replacement Of Accident And Sickness or Long-Term Care Insurance For Direct Response Solicitations [NEW]

SUMMARY:

The proposed amendments to Section 365:10-1-13, Notification Required Upon Rejection, updates the toll free number of the Oklahoma Health Insurance High Risk Pool and adds the web address to this rule which requires notification of contact information for the High Risk Pool when an insurer rejects an application for health insurance.

The proposed amendments to Part 5 of Subchapter 5, Long-term Care Insurance, 365:10-5-42 through 56, Appendix EE and new Appendix LL and MM, update the regulation to the most recent National Association of Insurance Commissioners' model regulation and implement federal mandates.

The proposed amendments to Part 13 of Subchapter 5, Medicare Supplement Insurance Minimum Standards, 365:10-5-123 through 141 and Appendix S, update the regulation to the most recent National Association of Insurance Commissioners' model regulation and implement federal mandates.

The proposed revocation of Part 21 of Subchapter 5, Extension and Termination of Coverage Under Group Accident and Health Policy Contracts of Hospital and Medical Services or Indemnity, Sections 365:10-5-190 through 195, is to allow the Insurance Department to seek legislative amendments that address the issues in a cleaner way. New rules will be adopted

if statutory amendments are enacted or not, allowing more input/comment from the individuals and entities affected by the rules.

The purpose of the proposed new Subchapter 27, Preneed Life Insurance Minimum Standards For Determining Reserve Liabilities And Nonforfeiture Values Regulation, 365:10-27-1 through 6, is to establish for preneed insurance products minimum mortality standards for reserves and nonforfeiture values, and to require the use of the 1980 Commissioners Standard Ordinary (CSO) Mortality Table for use in determining the minimum standard of valuation of reserves and the minimum standard nonforfeiture values for preneed insurance products. Research completed by the Deloitte University of Connecticut Actuarial Center and commissioned by the Society of Actuaries as a part of a study of preneed mortality determined that the 2001 CSO Mortality Table, currently recognized as the prevailing table for the purposes of calculating reserves and nonforfeiture values both on a statutory basis and on a tax basis, produced inadequate reserves for insurance policies issued in support of a prearrangement agreement which provides goods and services at the time of an insured's death. This regulation became effective as emergency rules on September 11, 2008, with compliance required for policies issued on or after January 1, 2009.

AUTHORITY:

Insurance Commissioner, 36 O.S. §§ 307.1, 1510(A)(4)(iii), 3610, 3611, 3611.1, 4029(H)(4)(h)(vi), 4427 and 4509

COMMENT PERIOD:

Written or oral comments regarding the proposed rule amendment shall be received on or before February 16, 2009. Comments shall be directed to Karl Kramer, Deputy Insurance Commissioner, Oklahoma Insurance Department, P.O. Box 53408, Oklahoma City, Oklahoma 73152-3408.

PUBLIC HEARING:

A public hearing regarding the proposed rule amendment will be held February 18, 2009, at 9:30 a.m. at the Oklahoma Insurance Department, 2401 N.W. 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities are requested to provide any increase in costs expected to be incurred due to compliance with the proposed rules. The comments shall be submitted to Karl Kramer, Deputy Insurance Commissioner, Oklahoma Insurance Department, at the mailing address above on or before February 16, 2009.

COPIES OF PROPOSED RULES:

Copies of the proposed rule amendments may be inspected at the Oklahoma Insurance Department at the physical address listed above. Office hours are from 8:00 a.m. through 5:00 p.m., Monday through Friday. Additional copies of the rules may also be obtained at the Oklahoma Insurance Department.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared prior to January 15, 2009, in accordance with 75 O.S. § 303(D). A copy of the statement may be obtained at the physical address above.

CONTACT PERSON:

Karl Kramer, Deputy Insurance Commissioner, (405) 521-2746.

[OAR Docket #08-1517; filed 12-22-08]

**TITLE 365. INSURANCE DEPARTMENT
CHAPTER 15. PROPERTY AND CASUALTY**

[OAR Docket #08-1518]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 7. Property and Casualty Competitive Loss Cost Rating Regulation

365:15-7-32. Use of "a" Rates [NEW]

365:15-Appendix D. Format for Notification to Policyholders of Application for Rate Change [REVOKED]

365:15-Appendix D. Format for Notification to Policyholders of Application for Rate Change Application [NEW]

SUMMARY:

The proposed new rule 365:15-7-32 defines the term "a" rates as used in the Property and Casualty Competitive Loss Cost Rating Act and requires an insurer claiming an "a" rate exemption from the Act to make a filing that justifies the claim of exemption.

Appendix D is revised. The proposed amendments require notification to policyholders of either a rate increase or decrease. The terminology of Section 6821 of Title 36 discusses rate changes, not rate increases.

AUTHORITY:

Insurance Commissioner, 36 O.S. §§ 307.1, 997 and 6821

COMMENT PERIOD:

Written or oral comments regarding the proposed rule amendments shall be received on or before February 16, 2009. Comments shall be directed to Karl Kramer, Deputy Insurance Commissioner, Oklahoma Insurance Department, P.O. Box 53408, Oklahoma City, Oklahoma 73152-3408.

PUBLIC HEARING:

A public hearing regarding the proposed rule amendments will be held February 18, 2009, at 9:30 a.m. at the Oklahoma Insurance Department, 2401 N.W. 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities are requested to provide any increase in costs expected to be incurred due to compliance with the proposed rules. The comments shall be submitted to

Notices of Rulemaking Intent

Karl Kramer, Deputy Insurance Commissioner, Oklahoma Insurance Department, at the mailing address above on or before February 16, 2009.

COPIES OF PROPOSED RULES:

Copies of the proposed rule amendments may be inspected at the Oklahoma Insurance Department at the physical address listed above. Office hours are from 8:00 a.m. through 5:00 p.m., Monday through Friday. Additional copies of the rules may also be obtained at the Oklahoma Insurance Department.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared prior to January 15, 2009, in accordance with 75 O.S. § 303(D). A copy of the statement may be obtained at the physical address above.

CONTACT PERSON:

Karl Kramer, Deputy Insurance Commissioner, (405) 521-2746.

[OAR Docket #08-1518; filed 12-22-08]

**TITLE 365. INSURANCE DEPARTMENT
CHAPTER 25. LICENSURE OF
PRODUCERS, ADJUSTERS, BAIL
BONDSMEN, COMPANIES, PREPAID
FUNERAL BENEFITS, AND VIATICAL AND
LIFE SETTLEMENTS PROVIDERS AND
BROKERS**

[OAR Docket #08-1519]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 7. Companies
- Part 7. Companies In Hazardous Financial Condition
- 365:25-7-40. Authority
- 365:25-7-41. Purpose
- 365:25-7-42. Standards for determining hazardous financial condition
- 365:25-7-43. Commissioner's authority
- Subchapter 9. Prepaid Funeral Benefits
- 365:25-9-3. Forms
- 365:25-9-8. Conversion from trust to insurance funded contracts
- Subchapter 11. Viatical Settlements Regulation
- 365:25-11-1. Approval of viatical settlement contracts by Commissioner pursuant to 36 O.S. Section ~~4045~~ 4055.5 [AMENDED]
- 365:25-11-2. License requirements for viatical settlement providers [REVOKED]
- 365:25-11-2.1. Definitions [NEW]
- 365:25-11-3. License requirements for ~~viatical settlement~~ ~~brokers~~ [AMENDED]
- 365:25-11-4. Other requirements for brokers [REVOKED]
- 365:25-11-4.1. Standards for evaluation of reasonable payments for terminally ill insureds [NEW]
- 365:25-11-5. Reporting requirement [AMENDED]

- 365:25-11-6. General rules [AMENDED]
- 365:25-11-7. Requirement to file advertising [NEW]
- 365:25-11-8. Prohibited practices [NEW]
- 365:25-11-9. Insurance company practices [NEW]
- 365:25-11-10. Transition period for existing licenses [NEW]
- 365:25-11-11. Effective date [NEW]
- Subchapter 13. Life Settlements Regulation [REVOKED]
- 365:25-13-1. Approval of life settlement contracts by commissioner pursuant to 36 O.S. § 4089 [REVOKED]
- 365:25-13-2. License requirements for life settlement providers [REVOKED]
- 365:25-13-3. License requirements for life settlement brokers [REVOKED]
- 365:25-13-4. Other requirements for brokers [REVOKED]
- 365:25-13-5. Reporting requirement [REVOKED]
- 365:25-13-6. General rules [REVOKED]
- 365:25-13-7. Advertising [REVOKED]
- Subchapter 21. Regulation on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities [NEW]
- 365:25-21-1. Purpose [NEW]
- 365:25-21-2. Scope [NEW]
- 365:25-21-3. Authority [NEW]
- 365:25-21-4. Definition [NEW]
- 365:25-21-5. Prohibited Uses of Senior-Specific Certifications and Professional Designations [NEW]
- 365:25-21-6. Effective Date [NEW]
- Appendix U. Informational Brochure To Be Provided To A Prospective Viator at First Contact Pursuant To O.A.C. 365:25-11-6(a) [NEW]
- Appendix V. Verification of Coverage For Life Insurance Policies [NEW]
- Appendix W. Payouts For Insureds Who Are Terminally Ill [NEW]

SUMMARY:

The proposed amendments Part 7 of Subchapter 7, the Companies In Hazardous Condition Regulation, 365:25-7-40 through 43, update the regulation to the latest National Association of Insurance Commissioners' model regulation and is an NAIC accreditation requirement. The regulation sets forth the standards the Insurance Commissioner may use for identifying insurers found to be in such condition as to render the continuance of their business hazardous to the policyholders, creditors or the general Add summary for prepaid funeral rules.

The proposed amendments to 365:25-9-3 remove text to remedy duplication in the rules and provide for the date of filing of itemization of charges that must be submitted by prepaid funeral benefit licensees. The proposed amendments to 365:25-9-8 clarify issues relating to conversions from trust funded prepaid funeral benefits contracts to insurance funding.

The proposed amendments to the Viatical Settlement Regulation, 365:25-11-1, et seq., including new Appendices U, V, and W, and the proposed revocation of the Life Settlement Regulation, 365:25-13-1, et seq., implement the Viatical

Settlement Act of 2008 passed during the 2008 session of the Oklahoma Legislature.

The proposed new Regulation on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities, 365:25-21-1 through 6, sets forth standards to protect consumers from misleading and fraudulent marketing practices with respect to the use of senior-specific certifications and professional designations in the solicitation, sale or purchase of, or advice made in connection with, a life insurance or annuity product.

AUTHORITY:

Insurance Commissioner, 36 O.S. §§ 307.1, 1201, et seq., 1435.19, 1435.29(H), 1435.5(B)(8), 1801, et seq., 1901, et seq., 4055.16 and 6123.

COMMENT PERIOD:

Written or oral comments regarding the proposed rule amendments shall be received on or before February 16, 2009. Comments shall be directed to Karl Kramer, Deputy Insurance Commissioner, Oklahoma Insurance Department, P.O. Box 53408, Oklahoma City, Oklahoma 73152-3408.

PUBLIC HEARING:

A public hearing regarding the proposed rule amendments will be held February 18, 2009, at 9:30 a.m. at the Oklahoma Insurance Department, 2401 N.W. 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities are requested to provide any increase in costs expected to be incurred due to compliance with the proposed rules. The comments shall be submitted to Karl Kramer, Deputy Insurance Commissioner, Oklahoma Insurance Department, at the mailing address above on or before February 16, 2009.

COPIES OF PROPOSED RULES:

Copies of the proposed rule amendments may be inspected at the Oklahoma Insurance Department at the physical address listed above. Office hours are from 8:00 a.m. through 5:00 p.m., Monday through Friday. Additional copies of the rules may also be obtained at the Oklahoma Insurance Department.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared prior to January 15, 2009, in accordance with 75 O.S. § 303(D). A copy of the statement may be obtained at the physical address above.

CONTACT PERSON:

Karl Kramer, Deputy Insurance Commissioner, (405) 521-2746.

[OAR Docket #08-1519; filed 12-22-08]

**TITLE 365. INSURANCE DEPARTMENT
CHAPTER 25. LICENSURE OF
PRODUCERS, ADJUSTERS, BAIL
BONDSMEN, COMPANIES, PREPAID
FUNERAL BENEFITS, AND VIATICAL AND
~~LIFE SETTLEMENTS PROVIDERS AND~~
BROKERS**

[OAR Docket #08-1520]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 3. Producers, Brokers, ~~and~~ Limited Lines Producers and Vehicle Protection Product Warrantors
- 365:25-3-1. Insurance producers continuing education [AMENDED]
- 365:25-3-14. Insurance adjusters continuing education [AMENDED]
- 365:25-3-18. Compensation and education for sale of Medicare Advantage or Medicare private fee for service products and plans [AMENDED]
- 365:25-3-19. Medicare Part D volunteer counselors [NEW]
- 365:25-3-20. Vehicle protection product warrantor; fee; forms [NEW]

SUMMARY:

The proposed amendments to 365:25-3-1(d)(4) deletes health coverage and welfare coverage from elective credit topics. There is no elective credit for life and health producers. The proposed amendments to 365:25-3-1(f)(1) adds a non-refundable course review fee to be paid by producer continuing education providers.

The amendments to 365:25-3-1(f)(11) delete the requirement that producers complete a course evaluation form to be submitted by the provider to the Department and, if approved, the provision will state that a provider shall provide written notification to each producer of the opportunity to offer comments on any Continuing Education Class via the Oklahoma Insurance Department website. The proposed new paragraph 365:25-3-1(f)(12) requires a non-refundable course review fee of thirty dollars (\$30.00) per course pursuant to Section 1435.29(C) of Title 36.

The proposed amendments to 365:25-3-14(c) provide that non-resident adjusters are not required to take continuing education in Oklahoma if they have met the continuing education requirement of another state that licenses non-resident adjusters. The proposed new paragraph 365:25-3-14(f)(11) requires a non-refundable course review fee of thirty dollars (\$30.00) per course pursuant to Section 6217(F) of Title 36.

The proposed amendments to 365:25-3-18 provide clarity to continuing education requirements for sellers of Medicare Advantage products.

The proposed new rule 365:25-3-19 sets forth supporting documentation to be submitted to the Insurance Commissioner by volunteer counselors prior to conducting enrollment

Notices of Rulemaking Intent

assistance to Medicare beneficiaries enrolling in Medicare Part D plans. Section 9 of House Bill 2122 provides that the supporting documents must be set out by rule. This rule was effective as an emergency rule on August 8, 2008.

The proposed new rule 365:25-3-20 requires the payment of a two hundred dollar (\$200.00) fee for initial and annual registrations to cover the cost of processing the registration and maintaining records pursuant to the new Vehicle Protection Product Act, 36 O.S. § 6650, et seq., and in particular, Section 6653(C) of Title 36.

AUTHORITY:

Insurance Commissioner, 36 O.S. §§ 307.1, 6653(C), 1435.19, 1435.29(C) and (H), 1435.5(B)(8), 6217(F), 6650, et seq. and 6653(C)

COMMENT PERIOD:

Written or oral comments regarding the proposed rule amendments shall be received on or before February 16, 2009. Comments shall be directed to Karl Kramer, Deputy Insurance Commissioner, Oklahoma Insurance Department, P.O. Box 53408, Oklahoma City, Oklahoma 73152-3408.

PUBLIC HEARING:

A public hearing regarding the proposed rule amendments will be held February 18, 2009, at 9:30 a.m. at the Oklahoma Insurance Department, 2401 N.W. 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities are requested to provide any increase in costs expected to be incurred due to compliance with the proposed rules. The comments shall be submitted to Karl Kramer, Deputy Insurance Commissioner, Oklahoma Insurance Department, at the mailing address above on or before February 16, 2009.

COPIES OF PROPOSED RULES:

Copies of the proposed rule amendments may be inspected at the Oklahoma Insurance Department at the physical address listed above. Office hours are from 8:00 a.m. through 5:00 p.m., Monday through Friday. Additional copies of the rules may also be obtained at the Oklahoma Insurance Department.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared prior to January 15, 2009, in accordance with 75 O.S. § 303(D). A copy of the statement may be obtained at the physical address above.

CONTACT PERSON:

Karl Kramer, Deputy Insurance Commissioner, (405) 521-2746.

[OAR Docket #08-1520; filed 12-22-08]

TITLE 375. OKLAHOMA STATE BUREAU OF INVESTIGATION CHAPTER 8. RECORDS RETENTION AND DESTRUCTION

[OAR Docket #08-1550]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Administrative Records

375:8-3-34 through 375:8-3-36 [AMENDED]

Subchapter 5. Financial Records

375:8-5-5 [AMENDED]

Subchapter 7. Personnel Records

375:8-7-25 [AMENDED]

Subchapter 9. Electronic Records

375:8-9-1 [AMENDED]

SUMMARY:

The proposed amended sections would change document retention requirements for OSBI records to ensure that they comply with Oklahoma Department of Central Services requirements. The amendments will also "clean up" some other non-substantive grammatical and other errors.

AUTHORITY:

Oklahoma State Bureau of Investigation; 74 O.S., §150.7

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on February 17, 2009 at the following address: Jimmy Bunn Jr., Legal Counsel, Oklahoma State Bureau of Investigation, 6600 N. Harvey, Oklahoma City, OK. 73116.

PUBLIC HEARING:

A public hearing will be held at 11:00 a.m. on February 17, 2009 at Oklahoma State Bureau of Investigation, 6600 N. Harvey, Oklahoma City, OK. 73116. Anyone who wishes to speak must sign in at the door by 9:30 a.m. and will be provided five (5) minutes to express their views.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the office of the Oklahoma State Bureau of Investigation, 6600 N. Harvey, Oklahoma City, OK. 73116. Copies of proposed rules may be obtained at a cost of 25 cents per page copying charge from the Oklahoma State Bureau on Investigation, 6600 N. Harvey, Oklahoma City, OK. 73116.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be available on and after January 15, 2009, and may be obtained from the OSBI at the above address.

CONTACT PERSON:

Jimmy Bunn Jr., Legal Counsel, 6600 N. Harvey, Oklahoma City, OK., 73116, (405) 879-2605

[OAR Docket #08-1550; filed 12-24-08]

**TITLE 375. OKLAHOMA STATE BUREAU OF INVESTIGATION
CHAPTER 9. OKLAHOMA OPEN RECORDS**

[OAR Docket #08-1549]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. Criminal History Information
- 375:9-1-2 [AMENDED]
- 375:9-1-3 [AMENDED]

SUMMARY:

The proposed amended sections would reflect changes in the OSBI forms for requesting criminal history records and in the form the results of such requests would be reported to the public. It would also establish the fee authorized pursuant to 57 O.S., §599.1 for searching the Oklahoma Sex Offender Registry and the Mary Rippe Violent Crime Offenders Registry.

AUTHORITY:

Oklahoma State Bureau of Investigation; 74 O.S., §150.7

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on February 17, 2009 at the following address: Jimmy Bunn Jr., Legal Counsel, Oklahoma State Bureau of Investigation, 6600 N. Harvey, Oklahoma City, OK. 73116.

PUBLIC HEARING:

A public hearing will be held at 10:30 a.m. on February 17, 2009 at Oklahoma State Bureau of Investigation, 6600 N. Harvey, Oklahoma City, OK. 73116. Anyone who wishes to speak must sign in at the door by 9:30 a.m. and will be provided five (5) minutes to express their views.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Because this amendment involves the establishment of a fee authorized by statute, it is recognized that it may have some financial impact on business entities. It is anticipated, however, that the impact will be minimal because the same search for which the OSBI shall charge a fee is available free of cost from the Department of Corrections. Nevertheless, the OSBI requests that such entities that may be financially affected by the amendment provide the agency, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to

be incurred by a particular entity due to compliance with the proposed rule

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the office of the Oklahoma State Bureau of Investigation, 6600 N. Harvey, Oklahoma City, OK. 73116. Copies of proposed rules may be obtained at a cost of 25 cents per page copying charge from the Oklahoma State Bureau on Investigation, 6600 N. Harvey, Oklahoma City, OK. 73116.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be available on and after January 15, 2009, and may be obtained from the OSBI at the above address.

CONTACT PERSON:

Jimmy Bunn Jr., Legal Counsel, 6600 N. Harvey, Oklahoma City, OK., 73116, (405) 879-2605

[OAR Docket #08-1549; filed 12-24-08]

**TITLE 375. OKLAHOMA STATE BUREAU OF INVESTIGATION
CHAPTER 25. OKLAHOMA SELF-DEFENSE ACT**

[OAR Docket #08-1548]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. Application for Concealed Handgun License
- 375:25-1-3 [AMENDED]
- 375:25-1-5 [AMENDED]
- 375:25-1-7 [AMENDED]

SUMMARY:

The proposed amended sections would increased options for requesting a Self Defense Application packet. It would also reflect the change in the validity period of a license that was made by alteration in statute.

AUTHORITY:

Oklahoma State Bureau of Investigation; 21 O.S., §1290.3

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on February 17, 2009 at the following address: Jimmy Bunn Jr., Legal Counsel, Oklahoma State Bureau of Investigation, 6600 N. Harvey, Oklahoma City, OK. 73116.

PUBLIC HEARING:

A public hearing will be held at 10:00 a.m. on February 17, 2009 at Oklahoma State Bureau of Investigation, 6600 N. Harvey, Oklahoma City, OK. 73116. Anyone who wishes to speak must sign in at the door by 9:30 a.m. and will be provided five (5) minutes to express their views.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

Notices of Rulemaking Intent

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the office of the Oklahoma State Bureau of Investigation, 6600 N. Harvey, Oklahoma City, OK. 73116. Copies of proposed rules may be obtained at a cost of 25 cents per page copying charge from the Oklahoma State Bureau of Investigation, 6600 N. Harvey, Oklahoma City, OK. 73116.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be available on and after January 15, 2009, and may be obtained from the OSBI at the above address.

CONTACT PERSON:

Jimmy Bunn Jr., Legal Counsel, 6600 N. Harvey, Oklahoma City, OK., 73116, (405) 879-2605

[OAR Docket #08-1548; filed 12-24-08]

TITLE 380. DEPARTMENT OF LABOR CHAPTER 20. WELDING RULES

[OAR Docket #08-1532]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

380:20-1-3 [AMENDED]

380:20-1-14 [AMENDED]

380:20-1-15 [NEW]

SUMMARY:

The purpose of these proposed rules is to establish administrative rules as required by the newly enacted legislation, Senate Bill 1529, codified at Oklahoma Statutes Title 59, Section 1634. The rules address the certification requirements applicable to the qualification and certification of welders performing structural welding; identify national standards applicable to structural welders; and provide definitions. The rules also provide for a slight increase in the certification fee.

AUTHORITY:

Department of Labor; 59 O.S. Section 1624 et seq.; Oklahoma Welding Act

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 5:00 p.m., February 20, 2009, at the Oklahoma Department of Labor, Office of the General Counsel, 4001 North Lincoln Boulevard, Oklahoma City, OK 73105.

PUBLIC HEARING:

A public hearing will be held to provide a means by which persons may offer suggested input on the content of the proposed rules: 2:00 p.m., February 20, 2009, at the Oklahoma State Capital Conference Center, Room 104, 2300 North Lincoln Blvd., Oklahoma City, OK.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing by 5:00 p.m., February 20, 2009, at the Oklahoma Department of Labor, Office of the General Counsel, 4001 North Lincoln Boulevard, Oklahoma City, OK 73105.

COPIES OF PROPOSED RULES:

Copies of proposed rules are available at the Oklahoma Department of Labor, 4001 North Lincoln Boulevard, Oklahoma City, OK.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available beginning January 30, 2009 at the same locations listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

Tiffany J. Wythe, Assistant General Counsel, (405) 528-1500 ext. 231 or Tom Monroe, Safety Standards Director, (405) 528-1500 ext. 242.

[OAR Docket #08-1532; filed 12-23-08]

TITLE 380. DEPARTMENT OF LABOR CHAPTER 25. BOILER AND PRESSURE VESSEL RULES

[OAR Docket #08-1533]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Administration

380:25-3-7 [AMENDED]

SUMMARY:

The purpose of the proposed amendment to OAC 380:25-3-7 is to create penalties for insurance company special inspectors who fail to submit required reports to the Bureau of Boiler Inspection within thirty days from the date of inspection.

AUTHORITY:

Department of Labor; 40 O.S. §141.3, Boiler and Pressure Vessel Safety Act

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 5:00 p.m., February 18, 2009, at the Oklahoma Department of Labor, Office of the General Counsel, 4001 North Lincoln Boulevard, Oklahoma City, OK 73105.

PUBLIC HEARING:

A public hearing will be held to provide a means by which persons may offer suggested input on the content

of the proposed rules: 10:00 a.m., February 18, 2009, at the Oklahoma Department of Labor, 4001 North Lincoln Boulevard, Oklahoma City, OK 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing by 5:00 p.m., February 18, 2009, at the Oklahoma Department of Labor, Office of the General Counsel, 4001 North Lincoln Boulevard, Oklahoma City, OK 73105.

COPIES OF PROPOSED RULES:

Copies of proposed rules are available at the Oklahoma Department of Labor, 4001 North Lincoln Boulevard, Oklahoma City, OK.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available beginning January 30, 2009 at the same locations listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

Tiffany J. Wythe, Assistant General Counsel, (405) 528-1500 ext. 231 or Tom Monroe, Safety Standards Director, (405) 528-1500 ext. 242.

[OAR Docket #08-1533; filed 12-23-08]

**TITLE 380. DEPARTMENT OF LABOR
CHAPTER 55. AMUSEMENT RIDE SAFETY
RULES**

[OAR Docket #08-1534]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
380:55-1-2 [AMENDED]
- Subchapter 5. Fees
380:55-5-5 [AMENDED]
- Subchapter 13. Miscellaneous
380:55-13-1 [AMENDED]
380:55-13-2 [AMENDED]

SUMMARY:

The purpose of the proposed amendment to OAC 380:55-13-1 is to establish initial administrative rules as required by newly enacted legislation, Oklahoma Statutes Title 40, Section 471. The rules address the certification requirements applicable to the qualification and certification of amusement ride operators; identify national standards

applicable to amusement ride operators; provide definitions; establish program administrative procedures; and identify testing requirements.

OAC 380:55-13-2 is amended to establish standards for the quality of water used in amusement rides. The proposed rules adopt the standards already in use by the Oklahoma Department of Health. The proposed amendments to 380:55-1-2 and 380:55-5-5 define terms necessary for the administration of the Amusement Ride Safety Act and include some non-substantive changes to correct spelling errors.

AUTHORITY:

Department of Labor; 40 O.S. §§ 460 and 471, Amusement Ride Safety Act

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 5:00 p.m., February 17, 2009, at the Oklahoma Department of Labor, Office of the General Counsel, 4001 North Lincoln Boulevard, Oklahoma City, OK 73105.

PUBLIC HEARING:

A public hearing will be held to provide a means by which persons may offer suggested input on the content of the proposed rules: 10:00 a.m., February 17, 2009, at the Concourse Theater, Tunnel Level, Will Rogers Building, Oklahoma State Capital Complex, 2401 North Lincoln Boulevard, Oklahoma City, OK 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing by 5:00 p.m., February 17, 2009, at the Oklahoma Department of Labor, Office of the General Counsel, 4001 North Lincoln Boulevard, Oklahoma City, OK 73105.

COPIES OF PROPOSED RULES:

Copies of proposed rules are available at the Oklahoma Department of Labor, 4001 North Lincoln Boulevard, Oklahoma City, OK.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available beginning January 30, 2009 at the same locations listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

Tiffany J. Wythe, Assistant General Counsel, (405) 528-1500 ext. 231 or Tom Monroe, Safety Standards Director, (405) 528-1500 ext. 242.

[OAR Docket #08-1534; filed 12-23-08]

Notices of Rulemaking Intent

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES CHAPTER 1. ADMINISTRATION

[OAR Docket #08-1505]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 9. Certification and Designation of Facility Services

450:1-9-1. Applicability of certification [AMENDED]

450:1-9-5. Qualifications for certifications of facilities, programs and individuals [AMENDED]

SUMMARY:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 1 are part of the Department's review of Title 450. The proposed rules clarify existing rules and are intended to comply with statutory changes.

AUTHORITY:

Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-101, 3-110, 3-306, 3-306.1, 3-314.1, 3-315, 3-317, 3-318, 3-319 and 3-415.

COMMENT PERIOD:

Persons wishing to submit written comments may do so until 5:00 p.m., February 14, 2009, to the attention of Stephanie Kennedy, Administrative Rules Liaison. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, hand-delivered to the Department at 1200 N.E. 13th Street, Oklahoma City, OK or by facsimile, at (405) 522-0401.

PUBLIC HEARING:

The Department will conduct a public hearing on February 17, 2009 at 10:00 a.m. in Conference Room C of the Department at the address given above.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

ODMHSAS asks business entities affected by the proposed rules to provide written information to the Department, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Stephanie Kennedy, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Stephanie Kennedy, Administrative Rules Liaison, at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning

January 26, 2009. Copies may be obtained from Stephanie Kennedy, Administrative Rules Liaison, at the above address.

CONTACT PERSON:

Stephanie Kennedy, Administrative Rules Liaison, (405) 522-3871.

[OAR Docket #08-1505; filed 12-18-08]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES CHAPTER 15. CONSUMER RIGHTS

[OAR Docket #08-1506]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

450:15-1-2. Definitions [AMENDED]

Subchapter 7. Office of Consumer Advocacy

Part 2. Investigations

450:15-7-6. Reporting suspected maltreatment [AMENDED]

450:15-7-9. Investigation procedures [AMENDED]

450:15-7-15. Investigative report and findings [AMENDED]

SUMMARY:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 15 are part of the Department's review of Title 450. The proposed rules clarify existing rules and are intended to comply with statutory changes.

AUTHORITY:

Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-101, 2-108 and 2-109.

COMMENT PERIOD:

Persons wishing to submit written comments may do so until 5:00 p.m., February 14, 2009, to the attention of Stephanie Kennedy, Administrative Rules Liaison. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, hand-delivered to the Department at 1200 N.E. 13th Street, Oklahoma City, OK or by facsimile, at (405) 522-0401.

PUBLIC HEARING:

The Department will conduct a public hearing on February 17, 2009 at 11:00 a.m. in Conference Room C of the Department at the address given above.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

ODMHSAS asks business entities affected by the proposed rules to provide written information to the Department, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the

proposed rules. Business entities may submit this information in writing to Stephanie Kennedy, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Stephanie Kennedy, Administrative Rules Liaison, at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning January 26, 2009. Copies may be obtained from Stephanie Kennedy, Administrative Rules Liaison, at the above address.

CONTACT PERSON:

Stephanie Kennedy, Administrative Rules Liaison, (405) 522-3871.

[OAR Docket #08-1506; filed 12-18-08]

**TITLE 450. DEPARTMENT OF MENTAL
HEALTH AND SUBSTANCE ABUSE
SERVICES
CHAPTER 17. STANDARDS AND CRITERIA
FOR COMMUNITY MENTAL HEALTH
CENTERS**

[OAR Docket #08-1507]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
- 450:17-1-2. Definitions [AMENDED]
- 450:17-1-6. Services [AMENDED]
- Subchapter 3. Required Services
- Part 1. Required Services
- 450:17-3-2. Core community mental health services [AMENDED]
- 450:17-3-3. Availability of services [AMENDED]
- Part 3. Screening, Intake, Assessment and Referral
- 450:17-3-21. Integrated screening, intake and assessment services [AMENDED]
- Part 5. Emergency Services
- 450:17-3-41. Emergency Services [AMENDED]
- Part 7. Outpatient Counseling Services
- 450:17-3-61. Outpatient counseling services [AMENDED]
- 450:17-3-62. Outpatient counseling services, substance abuse, co-occurring [AMENDED]
- Part 9. Medication Clinic Services
- 450:17-3-82. Medication clinic, medication monitoring [AMENDED]
- 450:17-3-84. Availability of medications in a CMHC's community living setting [AMENDED]
- Part 11. Case Management
- 450:17-3-101. Case management services, ~~adult~~ [AMENDED]

- 450:17-3-101.1. Case management services, child, adolescent and family [REVOKED]
- 450:17-3-103. ~~Case management services for the hospitalized consumer and consumers in substance abuse treatment facilities~~ Case management services for consumers admitted to higher levels of care [AMENDED]
- Part 15. Adult Recovery and Rehabilitation Programs
- 450:17-3-141. Psychiatric rehabilitation programs [AMENDED]
- Part 21. Peer Support Services [NEW]
- 450:17-3-191. Peer Support Services [NEW]
- 450:17-3-192. Peer Recovery Support Specialists Staff Requirements [NEW]
- 450:17-3-193. Peer Recovery Support Services Locale and Frequency [NEW]
- Part 23. Wellness Services and Related Activities [NEW]
- 450:17-3-201. Wellness Services and Related Activities [NEW]
- Subchapter 5. Optional Services
- Part 15. Inpatient Services
- 450:17-5-95. Inpatient services within the community mental health setting [AMENDED]
- 450:17-5-96. Inpatient services within the community mental health setting, service issues [REVOKED]
- 450:17-5-97. Inpatient services within the community mental health setting, clinical medical health issues [REVOKED]
- 450:17-5-98. Inpatient services within the community mental health setting, activity services [REVOKED]
- 450:17-5-99. Inpatient services within the community mental health setting, environment [REVOKED]
- 450:17-5-100. Mechanical restraints [REVOKED]
- Subchapter 7. Facility Clinical Records
- 450:17-7-8. Integrated service plan [AMENDED]
- 450:17-7-9. Medication record [AMENDED]

SUMMARY:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 17 are part of the Department's review of Title 450. The proposed rules clarify existing rules and are intended to comply with statutory changes.

AUTHORITY:

Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-101, 3-306, 3-306.1 and 3-315.

COMMENT PERIOD:

Persons wishing to submit written comments may do so until 5:00 p.m., February 14, 2009, to the attention of Stephanie Kennedy, Administrative Rules Liaison. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, hand-delivered to the Department at 1200 N.E. 13th Street, Oklahoma City, OK or by facsimile, at (405) 522-0401.

Notices of Rulemaking Intent

PUBLIC HEARING:

The Department will conduct a public hearing on February 17, 2009 at 1:00 p.m. in Conference Room C of the Department at the address given above.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

ODMHSAS asks business entities affected by the proposed rules to provide written information to the Department, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Stephanie Kennedy, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Stephanie Kennedy, Administrative Rules Liaison, at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning January 26, 2009. Copies may be obtained from Stephanie Kennedy, Administrative Rules Liaison, at the above address.

CONTACT PERSON:

Stephanie Kennedy, Administrative Rules Liaison, (405) 522-3871.

[OAR Docket #08-1507; filed 12-18-08]

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TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES CHAPTER 30. STANDARDS AND CRITERIA FOR STATE-OPERATED INPATIENT SERVICES

[OAR Docket #08-1508]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 15. Forensic Review Board [REVOKED]

450:30-15-1. Applicability [REVOKED]

450:30-15-2. Definitions [REVOKED]

450:30-15-3. Composition, powers and duties
[REVOKED]

SUMMARY:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 30 are part of the Department's review of Title 450. The proposed rules clarify existing rules and are intended to comply with statutory changes.

AUTHORITY:

Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-101, 3-306, 3-317, 3-403(1), 3-404, 3-406, 3-415 and 3-416.

COMMENT PERIOD:

Persons wishing to submit written comments may do so until 5:00 p.m., February 14, 2009, to the attention of Stephanie Kennedy, Administrative Rules Liaison. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, hand-delivered to the Department at 1200 N.E. 13th Street, Oklahoma City, OK or by facsimile, at (405) 522-0401.

PUBLIC HEARING:

The Department will conduct a public hearing on February 17, 2009 at 2:00 p.m. in Conference Room C of the Department at the address given above.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

ODMHSAS asks business entities affected by the proposed rules to provide written information to the Department, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Stephanie Kennedy, at the above address, before the close of the comment period on February 14, 2009.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Stephanie Kennedy, Administrative Rules Liaison, at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning January 26, 2009. Copies may be obtained from Stephanie Kennedy, Administrative Rules Liaison, at the above address.

CONTACT PERSON:

Stephanie Kennedy, Administrative Rules Liaison, (405) 522-3871.

[OAR Docket #08-1508; filed 12-18-08]

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TITLE 600. REAL ESTATE APPRAISER BOARD CHAPTER 10. LICENSURE AND CERTIFICATION REQUIREMENTS

[OAR Docket #08-1547]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

600:10-1-4. Examination [AMENDED]

600:10-1-6. Experience prerequisite [AMENDED]

600:10-1-16. Supervision of trainee appraisers
[AMENDED]

SUMMARY:

The proposed amendment to rule 600:10-1-4 adds an additional requirement for trainee appraiser certification. The proposed amendment to rule 600:10-1-6 provides a

jurisdictional exception for those conducting work product reviews related to the experience requirement and clarifies existing language. The proposed amendment to 600:10-1-14 adds a requirement for those wishing to supervise a trainee and removes obsolete language.

AUTHORITY:

Real Estate Appraiser Board, 59 O.S. § 858-706(A).

COMMENT PERIOD:

Persons may submit written or oral comments to Rod Stirman at the offices of the Real Estate Appraiser Board, Oklahoma Insurance Department, 2401 NW 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107 during the period January 16, 2009 to February 27, 2009.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on March 6, 2009, in the offices of the Insurance Commissioner of Oklahoma, the Honorable Kim Holland, at 2401 NW 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the Board with information, in dollar amounts if possible, about any increases in the level of direct costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Rod Stirman at the above address during the period during the period January 20, 2009 to February 27, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules are available at the Offices of the Real Estate Appraiser Board, Oklahoma Insurance Department, at 2401 NW 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107. Copies of proposed rules may also be obtained by written request to the attention of Rod Stirman, Real Estate Appraiser Board, PO Box 53408, Oklahoma City, OK 73152. A copy of the proposed rules is posted on the Real Estate Appraiser Board website, www.reab.oid.ok.gov.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained at the Offices of the Real Estate Appraiser Board, Oklahoma Insurance Department, at 2401 NW 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107.

CONTACT PERSON:

Rod Stirman, Director, (405) 521-6636.

[OAR Docket #08-1547; filed 12-23-08]

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 1. ADMINISTRATIVE OPERATIONS**

[OAR Docket #08-1545]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

- Subchapter 3. Public Policy
- Part 3. Taxpayer Identification
- 710:1-3-6 [AMENDED]
- Part 11. Public Records
- 710:1-3-73 [AMENDED]
- Subchapter 5. Practice and Procedure
- Part 3. Description of Administrative Review and Hearings
- 710:1-5-10 [AMENDED]
- Part 5. Administrative Proceedings Related to Tax Protests
- 710:1-5-27 [AMENDED]
- 710:1-5-37 [AMENDED]
- 710:1-5-38 [AMENDED]

SUMMARY:

Section 710:1-3-6 has been amended to clarify policy regarding the use of other identifying numbers for taxpayers and to provide for the use of only the last 4 digits of a taxpayer's social security number on returns, applications, and forms required to be filed with the Oklahoma Tax Commission.

Section 710:1-3-73 has been amended to clarify policy regarding the location of letter rulings made available for inspection by the public.

Section 710:1-5-10 has been amended to clarify tax protest procedures.

Section 710:1-5-27 has been amended to clarify policy regarding the representation of taxpayers in administrative proceedings by enrolled agents.

Section 710:1-5-37 has been amended to reflect the current procedure of the Administrative Law Judge's office that oral hearings are recorded by electronic media.

Section 710:1-5-38 has been amended to clarify policy regarding motions for summary disposition in administrative hearings.

AUTHORITY:

68 O.S. § 203; Oklahoma Tax Commission

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., February 17, 2009, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Pat McDonald at (405) 521-3133.

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing are as follows: February 18, 2009, 9:00 a.m. in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Pat McDonald at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors' building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information

Notices of Rulemaking Intent

desk in the lobby by presenting a driver license or other photo identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action is expected to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed Rules.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be viewed online at www.oktax.state.ok.us or obtained without charge from the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after January 30, 2009, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa R. Haws, Agency Liaison. Phone: 405-521-3133; FAX: 405-522-0063; Email: lhaws@oktax.state.ok.us

[OAR Docket #08-1545; filed 12-23-08]

TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 10. AD VALOREM

[OAR Docket #08-1546]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking.

PROPOSED RULES:

Chapter 10. Ad Valorem [AMENDED]

SUMMARY:

As part of the Commission's ongoing review of its rules, proposed amendments to the existing Ad Valorem rules have been made.

Proposed amendments to **Subchapter 4**, "*Annual Valuation Mandate*", have been made to clarify policy and procedures

regarding the various aspects of the annual valuation process and to add and update statutory and other references.

Proposed amendments to **Subchapter 7**, "*Manufacturing Facilities*", and **Subchapter 15**, "*Freeport Exemption*" have been made consistent with the passage of State Question 741 at election held November 4, 2008 relating to the prohibition against granting ad valorem exemptions for any years prior to the filing of the original exemption application.

Proposed amendments to **Subchapter 9**, "*Manufactured Homes*", have been made to implement statutory changes as they relate to manufactured homes pursuant to Senate Bill 1770 which eliminated the October real property tax certificate sale.

Proposed amendments to **Subchapter 14**, "*Full Fair Cash Value Exemption for Disabled Veterans in Receipt of Compensation at the One Hundred Percent Rate*" have been made in accordance with the passage of State Question 735 at election held November 4, 2008 creating an exemption from personal property tax for qualifying disabled veterans.

Other amendments may be made for clarification purposes, to delete and update obsolete references and to improve readability.

AUTHORITY:

68 O.S. §§ 203 and 2902(H); Oklahoma Tax Commission

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m. February 17, 2009, to the Oklahoma Tax Commission, Tax Policy Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Pat McDonald at (405) 521-3133

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing is as follows: February 18, 2009 at 3:00 p.m. in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Pat McDonald at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver's license or other photo identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action is expected to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that any business entity affected by these rules provide the OTC, within the comment period,

in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed Rules.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be obtained without charge from the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after January 30, 2009, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa R. Haws, Liaison. Phone: 405-521-3133; FAX: 405-522-0063; Email: lhaws@oktax.state.ok.us

[OAR Docket #08-1546; filed 12-23-08]

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 20. ALCOHOL, MIXED BEVERAGES AND LOW-POINT BEER**

[OAR Docket #08-1544]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 2. Low-Point Beer
Part 1. General Provisions
710:20-2-20 [AMENDED]

SUMMARY:

Sections 710:20-2-20 has been amended to correct a scrivener's error and update statutory references.

AUTHORITY:

Oklahoma Tax Commission; 68 O.S. § 203; 37 O.S. § 586

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., February 17, 2009, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Pat McDonald at (405) 521-3133.

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing are as

follows: February 18, 2009, 10:00 a.m. in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Pat McDonald at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors' building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver license or other photo identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action has been determined to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that, pursuant to 75 O.S. § 303(B)(6), business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed Rules.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be viewed online at www.oktax.state.ok.us or obtained without charge from the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after January 30, 2009, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa R. Haws, Agency Liaison. Phone: 405-521-3133; FAX: 405-522-0063; Email: lhaws@oktax.state.ok.us

[OAR Docket #08-1544; filed 12-23-08]

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 22. BOATS AND MOTORS**

[OAR Docket #08-1543]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

Notices of Rulemaking Intent

PROPOSED RULES:

Subchapter 5. Procedures for Registration
710:22-5-10 [NEW]
Subchapter 7. Titles
710:22-7-14 [NEW]

SUMMARY:

New Section 710:22-5-10 has been added to implement Section 1 of Senate Bill 1178 of the 51st Legislature, 2nd Regular Session, which authorizes the Oklahoma Tax Commission to record and maintain tribal vessel registration.

New Section 710:22-7-14 has been added to clarify policy regarding the application process for ownership of abandoned vessels or outboard motors.

AUTHORITY:

Oklahoma Tax Commission; 68 O.S. § 203; 63 O.S. §§ 4004, 4030.

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., February 17, 2009, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Pat McDonald at (405) 521-3133.

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing are as follows: February 18, 2009, 2:00 p.m. in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Pat McDonald at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors' building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver's license or other photo identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action has been determined to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that, pursuant to 75 O.S. § 303(B)(6), business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed Rules.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be viewed online at www.oktax.state.ok.us or obtained without charge from the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after January 30, 2009, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa R. Haws, Agency Liaison. Phone: 405-521-3133; FAX: 405-522-0063; Email: lhaws@oktax.state.ok.us

[OAR Docket #08-1543; filed 12-23-08]

TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 45. GROSS PRODUCTION

[OAR Docket #08-1542]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking.

PROPOSED RULES:

Subchapter 9. Exemptions and Exclusions
Part 13. Deep Wells
710:45-9-60 [AMENDED]

SUMMARY:

Section 710:45-9-60 has been amended to implement the provisions of Senate Bill 1658 (51st Legislature, 2nd Regular Session, 2008) which extends the qualification period to July 1, 2011 for an exemption of gross production tax associated with certain deep wells.

AUTHORITY:

68 O.S. §§ 203 and 1001(M); Oklahoma Tax Commission

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., February 24, 2009, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Pat McDonald at (405) 521-3133.

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing are as follows: February 25, 2009, 11:00 a.m. in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the

building, those wishing to appear should contact Pat McDonald at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors' building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver license or other photo identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action is expected to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed Rules.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be viewed online at www.oktax.state.ok.us or obtained without charge from the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after January 30, 2009, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa R. Haws, Agency Liaison. Phone: 405-521-3133; FAX: 405-522-0063; Email: lhaws@oktax.state.ok.us

[OAR Docket #08-1542; filed 12-23-08]

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 50. INCOME**

[OAR Docket #08-1540]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking.

PROPOSED RULES:

Chapter 50. Income [AMENDED]

SUMMARY:

As part of the Commission's ongoing review of its rules, many proposed amendments to the existing rules have been made to clarify policy, improve readability, correct scrivener's errors, update statutory citation, insure accurate internal cross-reference and comply with statutory changes. All legislative references are to the Second Regular Session of the 51st Legislature (2008).

Section 710:50-9-8 has been amended to reflect recent internal changes within the Tax Commission. The duties and responsibilities of the Audit Division have been transferred to the Compliance Division.

New Section 710:50-15-34 has been added to implement the provisions of House Bill 2693 which provides for an income tax exemption for death benefits paid upon the death of an Emergency Medical Technician killed in the line of duty. **[68:2358]**

Section 710:50-15-81 has been amended to implement the provisions of Senate Bill 1558 which extends the sunset provisions of the clean-burning motor vehicle fuel property conversion credit to December 31, 2009, and clarify policy regarding the one-time credit. **[68:2357.22]**

Sections 710:50-15-86, 710:50-15-86.1, 710:50-15-87 and 710:50-15-87.1 have been amended to reflect the provisions of Senate Bill 2129 which amends the definition of "Oklahoma business venture", "Oklahoma small business venture" and "Oklahoma rural small business venture" to include working capital (i.e., payroll, rent and utilities) as a qualified expense to meet the 50% expenditure requirement; requires that a shareholder, partner or member to whom a credit is allocated from an investment made with borrowed funds, must have an "unlimited and continuing" legal obligation to repay the borrowed funds; amends the recapture provisions to allow working capital to be included as a qualified expense to meet the 50% expenditure requirement; and amends the definition of "market-based liquidity event" to include a repayment by the Oklahoma business venture of indebtedness from net income or from proceeds of the sale of assets in the ordinary course of business.

Section 710:50-15-95 has been amended to implement the provisions of House Bill 1387 which extends the poultry litter credit in its current form to December 31, 2009 and amends the calculation of the credit for years 2010 through 2013. **[68:2357.100]**

Section 710:50-15-98 has been amended to implement the provisions of Senate Bill 1956 which amends the Biodiesel Facilities Credit to permit any allowed but unused credit to be carried over for five (5) additional years after the initial five (5) year period. **[68:2357.67]**

Section 710:50-15-100 has been amended to implement the provisions of Senate Bill 2129 which extends the sunset provisions for certain capital expenditures, qualified wages, and training expenses of a qualified business enterprise primarily engaged in data processing, computer systems design, or computer related services. **[68:2357.201]**

Notices of Rulemaking Intent

Section 710:50-15-103, pertaining to the income tax credit for railroad modernization, has been amended to implement the provisions of Senate Bill 1799 which allows a taxpayer to elect to claim three (3) times the credit specified for tax year 2008 for qualified expenditures made. [68:2357.104]

Section 710:50-15-108 has been amended to implement the provisions of Senate Bill 1956 which amends the existing income tax credit for rehabilitation expenditures on certain historic properties by modifying procedures for transferring credits, requiring the Tax Commission to track transferred credits and limiting the tax liability of subsequent transferees under certain circumstances. [68:2357.41]

New Section 710:50-15-109 has been added to implement the provisions of House Bill 3239 which provides for an income tax credit for qualified aerospace employers for compensation paid to qualified aerospace employees. [68:2357.303]

Section 710:50-17-51 has been amended to implement the provisions of Senate Bill 2034 and Oklahoma Tax Commission Order No. 2008-02-19-02 which pertains to the calculation of the Oklahoma accrued tax deduction for corporations.

New Section 710:50-17-52 has been added to implement the provisions of Senate Bill 2034 which prohibits the deduction of rent or interest paid to a capital real estate investment trust. [68:2358]

AUTHORITY:

68 O.S. §§ 203; 2357.41(F); 2357.67(F); 2357.104(C); 2357.201; 2358;

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., February 24, 2009, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Pat McDonald at (405) 521-3133.

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing are as follows: February 25, 2009, 9:00 a.m. in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Pat McDonald at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors' building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver license or other photo identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action is expected to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed Rules.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be viewed online at www.oktax.state.ok.us or obtained without charge from the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after January 30, 2009, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa R. Haws, Agency Liaison. Phone: 405-521-3133; FAX: 405-522-0063; Email: lhaws@oktax.state.ok.us

[OAR Docket #08-1540; filed 12-23-08]

TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 60. MOTOR VEHICLES

[OAR Docket #08-1541]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Chapter 60. Motor Vehicles [AMENDED]

SUMMARY:

As part of the Commission's ongoing review of its rules, many proposed amendments to the existing rules have been made to clarify policy, improve readability, correct scrivener's errors, update statutory citation, insure accurate internal cross-reference and comply with statutory changes. All legislative references are to the Second Regular Session of the 51st Legislature (2008).

Section 710:60-3-14 has been amended to reflect the provisions of SB1389 which provides an exception to the transfer of ownership registration fee for unrecovered-theft titles and Section 710:60-5-2 has been amended to note the title certificate color designation for an unrecovered-theft title.

Section 710:60-3-17 has been amended to reflect the provisions of SB2122 which provides for an online electronic insurance verification system effective January 1, 2009. **[47:7-600.2]**

Section 710:60-3-24 has been amended to conform to current statutory authority relating to the exemption of utility vehicles from the waste tire recycling fee.

New Section 710:60-3-25 has been added to conform to current statutory authority relating to the special registration rate afforded certain active duty military personnel. **[47:1127]**

Section 710:60-3-54 has been amended to clarify policy regarding usage of out of state ownership reassignment sheets by licensed Oklahoma vehicle dealers. **[47:1137.1]**

Section 710:60-3-56 has been amended to reflect the provisions of SB1654 which provides for the purchaser of a new cab and chassis truck to place the temporary license plate in the rear window. **[47:1137.3]**

Section 710:60-3-70 has been amended and New Section 710:60-3-115 has been added to reflect the provisions of SB1384 which provides a definition for "medium-speed electric vehicle" and guidelines for the registration and titling of low-speed and medium-speed electrical vehicles. **[47:1151.4]**

Section 710:60-3-99 has been amended to reflect the provisions of SB1699 which references the laden weight at which certain trucks and truck tractors become subject to the federal heavy vehicle tax. **[68:2103]**

Section 710:60-3-111 has been amended to reflect the provisions of SB1511 which provides for optional private trailer registrations **[47:1133.3]** and to reflect the provisions of SB1998 which provides the definition of "mini-trucks" and the requirements to title and register mini-trucks. **[47:1102; 1151.3]**

Sections 710:60-3-140, 710:60-3-141 and 710:60-3-142 were amended to reflect the provisions of SB1793 which modified the definition of "all-terrain vehicle" and added a definition for "utility vehicle" and provided for the same type of mandatory titling and registration requirements as all-terrain vehicles.

Section 710:60-3-150 has been amended to clarify existing policy for issuing certain special license plates to state legislators.

Section 710:60-5-6 has been amended to correct a typographical error and clarify policy regarding application for a replacement title.

Section 710:60-5-53 has been amended and New Section 710:60-5-61 has been added to reflect the provisions of SB1389 which authorizes the issuance of either an unrecovered theft title or a salvage title to a qualifying insurance company that has paid a total loss on an unrecovered stolen vehicle. **[47:1111]**

Section 710:60-5-73 has been amended to conform to current statutory authority that all-terrain vehicles, off-road motorcycles, low-speed electrical vehicles and medium-speed electric vehicles are exempt from odometer disclosure requirements. **[47:1102; 1105; 1107.2]**

Section 710:60-5-77 has been amended to clarify the procedure for transfer of vehicle ownership following death of intestate owner.

Section 710:60-7-4 has been amended to reflect the provisions of SB1699 relating to commercial trucks and truck tractors registering at laden weights of 55,000 lbs. or more. **[68:2103]**

Section 710:60-9-2 has been amended to clarify policy regarding notification of the Commission by motor license agents in the event of his/her residency relocation to another county.

Section 710:60-9-52 has been amended to clarify policy regarding the proper destruction of files and records containing confidential taxpayer information by motor license agents.

Section 710:60-9-72 has been amended to clarify the motor license agent semimonthly report preparation procedures due to the Commission's implementation of a document imaging process.

Section 710:60-9-134 has been amended to reflect the provisions of SB1714 which authorizes the Tax Commission to approve the location of a tag agency within a three mile radius of an existing agency if a naturally intervening geographic barrier within that radius causes the locations to be separated by not less than three miles of roadway by the most direct route. **[47:1140(A)]**

AUTHORITY:

68 O.S. § 203 and 47 O.S. §§ 1113, 1136, 1140, 1146, 1149, 1151.3, and 1151.4; Oklahoma Tax Commission

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., February 17, 2009, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Pat McDonald at (405) 522-3133.

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing are as follows: February 18, 2009, 2:00 p.m. in the office of the Oklahoma Tax Commission, 2501 Lincoln Blvd., 4th Floor, Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Pat McDonald at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors' building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver's license or other photo identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

Notices of Rulemaking Intent

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although it has been determined that the promulgation of these rules is not expected to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed Rules.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be viewed online at www.oktax.state.ok.us or obtained without charge from the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after January 30, 2009, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa Haws, Tax Policy Analyst, Phone: 405-521-3133, FAX 405-522-0063, Email: LHaws@oktax.state.ok.us

[OAR Docket #08-1541; filed 12-23-08]

TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 65. SALES AND USE TAX

[OAR Docket #08-1536]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Chapter 65. Sales and Use Tax [AMENDED]

SUMMARY:

As part of the Commission's ongoing review of its rules, many proposed amendments to the existing Sales Tax rules have been made to implement recent legislation. All legislative references are to the 51st Legislature, 2nd Regular Session (2008).

Sections 710:65-1-7, 710:65-7-13, 710:65-19-56 have been amended to reflect the provisions of Section 12 of SB 1511 and Section 2 of HB 1387 which added the Central Master Conservancy District and the Department of Central Services when carrying out a public contract on behalf of the Oklahoma Department of Veteran Affairs to the sales tax exemption found at 68 O.S. § 1356(10).

Section 710:65-3-4 has been amended to update the mailing address of the Business Tax Electronic Filing Coordinator.

Section 710:65-7-15, dealing with vendor liability, has been amended to reflect the exempt status of sales to tax exempt organizations providing funding for medical scholarships, nonprofit local public or private school foundations, nonprofit foundations fundraising in support of the NRA and other organization that defend the Second Amendment of the U.S. Constitution and organizations providing end-of-life care and hospice service for use solely on construction projects. **[68:1361]**

New Section 710:65-7-20 has been added to Subchapter 7. Duties and Liabilities to reflect the exempt status of sales to qualifying organizations providing funding for the preservation of wetlands or habitats of wild ducks or preservation and conservation of wild turkeys. **[68:1361]**

Section 710:65-9-1 has been amended to clarify policy regarding sale tax permit revocation for failure to comply with recordkeeping requirements.

Sections 710:65-13-51 and 710:65-13-52 have been amended to conform to current statutory authority regarding appeals from Oklahoma Tax Commission orders.

New Section 710:65-13-158 has been adopted to reflect the provisions of Section 3 of SB 1956 which created an exemption for sales of rolling stock-locomotives, autocars, and railroad cars-when sold or leased by the manufacturer. **[68:1357]**

Sections 710:65-13-170 and 710:65-13-173 have been amended in accordance with Commission policy regarding the applicability of sales and use tax refunds to the provision of certain medical equipment by hospitals, sanitariums, nursing homes and emergency medical care facilities to Medicare and Medicaid recipients.

New Section 710:65-13-177 has been adopted to implement the provisions of Section 2 of HB 1387 relating to sales for use solely on construction projects for tax exempt organizations whose purpose is to provide end-of-life care and access to hospice services to low-income individuals who live in a facility owned by the organization.

Section 710:65-13-210 has been amended to reflect the provisions of SB 1956 which exempts sales to or by nonprofit local public or private school foundations which solicit money or property in the name of any public or private school or public school district; **[68:1356]**

Section 710:65-13-343 has been amended to reflect the process in which to apply and obtain the sales tax exemption for youth athletic teams. **[68:1356(44)]**

Finally, several New Sections have been added to Part 43 to reflect new statutory exemptions: Section 710:65-13-357, dealing with sales of food and snacks items to or by tax exempt organizations providing funding for scholarships in the medical field, [HB1387], 710:65-13-358 regarding admission ticket sales by tax exempt entities organized for the purpose of supporting general hospitals licensed by the Department of Health, [HB1387], 710:65-13-359 regarding nonprofit foundations fundraising in support of the National Rifle Association and 710:65-13-360 relating to other organization

that defend the Second Amendment of the U.S. Constitution and grassroots fundraising programs for nonprofit foundations which raise contributions in support of the NRA.

Section 710:65-13-345 has been amended in accordance with HB 1387 which expanded the sales tax exemptions for sales made by certain organizations during an auction event for funding the preservation of wetlands and habitats for wild ducks or preservation and conservation of wild turkeys to include sales to such organizations and struck the exemption requirement that sales by such organizations be made during an auction.

Section 710:65-13-650 has been amended consistent with the provisions of SB 2153 updating the North American Industrial Classification System (NAICS) for purposes of the sales tax exemption afforded web search portals. [68:1357(38)]

Section 710:65-18-3 has been amended to reflect the January 1, 2011 application of destination sourcing to florist.

Section 710:65-19-11 has been amended consistent with current Commission policy regarding the issuance of sales tax permits to and collection and payment requirements by automobile repairers, service centers and body shops.

Section 710:65-19-44 dealing with sales made to or by charitable, fraternal, civic and nonprofit organizations has been amended to clarify and revise the referenced rule in accordance with current statutory language.

Section 710:65-19-114 has been amended to correct a scrivener's error.

In addition, other rule changes may be made to clarify policy, improve readability, correct scrivener's errors, remove obsolete language, update statutory citation, and insure accurate internal cross-references.

AUTHORITY:

68 O.S. §§ 203; Oklahoma Tax Commission

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m. February 24, 2009, to the Oklahoma Tax Commission, Tax Policy Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Pat McDonald at (405) 521-3133

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing is as follows: February 25, 2009 at 1:30 p.m. in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Pat Mc Donald at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver's license

or other photo identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action is expected to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that any business entity affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity **due to** compliance with the proposed Rules.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be obtained without charge from the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after January 30, 2009 from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa R. Haws, Liaison. Phone: 405-521-3133; FAX: 405-522-0063; Email: lhaws@oktax.state.ok.us

[OAR Docket #08-1536; filed 12-23-08]

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 90. WITHHOLDING**

[OAR Docket #08-1538]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

- Subchapter 1. General Provisions
710:90-1-6 [AMENDED]
- Subchapter 3. Returns and Payments
710:90-3-10 [AMENDED]

SUMMARY:

Section 710:90-1-6 has been amended to delete an obsolete reference to "Method 1" tax.

Section 710:90-3-10 has been amended to conform to current statutory authority regarding the rate of withholding on royalty payments on or after July 1, 2006.

Notices of Rulemaking Intent

AUTHORITY:

Oklahoma Tax Commission; 68 O.S. § 203

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., February 24, 2009, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Pat McDonald at (405) 521-3133.

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing are as follows: February 25, 2009, 10:00 a.m. in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Pat McDonald at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors' building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver license or other photo identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action has been determined to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that, pursuant to 75 O.S. § 303(B)(6), business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed Rules.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be viewed online at www.oktax.state.ok.us or obtained without charge from the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after January 30, 2009, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa R. Haws, Agency Liaison. Phone: 405-521-3133; FAX: 405-522-0063; Email: lhaws@oktax.state.ok.us

[OAR Docket #08-1538; filed 12-23-08]

TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 95. MISCELLANEOUS AREAS OF REGULATORY AND ADMINISTRATIVE AUTHORITY

[OAR Docket #08-1539]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking.

PROPOSED RULES:

Subchapter 5. Waste Tire Recycling
710:95-5-9 [AMENDED]

SUMMARY:

Section 710:95-5-9 has been amended consistent with current statutory provisions relating to the transactions and vehicles to which waste tire fees are applicable.

AUTHORITY:

Oklahoma Tax Commission; 27A O.S. § 2-11-401.6, 68 O.S. §? 203

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., February 24, 2009, to the Oklahoma Tax Commission, Tax Policy Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Pat McDonald at (405) 521-3133

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing is as follows: February 25, 2009 at 2:30 p.m. in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Pat Mc Donald at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver's license or other photo identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action is expected to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that any business entity affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity **due to** compliance with the proposed Rules.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be obtained without charge from the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after January 30, 2009 from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa R. Haws, Liaison. Phone: 405-521-3133; FAX: 405-522-0063; Email: lhaws@oktax.state.ok.us

[OAR Docket #08-1539; filed 12-23-08]

**TITLE 730. DEPARTMENT OF TRANSPORTATION
CHAPTER 35. MAINTENANCE AND CONTROL OF STATE HIGHWAY SYSTEM**

[OAR Docket #08-1535]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 5. Highway Advertising Control
- 730:35-5-3 [AMENDED]
- 730:35-5-6 [AMENDED]
- 730:35-5-8 [AMENDED]
- 730:35-5-12 [AMENDED]
- 730:35-5-13 [AMENDED]
- 730:35-5-16 [AMENDED]
- 730:35-5-17 [NEW]

SUMMARY:

The proposed amendments to Subchapter 5 reflect changes in federal and state laws, clarification of the permit renewal process, correction of scrivener's errors, and a change in the name of the office that administrates this program.

The legislated amendments are as follows: Senate Bill 458 (2001) increases spacing requirements between registered signs; Senate Bill 317 (2003) increases the spacing requirements and provides for recreational signs in un-zoned areas and offers potential remedies for the relocation of outdoor advertising when property is taken through the use of eminent domain; Senate Bill 983 (1986) provides for Tri-Vision and certain LED outdoor advertising signs which was inadvertently overlooked in a previous rulemaking action; and U.S.C. Title 23 § 131, that prohibits off-premise advertisement adjacent to official state or federal scenic byways.

AUTHORITY:

Oklahoma Department of Transportation; 69 O.S., §§ 1271, et seq.; 23 U.S.C. §§ 131 and 136; 23 CFR Part 751

COMMENT PERIOD:

Persons may submit written or oral comments to Mike Patterson at the Oklahoma Department of Transportation, 200 N.E. 21st Street, Room 3A2, Oklahoma City, OK 73105 during the period from January 15, 2009 to February 16, 2009.

PUBLIC HEARING:

A public hearing will be held at 3:00 pm, Friday, February 27, 2009 in the Oklahoma Department of Transportation Commission Room, 200 N.E. 21st Street, Oklahoma City, OK 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained at the Oklahoma Department of Transportation, 200 N.E. 21st Street, Room 1-B7, Oklahoma City, OK 73105. Electronic copies may also be obtained by sending a request to: mbrewington@odot.org

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared prior to January 30, 2009 at the same location listed above for obtaining copies.

CONTACT PERSON:

Mary C. Brewington at (405) 522-6002 or mbrewington@odot.org

[OAR Docket #08-1535; filed 12-23-08]

Submissions for Review

Within 10 calendar days after adoption by an agency of a proposed PERMANENT rulemaking action, the agency must submit the proposed rules to the Governor and the Legislature for review. In addition, the agency must publish in the *Register* a "statement" that the rules have been submitted for gubernatorial/legislative review.

For additional information on submissions for gubernatorial/legislative review, see 75 O.S., Section 303.1, 303.2, and 308.

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 15. BOARD OF REVIEW PROCEDURES

[OAR Docket #08-1514]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 3. Appeals to the Board of Review
240:15-3-2. Correspondence with Board of Review;
address [AMENDED]
Subchapter 5. Hearings
240:15-5-5. Cameras [NEW]

SUBMITTED GOVERNOR:

December 18, 2008

SUBMITTED TO HOUSE:

December 18, 2008

SUBMITTED TO SENATE:

December 18, 2008

[OAR Docket #08-1514; filed 12-19-08]

TITLE 712. OKLAHOMA COMMISSION FOR TEACHER PREPARATION CHAPTER 10. TEACHER PREPARATION PROGRAM ACCREDITATION

[OAR Docket #08-1497]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 5. Teacher Preparation Program Accreditation
712:10-5-1. [AMENDED]
712:10-5-2 [AMENDED]
712:10-5-3 [AMENDED]
712:10-5-4 [AMENDED]
Subchapter 7. Teacher Preparation Teacher Assessment
712:10-7-1 [AMENDED]

SUBMITTED TO GOVERNOR:

December 16, 2008

SUBMITTED TO HOUSE:

December 16, 2008

SUBMITTED TO SENATE:

December 16, 2008

[OAR Docket #08-1497; filed 12-17-08]

Gubernatorial Approvals

Upon notification of approval by the Governor of an agency's proposed PERMANENT rulemaking action, the agency must submit a notice of such gubernatorial approval for publication in the *Register*.
For additional information on gubernatorial approvals, see 75 O.S., Section 303.2.

TITLE 165. CORPORATION COMMISSION CHAPTER 35. ELECTRIC UTILITY RULES

[OAR Docket #08-1521]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

- Subchapter 1. General Provisions [AMENDED]
- 165:35-1-2. Definitions [AMENDED]
- Subchapter 41. Demand Programs [NEW]
- 165:35-41-1. Purpose [NEW]
- 165:35-41-2. Goals [NEW]
- 165:35-41-3. Definitions [NEW]
- 165:35-41-4. Demand portfolio submission and implementation [NEW]
- 165:35-41-5. Commission consideration [NEW]
- 165:35-41-6. Evaluation, measurement, and verification [NEW]
- 165:35-41-7. Reporting [NEW]

GUBERNATORIAL APPROVAL:

December 15, 2008

[OAR Docket #08-1521; filed 12-22-08]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 10. UNEMPLOYMENT INSURANCE PROGRAM

[OAR Docket #08-1513]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

- Subchapter 3. Benefits
- Part 1. General Provisions
- 240:10-3-2. Claimant's notification of change of address [AMENDED]

Part 3. Computations

240:10-3-12. Payment of benefits [AMENDED]

Subchapter 5. Contributions

Part 19. Maintenance and Production of Work Records

240:10-5-90. Records [AMENDED]

Subchapter 11. Assessment Board Procedures

Part 1. General Provisions

240:10-11-6. Address of Board [AMENDED]

Part 5. Hearings

240:10-11-26. Cameras [NEW]

Subchapter 13. Appeal Tribunal Procedure

Part 1. General Provisions

240:10-13-7. Disqualification of hearing officer [AMENDED]

240:10-13-8. Address of Appeal Tribunal [AMENDED]

Part 5. Hearings

240:10-13-46. Cameras [NEW]

GUBERNATORIAL APPROVAL:

December 15, 2008

[OAR Docket #08-1513; filed 12-19-08]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 21. WORKFORCE INVESTMENT ACT

[OAR Docket #08-1512]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 9. Audits

240:21-9-1. Audit requirements [AMENDED]

GUBERNATORIAL APPROVAL:

December 15, 2008

[OAR Docket #08-1512; filed 12-19-08]

Emergency Adoptions

An agency may adopt new rules, or amendments to or revocations of existing rules, on an emergency basis if the agency determines that "an imminent peril exists to the preservation of the public health, safety, or welfare, or that a compelling public interest requires an emergency rule[s] [A]n agency may promulgate, at any time, any such [emergency] rule[s], provided the Governor first approves such rule[s]" [75 O.S., Section 253(A)].

An emergency action is effective immediately upon approval by the Governor or on a later date specified by the agency in the preamble of the emergency rule document. An emergency rule expires on July 15 after the next regular legislative session following promulgation, or on an earlier date specified by the agency, if not already superseded by a permanent rule or terminated through legislative action as described in 75 O.S., Section 253(H)(2).

Emergency rules are not published in the *Oklahoma Administrative Code*; however, a source note entry, which references the *Register* publication of the emergency action, is added to the *Code* upon promulgation of a superseding permanent rule or expiration/termination of the emergency action.

For additional information on the emergency rulemaking process, see 75 O.S., Section 253.

TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 10. FINE SCHEDULE

[OAR Docket #08-1529]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 3. Administrative Fine Schedule
158:10-3-5. Schedule of fines for the Home Inspection Industry [NEW]

AUTHORITY:

Construction Industries Board; 59 O.S. § 1000.4

DATES:

Public Hearing:

November 5, 2008

Adoption:

November 5, 2008

Approved by Governor:

November 14, 2008

Effective:

Immediately after Governor's approval.

Expiration:

Effective through July 14, 2009, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The Construction Industries Board finds that compelling, exigent and extraordinary circumstances exist which require the emergency adoption of rules for the Home Inspection Industry. Under SB2131 the Home Inspectors were transferred to the Construction Industries Board. The fine schedule was included in the transfer of records and rules under OAC 310:110-5-6. In order to conduct business for the Home Inspectors licensees these fees must be in place as soon as possible after November 1, 2008.

ANALYSIS:

Senate Bill 2131 transferred the Home Inspectors from the Oklahoma State Department of Health to the Construction Industries Board. The fine schedule was included in the transfer of records and rules under OAC 310:110-5-6.

CONTACT PERSON:

Jeanne Britt, C.P.O., Executive Assistant, Construction Industries Board, 2401 N.W. 23rd Street, Suite 5, Oklahoma City, Oklahoma, 73107 telephone: (405) 271-2771; facsimile: (405) 271-5254; electronic mail: jeanneb@cib.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S. § 253(D):

SUBCHAPTER 3. ADMINISTRATIVE SCHEDULE

158:10-3-5. Schedule of fines for the Home Inspection Industry

The fine schedule for citations issued by the Board for Violations of the Home Inspector Licensing Act or the Rules promulgated there under shall be subject to the following fines:

- (1) Violation of 158:70-5-2(d):
 - (A) First violation: \$50.00
 - (B) Subsequent violation: \$200.00
- (2) Violations of 158:70-11-2(a):
 - (A) First violation: up to \$500.00
 - (B) Subsequent violation: up to \$1,000.00
- (3) Violations of 158:70-11-2(b):
 - (A) First violation: up to \$500.00
 - (B) Subsequent violation: up to \$1,000.00
- (4) Violations of 158:70-11-2(c):
 - (A) First violation: up to \$500.00
 - (B) Subsequent violation: up to \$1,000.00
- (5) Violations of 158:70-11-2(d):
 - (A) First violation: up to \$200.00
 - (B) Subsequent violation: up to \$500.00
- (6) Violations of 158:70-11-2(e):
 - (A) First violation: up to \$500.00
 - (B) Subsequent violation: up to \$1,000.00
- (7) Violations of 158:70-11-2(f):
 - (A) First violation: up to \$500.00
 - (B) Subsequent violation: up to \$1,000.00
- (8) Violations of 158:70-11-2(g):
 - (A) First violation: up to \$500.00
 - (B) Subsequent violation: up to \$1,000.00
- (9) Violations of 158:70-11-2(h):
 - (A) First violation: up to \$500.00
 - (B) Subsequent violation: up to \$1,000.00
- (10) Violations of 158:70-11-2(i):
 - (A) First violation: up to \$500.00
 - (B) Subsequent violation: up to \$1,000.00
- (11) Violations of 158:70-11-2(j):
 - (A) First violation: up to \$1,000.00
 - (B) Subsequent violation: up to \$2,000.00
- (12) Violations of 158:70-11-2(k):
 - (A) First violation: up to \$200.00
 - (B) Subsequent violation: up to \$500.00

Emergency Adoptions

- (13) Violations of 158:70-11-2(l):
(A) First violation: up to \$200.00
(B) Subsequent violation: up to \$500.00
- (14) Violations of 158:70-11-2(m):
(A) First violation: up to \$200.00
(B) Subsequent violation: up to \$500.00
- (15) Violations of 158:70-11-2(n):
(A) First violation: up to \$200.00
(B) Subsequent violation: up to \$500.00

[OAR Docket #08-1529; filed 12-22-08]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 50. MECHANICAL INDUSTRY REGULATIONS

[OAR Docket #08-1530]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- Subchapter 1. General Provisions
158:50-1-2. Definitions [AMENDED]
Subchapter 5. License Types, Limitations of Licenses, Contractor Special Requirements and Display of License Number and Firm Name
158:50-5-1. License types [AMENDED]
158:50-5-2. Limitations of licenses [AMENDED]

AUTHORITY:

Construction Industries Board; 59 O.S. § 1689.

DATES:

Public Hearing:

November 5, 2008

Adoption:

November 5, 2008

Approved by Governor:

November 14, 2008

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2009, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

"n/a"

INCORPORATIONS BY REFERENCE:

"n/a"

FINDING OF EMERGENCY:

The Construction Industries Board finds that compelling extraordinary circumstances exist due to the need for an immediate qualified and licensed labor pool to staff impending statewide refinery expansions.

ANALYSIS:

The rule change promotes economic development by providing an opportunity for Oklahoma refineries to find qualified personnel to staff their turn-around and expansion projects by providing an alternative verification of experience requirements. Pursuant to SB 2131 The Construction Industries Board is to promulgate rules to implement a mechanical refinery journeyman license and shall offer examinations.

CONTACT PERSON:

Jeanne Britt, C.P.O., Executive Assistant, Construction Industries Board, 2401 N.W. 23, Ste 5, Oklahoma City, OK 73107 telephone: (405) 271-2771; facsimile: (405) 271-5254; electronic mail: jeanneb@cib.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE

UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 1. GENERAL PROVISIONS

158:50-1-2. Definitions

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

"**Act**" means Mechanical Licensing Act as found at 59 O.S. § 1850.1 et seq.

"**Administrator**" means the Administrator of the Board as described in the Construction Industries Board Act found at 59 O.S. § 1000.1 et seq.

"**Applicant**" means any person applying for an examination, for a license or registration, for review of plans and specifications or for a mechanical code variance from the ICC International Mechanical Code or the International Fuel Gas Code and the International Residential Code (Chapters 12 through 24) by the Construction Industries Board under the Act.

"**Associated with and responsible for**" means the relationship between a mechanical contractor and mechanical firm based on the mechanical contractor being a permanent employee, owner, partner, or officer in a corporate firm, and whereby the mechanical contractor shall give full time to the supervision and control of operations necessary to secure full compliance with the provisions of the Mechanical Licensing Act and this Chapter.

"**Board**" means the Oklahoma Construction Industries Board.

"**Bonds and Insurance Unit**" means the consolidated unit that processes bonds, insurance, and citations under the direction of the Construction Industries Board.

"**Cheating**" means any unapproved deviation from any official instruction given before, during or after a license examination, for the purpose of affecting or influencing the examination results or otherwise providing an undue advantage to any examinee.

"**Committee**" means the Committee of Mechanical Examiners.

"**Direct supervision**" means the on-the-job presence by the supervisor who must be a licensed mechanical contractor or mechanical journeyman.

"**Gas piping**" means and includes all natural gas piping within or adjacent to any building, structure, or conveyance, on the premises up to the connection with a natural gas meter, regulator, or other source of supply.

"**Ground source piping**" means piping buried below the earth's surface or submerged in a water well, lake or pond and used in conjunction with a heat pump to provide heating, ventilation and/or air conditioning to a structure.

"**Humidification**", when applied to air conditioning, means and includes an increase or decrease in moisture content of the air being conditioned and supplied to the space for human occupancy by means of that integral part of the entire air conditioning system, equipment, and control devices; when

applied to refrigeration, means and includes an increase or decrease in the moisture content of the air or product being conditioned for a food preservation measure or manufacturing process by means of the integral part of the entire refrigeration system, equipment, and control devices.

"HVAC" or **"heating, ventilation and air conditioning"** means the process of treating air by controlling its temperature, humidity, and cleanliness and of supplying such air to spaces for human occupancy by means of an integrated system of air conditioning and ventilation equipment, accessories and control devices.

"ICC" means the International Code Council.

"Limited residential journeyman" means a type and category of mechanical license that is restricted to new installations in detached one or two family dwellings and multiple single family dwellings (townhouses) not more than three stories in height with a separate means of egress as regulated by this chapter.

"Mechanical License Unit" means the staff and administrative support unit to the Committee of Mechanical Examiners and the Mechanical Hearing Board.

"Mechanical work" means the installation, maintenance, repair, or renovation, in whole or in part, of any heating system, cooling system, mechanical refrigeration system or ventilation system or any equipment or piping carrying chilled water, air for ventilation purposes, or natural gas, or the installation, maintenance, repair, or renovation of process piping used to carry any liquid, substance, or material, including steam and hot water used for space heating purposes not under the jurisdiction of the Department of Labor, provided that minor maintenance and repairs are excluded.

"Minor repairs and maintenance" means minor repairs or maintenance prescribed in the manufacturer's operating instructions to be performed by the equipment owner or his authorized agent, and shall not include replacement and repairs of any nature on natural gas piping, natural gas controls, the low voltage manufacturer installed controls, the vent system of fuel burning appliances or any repair or maintenance which would violate the safe operation of the equipment.

"Petroleum refinery" means an industrial plant which processes petroleum for purposes of creating products derived from petroleum and includes industrial plants which produce and/or refine alternative fuels or petroleum additives. "Petroleum refinery" shall not mean gas processing plant or gas gathering pipeline operations.

"Petroleum refinery journeyman" means a type and category of mechanical license that is restricted to petroleum refinery process piping.

"Petroleum refinery process piping" means the lay out, assembly, installation, and maintenance of pipe systems, pipe supports and related equipment used in the petroleum refining process or product refining systems of a petroleum refinery.

"Process" means a series of operations performed in the making or treatment of a product.

"Process piping" means lay out, assembly, installation, and maintenance of pipe systems, pipe supports, and related hydraulic and pneumatic equipment for steam, hot water, heating, cooling, lubricating and fire sprinklers, not subject to

regulation pursuant to the Alarm Industry Act, and industrial production and processing systems.

"Reciprocity" means an agreement whereby a person holding a mechanical license or registration who is licensed in other states with substantially similar or greater licensure requirements may be licensed in this State after payment of a fee for licensing by reciprocity.

"Refrigeration system" means a system employing fluid which normally is vaporized and liquefied in an air conditioning system, food preservation measure or manufacturing process.

"Sheet metal" means the ferrous and non-ferrous duct-work and components which house and ventilates air conditioning systems, both assembled and custom fabricated.

"Variance" means the use of an alternative material or method of construction from that prescribed in the ICC International Mechanical Code or the International Fuel Gas Code or the International Residential Code (Chapters 12 through 24) for use at a particular location or project specified in the variance application; and

"Variance and Appeals Board" means the Oklahoma State Mechanical Installation Code Variance and Appeals.

SUBCHAPTER 5. LICENSE TYPES, LIMITATIONS OF LICENSES, CONTRACTOR SPECIAL REQUIREMENTS AND DISPLAY OF LICENSE NUMBER AND FIRM NAME

158:50-5-1. License types

- (a) Mechanical licenses shall be issued as journeyman, contractor or inactive contractor.
- (b) Licenses shall be issued for the following categories:
 - (1) HVAC limited or unlimited;
 - (2) Natural Gas Piping;
 - (3) Process Piping;
 - (4) Refrigeration;
 - (5) Sheet Metal;
 - (6) Ground Source Piping; ~~and/or~~
 - (7) Limited Residential; ~~and/or~~
 - (8) Petroleum Refinery Process Piping (journeyman only).

158:50-5-2. Limitations of licenses

- (a) **License duties.**
 - (1) Journeyman is a person who possesses the knowledge and skills to perform mechanical work within a category or categories without direct supervision.
 - (2) Contractor is a person who possesses the knowledge and skills of a journeyman and who is responsible, either to himself or his employer, for planning, contracting, supervising, or furnishing labor and/or materials used for mechanical work. A mechanical contractor shall only be associated with and responsible for one mechanical firm. However, a mechanical contractor may be responsible for one firm with branch offices.

Emergency Adoptions

- (A) Active contractor is one who is actively performing as a contractor and who has met the bond and insurance requirements for licensure.
- (B) Inactive contractor is one who has met all the licensing requirements of a contractor, but has chosen not to currently perform as a contractor. An inactive contractor is not required to provide bond or insurance, and will be regulated as a journeyman.
- (b) **License categories.**
- (1) A limited mechanical HVAC license entitles the licensee to install, alter, modify, service, maintain, or repair a ventilation (duct) system and/or:
- (A) any cooling product, system, or equipment including the process piping, that has a cooling capacity of no more than twenty-five (25) tons, and/or
- (B) all heating equipment including the process piping that have a heat input of no more than 500,000 British Thermal Units per hour per appliance.
- (2) A limited residential journeyman license entitles the licensee to install:
- (A) 5-ton or less cooling systems and/or
- (B) 150,000 British Thermal Units per hour or less heating systems. Installations shall include complete new systems for detached one or two family dwellings and multiple single family dwellings (townhouses) not more than three stories in height with a separate means of egress. Accessory appurtenances (such as humidifiers and filtering systems), kitchen vent hoods, exhaust fans and clothes dryer vent exhausts for such dwellings shall not be prohibited to be installed by the holder of this category. Such installations shall not include any welding, soldering or final connection of refrigerant lines or final connection of any electrical wiring permitted to be installed in accordance with Oklahoma statutes.
- (3) An unlimited mechanical HVAC license entitles the licensee to install, alter, modify, service, maintain, or repair a ventilation (duct) system and/or:
- (A) any cooling product, system, or equipment, including the process piping, and/or
- (B) heating equipment, including the process piping.
- (4) A natural gas piping license entitles the licensee to install, alter, modify, service, maintain, or repair all natural gas piping.
- (5) A process piping license entitles the licensee to install, alter, modify, service, maintain, or repair all process piping.
- (6) A refrigeration license entitles the licensee to install, alter, modify, service, maintain, or repair refrigeration products, systems, or equipment, including the process piping.
- (7) A sheet metal license entitles the licensee to install, alter, modify, service, maintain, or repair all ferrous and nonferrous duct systems.

(8) A ground source piping license entitles the licensee to install, alter, modify, service, maintain or repair all piping outside a structure for a ground source (earth or water) loop pipe.

(9) A petroleum refinery journeyman license entitles the licensee to install, alter, modify, service, maintain, or repair all petroleum refinery process piping and said license is limited to petroleum refinery process piping work only. A petroleum refinery journeyman shall be under the direction and supervision of a licensed unlimited mechanical contractor or a licensed process piping mechanical contractor.

[OAR Docket #08-1530; filed 12-22-08]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 70. HOME INSPECTION INDUSTRY REGULATIONS

[OAR Docket #08-1531]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 1. General Provisions [NEW]

158:70-1-1. Purpose [NEW]

158:70-1-2. Definitions [NEW]

158:70-1-3. Standards of workmanship and practice [NEW]

Subchapter 3. Procedures of the Committee [NEW]

158:70-3-1. Procedures of the Committee [NEW]

Subchapter 5. License Requirements, License Fees, License Period, Re-examination, Display and Insurance [NEW]

158:70-5-1. Home inspection license requirements [NEW]

158:70-5-2. License fees, license period, re-examination, display and insurance requirements [NEW]

Subchapter 9. Examination Applications, Examinations, Course Approval Requirements, Instructor Requirements, Continuing Education, Denied Application Appeal, Submission of Records, Substantial Compliance and Reciprocity [NEW]

158:70-9-1. Qualifications and examination applications [NEW]

158:70-9-2. Examinations [NEW]

158:70-9-3. Course approval requirements [NEW]

158:70-9-4. Instructor qualifications [NEW]

158:70-9-5. Continuing education [NEW]

158:70-9-6. Denied application appeal [NEW]

158:70-9-7. Submission of records [NEW]

158:70-9-8. Substantial compliance and reciprocity [NEW]

Subchapter 11. License Revocation and Suspension and Additional Prohibited Acts [NEW]

158: 70-11-1. License revocation and suspension [NEW]

158: 70-11-2. Additional prohibited acts [NEW]

AUTHORITY:

Construction Industries Board Act, 59 O.S. §§ 1000.2 and 1000.4; Home Inspection Licensing Act, 59 O.S. §§ 858-622, 858-624, 858-626, 858-627, 858-629, 858-630, 858-631, 858-633 and 858-634.

DATES:

Public Hearing:

November 5, 2008

Adoption:

November 5, 2008

Approved by Governor:

November 14, 2008

Effective:

Immediately upon Governor's approval.

Expiration:

Effective through July 14, 2009, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The Construction Industries Board finds that compelling, exigent and extraordinary circumstances exist which require the emergency adoption of rules requiring all home inspectors, as defined in the Home Inspection Licensing Act, to be licensed and regulated by the Construction Industries Board pursuant to legislation enacted by the Oklahoma Legislature and signed by the Governor. These rules were developed in accordance with the Oklahoma Legislature's enactment of SB 2131, which mandates that the Construction Industries Board regulate the Home Inspection Industry, effective November 1, 2008. The Construction Industries Board currently has no rules in place which regulate the Home Inspection Industry and these emergency rules are necessary to maintain continuity in the regulation of the Home Inspection Industry.

ANALYSIS:

The emergency rules herein are identical in substance to the existing rules regulating the Home Inspection Industry, which were promulgated by the Oklahoma State Department of Health, the agency which regulated the Home Inspection Industry and housed the Committee of Inspector Examiners prior to the enactment of SB2131. Rules 158:70-1-1; 158:70-1-2; 158:70-1-3 are general provisions which state the purpose of the rules, define material regulatory terms and establish the standards of workmanship and practice, respectively. Rule 158: 70-3-1 establishes the procedures of the Committee of Home Inspector Examiners when conducting business. Rules 158: 70-5-1 and 158: 70-5-2 set forth home inspection license requirements and license fees, periods, re-examination procedures, license display and insurance requirements, respectively.

Rules 158: 70-9-1, 158: 70-9-2, 158: 70-9-3, 158: 70-9-4, 158: 70-9-5, 158: 70-9-6, 158: 70-9-7, and 158: 70-9-8 are identical to the State Department of Health rules governing licensed home inspectors with regard to qualifications and examination applications, examinations, course approval requirements, course instructor requirements, continuing education, denied application appeals, submission of records, substantial compliance and reciprocity. Rules 158: 70-11-1 and 158: 70-11-2 are the promulgation of the State Department of Health rules governing license and suspension proceedings and enumerating additional prohibited acts.

The fees and administrative costs established in these rules were previously promulgated by permanent rules and justified by the Oklahoma State Department of Health with the assistance of the Committee of Home Inspector Examiners. The Construction Industries Board will evaluate said fees and costs in the context of its administration of the Home Inspection Licensing Act and propose changes if necessary in a subsequent permanent rule making proceeding. For the term of these emergency rules, the Construction Industries Board is satisfied that the current fees and costs set forth herein are adequate to administer the Home Inspection Licensing Act for the interim.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED, PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S. § 253(D):

SUBCHAPTER 1. GENERAL PROVISIONS

158:70-1-1. Purpose

The rules in this Chapter implement the Home Inspection Licensing Act, Title 59 O.S. 2001, § 858-621 et seq.

158:70-1-2. Definitions

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

"Act" means the Home Inspection Licensing Act, found at 59 O.S. § 858-621 et seq.

"Alarm systems" means warning devices, installed or free-standing, including but not limited to: carbon monoxide detectors, flue gas and other spillage detectors, security equipment, ejector pumps and smoke alarms.

"Applicant" means any person applying for an examination for a license or registration under the Act.

"Architectural service" means any practice involving the art and science of building design for construction of any structure or grouping of structures and the use of space within and surrounding the structures or the design for construction, including but not specifically limited to, schematic design, design development, preparation of construction contract documents, and administration of the construction contract.

"Board" means the Construction Industries Board.

"Certificates of course completion" means a document acceptable to the Committee which signifies satisfactory completion of course work and reflects the hours of credit earned.

"Cheating" means any unapproved deviation from any official instruction given before, during or after a home inspector license examination for the purpose of affecting or influencing the examination results or otherwise providing an undue advantage to any examinee.

"Classroom hour" is equal to fifty (50) minutes out of each sixty (60) minute segment.

"Client" means a person with a direct material interest in the outcome of a home inspection who hires and compensates a home inspector for the performance of a home inspection.

"Committee" means the Committee of Home Inspector Examiners established by the Home Inspector Licensing Act, 59 O.S. 858-624.

"Component" means a part of a system.

"Continuing education" means education that is approved by the Committee to satisfy education requirements in order to renew licensure as a home inspector.

"Continuing education verification form" means a form acceptable to the Committee and completed by the course provider, that documents compliance with the continuing education requirements.

"Decorative" means ornamental; not required for the operation of the essential systems and components of a home.

"Defect" means a condition, malfunction or problem, which is not decorative, that would have a materially adverse effect on the value of a system or component, or would impair the health or safety of the occupants or client.

"Department" means the Construction Industries Board.

"Describe" means to report a system or component by its type or other observed, significant characteristics to distinguish it from other systems or components.

"Dismantle" means to take apart or remove any component, device or piece of equipment that would not be taken apart or removed by a homeowner in the course of normal and routine homeowner maintenance.

Emergency Adoptions

"Engineering service" means any professional service or creative work requiring engineering education, training, and experience and the application of special knowledge of the mathematical, physical and engineering sciences to such professional service or creative work as consultation, investigation, evaluation, planning, design and supervision of construction for the purpose of assuring compliance with the specifications and design, in conjunction with structures, buildings, machines, equipment, works or processes.

"Further evaluation" means examination and analysis by a qualified professional, tradesman or service technician beyond that provided by the home inspection.

"Home" or "residence" means any dwelling, from one to four (1-4) units in design, intended principally for residential purposes by one (1) or more individuals.

"Home inspection" or "inspection" means a visual examination of any or all of the readily accessible physical real property and improvements to real property consisting of four or fewer dwelling units, including structural, lot drainage, roof, electrical, plumbing, heating and air conditioning and such other areas of concern as are specified in writing to determine if performance is as intended. [59:858-622(5)]

"Home inspection license unit" means the staff and administrative support unit to the Committee of Home Inspector Examiners.

"Home inspection report" means a written opinion of the functional and physical condition of property written by the licensed home inspector pursuant to home inspection.

"Home inspector" means an individual licensed pursuant to the Home Inspection Licensing Act who, for compensation, conducts home inspections.

"Inspect" means to examine readily accessible systems and components of a building in accordance with these Standards of Practice, using normal operating controls and opening readily openable access panels.

"Installed" means attached such that removal requires tools.

"Instructor" means a person who presents course materials approved for qualifying education and continuing education credit hours that has the experience, training, and/or education in the course subject matter and has been approved by the Committee.

"Normal working order" means the system or component functions without defect for the primary purpose and manner for which it was installed.

"Normal operating controls" means devices such as thermostats, switches or valves intended to be operated by the homeowner.

"Professional craftsman" means a person who can demonstrate by certification, education or experience, specialized skill in the construction or repair of homes, duplexes, apartment buildings or similar structures. Persons demonstrating specialized skill by experience alone must be able to show that they have been actively engaged in their profession, trade or craft for at least one (1) year prior to the performance of a single item inspection.

"Provider" means a person, corporation, professional association or its local affiliates, or any other entity, which is

approved by the Committee and provides approved qualifying and continuing education to home inspectors.

"Readily accessible" means available for visual inspection without requiring moving of personal property, dismantling, destructive measures, or any action which will likely involve risk to persons or property.

"Readily openable access panel" means a panel provided for homeowner inspection and maintenance that is within normal reach, can be removed by one person, and is not sealed in place.

"Reciprocity agreement" means an agreement whereby a home inspector who is licensed in other states with substantially similar or greater licensure requirements may be licensed in this State after payment of a fee for licensing by reciprocity.

"Recreational facilities" means spas, saunas, steam baths, swimming pools, exercise, entertainment, athletic, playground or other similar equipment and associated accessories.

"Report" means to communicate in writing.

"Representative number" means one component per room for multiple similar interior components such as windows and electric outlets; one component on each side of the building for multiple similar exterior components.

"Roof drainage systems" means components used to carry water off a roof and away from a building.

"Shut down" means a state in which a system or component cannot be operated by normal operating controls.

"Solid fuel burning appliances" means a hearth and fire chamber or similar prepared place in which a fire may be built and which is built in conjunction with a chimney; or a listed assembly of a fire chamber, its chimney and related factory-made parts designed for unit assembly without requiring field construction.

"Structural component" means a component that supports non-variable forces or weights (dead loads) and variable forces or weights (live loads).

"System" means a combination of interacting or interdependent components, assembled to carry out one or more functions.

"Technically exhaustive" means an investigation that involves dismantling, the extensive use of advanced techniques, measurements, instruments, testing, calculations, or other means.

"Under-floor crawl space" means the area within the confines of the foundation and between the ground and the underside of the floor.

"Unsafe" means a condition in a readily accessible, installed system or component which is judged to be a significant risk of personal injury during normal operation. The risk may be due to damage, deterioration, improper installation or a change in accepted residential construction standards.

"Wiring methods" means identification of electrical conductors or wires by their general type, such as "non-metallic sheathed cable" ("Romex"), "armored cable" ("bx") or "knob and tube", etc.

158:70-1-3. Standards of workmanship and practice

(a) General requirements and limitations.

(1) The inspector shall be governed by the following general requirements:

(A) Only readily accessible systems and components of homes listed in these Standards shall be required to be inspected.

(B) Only installed systems and components of homes listed in these Standards shall be required to be inspected.

(C) The inspector shall report on those systems and components inspected which, in the professional opinion of the inspector, are not in normal working order.

(D) The inspector shall report a reason why, if not self-evident, the system or component is not in normal working order.

(E) The inspector shall report the inspector's recommendations to correct or monitor the reported deficiency.

(F) The inspector shall report on any systems and components designated for inspection in these Standards which were present at the time of the Home Inspection but were not inspected and a reason they were not inspected.

(G) These Standards are not intended to limit inspectors from including other inspection services, systems or components in addition to those required by these Standards.

(H) These Standards are not intended to limit inspectors from specifying repairs and providing an opinion of the costs to cure, provided the inspector is appropriately qualified and willing to do so.

(I) These Standards are not intended to limit inspectors from excluding systems and components from the inspection if requested by the client.

(J) Beginning July 1, 2006, all home inspectors shall maintain a log or record of all home inspections performed for a minimum period of five years from the date of inspection. The log shall include the name of the client, the address of the property, and the date of the inspection. The home inspector shall maintain a copy of all home inspections completed within the past 36 months. The log may be a hard file or an electronic file and shall be maintained at the home inspector's principal business address. The files shall be available for review upon the request of an authorized representative of the Oklahoma Construction Industries Board.

(2) Inspections performed in accordance with these Standards are not technically exhaustive, will not identify concealed conditions or latent defects, and are applicable to buildings with four or fewer dwelling units and their garages or carports.

(3) The inspector is not required to perform any action or make any determination unless specifically stated in these Standards, except as may be required by lawful authority.

(4) Inspectors are not required to determine the condition of systems or components which are not readily accessible, the remaining life of any system or component, the strength, adequacy, effectiveness, or efficiency of any system or component, the causes of any condition or deficiency, the methods, materials, or costs of corrections, future conditions including, but not limited to, failure of systems and components, the suitability of the property for any specialized use, compliance with any regulatory requirements other than this Chapter (codes, regulations, laws, ordinances, etc.), the market value of the property or its marketability, the advisability of the purchase of the property, the presence of potentially hazardous plants or animals including, but not limited to wood destroying organisms or diseases harmful to humans, the presence of any environmental hazards including, but not limited to toxins, carcinogens, noise, and contaminants in soil, water, and air, the effectiveness of any system installed or methods utilized to control or remove suspected hazardous substances, the operating costs of systems or components, or the acoustical properties of any system or component.

(5) Inspectors are not required to offer or perform any act or service contrary to law, perform engineering services, perform work in any trade or any professional service other than home inspection, or warranties or guarantees of any kind.

(6) Inspectors are not required to operate any system or component which is shut down or otherwise inoperable, any system or component which does not respond to normal operating controls, or shut-off valves.

(7) Inspectors are not required to enter any area which will, in the opinion of the inspector, likely be dangerous to the inspector or other persons or damage the property or its systems or components, or the under-floor crawl spaces or attics which are not readily accessible.

(8) Inspectors are not required to inspect underground items including, but not limited to underground storage tanks or other underground indications of their presence, whether abandoned or active, systems or components which are not installed, decorative items, systems or components located in areas that are not entered in accordance with these Standards, detached structures other than garages and carports, or common elements or common areas in multi-unit housing, such as condominium properties or cooperative housing.

(9) Inspectors are not required to perform any procedure or operation which will, in the opinion of the inspector, likely be dangerous to the inspector or other persons or damage the property or its systems or components, move suspended ceiling tiles, personal property, furniture, equipment, plants, soil, snow, ice, or debris, or dismantle any system or component, except as explicitly required by these Standards.

(b) **Structural system inspection requirements.**

(1) The inspector shall inspect the structural components including foundation and framing, by probing a representative number of structural components where deterioration is suspected or where clear indications of possible

Emergency Adoptions

deterioration exist. Probing is not required when probing would damage any finished surface or where no deterioration is visible.

(2) The inspector shall describe the foundation and report the methods used to inspect the under-floor crawl space, the floor structure, the wall structure, the ceiling structure, and the roof structure and report the methods used to inspect the attic.

(3) The inspector is not required to provide any engineering service or architectural service, or offer an opinion as to the adequacy of any structural system or component.

(c) **Exterior inspection requirements.**

(1) The inspector shall inspect the exterior wall covering, flashing and trim, all exterior doors, attached decks, balconies, stoops, steps, porches, and their associated railings, the eaves, soffits, and fascias where readily accessible from the ground level, the vegetation, grading, surface drainage, and retaining walls on the property when any of these are likely to adversely affect the building, and the walkways, patios, and driveways leading to dwelling entrances.

(2) The inspector shall describe the exterior wall covering.

(3) The inspector is not required to inspect screening, shutters, awnings, and similar seasonal accessories, fences, geological, geotechnical or hydrological conditions, recreational facilities, outbuildings, seawalls, break-walls, and docks, and erosion control and earth stabilization measures.

(d) **Roof system inspection requirements.**

(1) The inspector shall inspect the roof covering, the roof drainage systems, the flashings, the skylights, chimneys, and roof penetrations.

(2) The inspector shall describe the roof covering and report the methods used to inspect the roof.

(3) The inspector is not required to inspect antennae, interiors of flues or chimneys which are not readily accessible, or other installed accessories.

(e) **Plumbing system inspection requirements.**

(1) The inspector shall inspect the interior water supply and distribution systems including all fixtures and faucets, the drain, waste and vent systems including all fixtures, the water heating equipment, the vent systems, flues, and chimneys, the fuel storage and fuel distribution systems, and the drainage sumps, sump pumps, and related piping.

(2) The Inspector shall describe the water supply, drain, waste, and vent piping materials, the water heating equipment including the energy source, and the location of main water and main fuel shut-off valves.

(3) The inspector is not required to inspect, the clothes washing machine connections, the interiors of flues or chimneys which are not readily accessible, wells, well pumps, or water storage related equipment, water conditioning systems, solar water heating systems, fire and lawn sprinkler systems, or private waste disposal systems.

(4) The inspector is not required to determine whether water supply and waste disposal systems are public or private, the quantity or quality of the water supply, or operate safety valves or shut-off valves.

(f) **Electrical system inspection requirements.**

(1) The Inspector shall inspect the service drop, the service entrance conductors, cables, and raceways, the service equipment and main disconnects, the service grounding, the interior components of service panels and sub panels, the conductors, the overcurrent protection devices, all readily accessible installed lighting fixtures, switches, ceiling fans, and receptacles, the ground fault circuit interrupters, and accessible wiring and splicing including the basement and attic.

(2) The Inspector shall describe the amperage and voltage rating of the service, the location of main disconnect(s) and sub panels, and the wiring methods.

(3) The Inspector shall report the presence of solid conductor aluminum branch circuit wiring, and the absence of smoke detectors.

(4) The inspector is not required to inspect the remote control devices unless the device is the only control device, the alarm systems and components, the low voltage wiring, systems and components, the ancillary wiring, systems and components not a part of the primary electrical power distribution system, or measure amperage, voltage, or impedance.

(g) **Heating system inspection requirements.**

(1) The inspector shall inspect the installed heating equipment, the vent systems, flues, and chimneys.

(2) The inspector shall describe the energy source, and the heating method by its distinguishing characteristics.

(3) The inspector is not required to inspect the interiors of flues or chimneys, which are not readily accessible, the humidifier or dehumidifier, the electronic air filter, the solar space heating system, or determine heat supply adequacy or distribution balance.

(h) **Air conditioning systems inspection requirements.**

(1) The inspector shall inspect the installed central and through-wall cooling equipment.

(2) The inspector shall describe the energy source, and the cooling method by its distinguishing characteristics.

(3) The inspector is not required to inspect electronic air filters, or determine cooling supply adequacy or distribution balance.

(i) **Interior inspection requirements.**

(1) The inspector shall inspect the readily accessible walls, ceilings, and floors, the steps, stairways, and railings, the countertops and a representative number of installed cabinets, and the readily accessible doors and windows, garage doors and garage door openers, and the following installed household appliances: garbage disposal, stove, cook top, dishwasher, vent hood, and free-standing stove.

(2) The inspector is not required to inspect the paint, wallpaper, and other finish treatments, the carpeting, the window treatments, the central vacuum systems, the

household appliances not listed in OAC 158:70-1-3(i)(1), or recreational facilities.

- (j) **Insulation and ventilation inspection requirements.**
 - (1) The inspector shall inspect the insulation and vapor retarders in unfinished spaces, the ventilation of attics and foundation areas, and the mechanical ventilation systems.
 - (2) The inspector shall describe the insulation and vapor retarders in unfinished spaces, and the absence of insulation in unfinished spaces at conditioned surfaces.
 - (3) The inspector is not required to disturb insulation or vapor retarders, or determine indoor air quality.
- (k) **Fireplaces and solid fuel burning appliances inspection requirements.**
 - (1) The inspector shall inspect the vent systems, flues, and chimneys and the readily accessible portion of the firebox.
 - (2) The inspector shall describe the fireplaces and solid fuel burning appliances, and the chimneys.
 - (3) The inspector is not required to inspect the interiors of flues or chimneys, the firescreens and doors, the seals and gaskets, the automatic fuel feed devices, the mantels and fireplace surrounds, the combustion make-up air devices, or the heat distribution assists whether gravity controlled or fan assisted.
 - (4) The inspector is not required to ignite or extinguish fires, determine draft characteristics, or move fireplace inserts or stoves or firebox contents.

SUBCHAPTER 3. PROCEDURES OF THE COMMITTEE

158:70-3-1. Procedures of the Committee

- (a) Committee meetings are generally, and unless otherwise stated by the Committee, held at the offices of the Construction Industries Board at 2401 N.W. 23rd Street, Suite 5, Oklahoma City, Oklahoma 73107. The committee shall meet as often as is necessary, but at least once each quarter. Meetings of the committee will comply with the Oklahoma Open Meetings Act.
- (b) The Committee shall provide oversight to the overall licensure examination process; shall set minimum standards for certifying qualified applicants; may write examinations; may recommend regulations to the Administrator and to the Board; and, shall act as advisor to the Administrator on home inspection licensing and standards enforcement matters.
- (c) The only formal procedure available to the public is to apply for a home inspection license. Application for a home inspection license shall be accomplished by filling out an application for examination on a form provided by the committee.
- (d) The public may communicate with the Committee in person or by mail through the Agency. The Agency will make available all forms and instructions used by the Committee, rules, and all other written statements of policy or interpretations, all final orders, decisions and opinions. Copies of same may be provided in accordance with OAC 158:1-3-5.

SUBCHAPTER 5. LICENSE REQUIREMENTS, LICENSE FEES, LICENSE PERIOD, RE-EXAMINATION, DISPLAY AND INSURANCE

158:70-5-1. Home inspection license requirements

No person, on behalf of himself or a firm or company engaged in home inspection work shall engage or offer to engage in, by advertisement or otherwise, any home inspection work who does not possess a valid and appropriate license from the Agency, unless otherwise exempt by law.

158:70-5-2. License fees, license period, re-examination, display, and insurance requirements

- (a) **Initial license fees.** The following fees apply to home inspection industry licensure:
 - (1) Approval fees for schools, instructors and home inspection organizations - \$100.00
 - (2) Approval fees for educational course content - \$50.00
 - (3) Application for license - \$30.00
 - (4) Licensure for reciprocity - \$50.00
 - (5) Examination fee - \$200.00
 - (6) License fee - \$250.00
 - (7) License renewal - \$150.00
 - (8) License reactivation - \$50.00
- (b) **License period.**
 - (1) A license shall expire twelve months after issuance, and may be renewed without penalty during the month following expiration.
 - (2) A license which has been expired for more than one (1) year shall not be renewed. An individual may obtain a valid license by successful completion of the appropriate examination and other licensure requirements.
- (c) **Re-examination.** Any applicant who fails an examination must wait thirty (30) days before retaking the home inspection examination.
- (d) **License display.** The state issued license number shall be placed on all letterhead stationery, business cards, bids, estimates and printed advertisements, and shall be included in electronic media advertisements. Decals and yard signs shall display the state issued license number.
- (e) **Personal license display.** All persons subject to these rules shall possess the state issued card any time the person is working. The card shall be shown when requested.
- (f) **Insurance requirements.** Each licensee must maintain insurance coverage and furnish and maintain in effect a certificate of insurance therefor which indicates that the licensee has a comprehensive general liability policy. Limits of liability are to be no less than \$50,000.00 combined single limit for bodily injury and property damage. The certificate of insurance shall provide for thirty (30) days notice to the Home Inspection License Unit, prior to cancellation or material alteration of the required insurance.

Emergency Adoptions

SUBCHAPTER 9. EXAMINATION APPLICATIONS, EXAMINATIONS, COURSE APPROVAL REQUIREMENTS, INSTRUCTOR REQUIREMENTS, CONTINUING EDUCATION, DENIED APPLICATION APPEAL, SUBMISSION OF RECORDS, SUBSTANTIAL COMPLIANCE AND RECIPROCITY

158:70-9-1. Qualifications and examination applications

Applicants for home inspection license examinations must be eighteen (18) years of age or older and be of good moral character, and every application must be accompanied by evidence of successful completion of fifty (50) clock hours of home inspection training that is approved pursuant to 158:70-9-3, or its equivalent.

158:70-9-2. Examinations

(a) Home inspection license examinations may include, without limitation, written questions, consisting of open book, closed book and problems, based on current national standards, and other related questions.

(b) The maximum grade value of each part of the examination shall be 100 points. A passing score is 70% or more on each part.

(c) Each applicant shall pay the examination fee before undertaking any examination. Reexamination fees shall be the same as the initial examination fees.

(d) Unless authorized by the Committee, only examinees shall be permitted in the examination area.

(e) Applicants shall present positive identification before undertaking an examination.

(f) Any applicant who fails an examination must wait thirty (30) days before retaking the home inspection examination.

(g) An examinee cheating or fraudulently representing an applicant shall immediately be expelled from the examination. A written record of the proceedings shall be made and become a part of the applicant's file. The Committee shall determine when the applicant may retake the exam, which time shall be no fewer than three hundred sixty-five (365) days.

158:70-9-3. Course approval requirements

(a) Any person or entity seeking to conduct an approved course for qualifying or continuing education credits shall make application and submit documents, statements and forms as may reasonably be required by the Committee in accordance with Section 158:70-5-2.

(b) Applications shall include the following information:

- (1) Name and address of the provider;
- (2) Contact person and his or her address, telephone number and fax number;
- (3) The location of the courses or programs;
- (4) The number and type of education credit hours requested for each course;
- (5) Topic outlines, which list the summarized topics, covered in each course and upon request a copy of any course materials;

(6) If a prior approved course has substantially changed, a summarization of these records;

(7) The names and qualifications of each instructor who is qualified in accordance with Section 158:70-9-4, and

(8) Information as to how the proposed course meets the standard provided in Section 158:70-9-5-(b).

(c) The Agency may automatically accept without further review, courses pre-approved by the Committee.

(d) The Committee may withhold or withdraw approval of any provider for violation of or non-compliance with any provision of this section.

(e) No person or entity sponsoring or conducting a course shall advertise that it is endorsed, recommended, or accredited by the Committee. Such person or entity may indicate that the Committee has approved a course of study if that course of study has been pre-approved by the committee before it is advertised or held.

(f) The Committee may decline to renew, or revoke the approval of any qualifying course or any instructor or entity previously approved to conduct a pre-licensing course upon a showing or demonstration that the course, instructor or entity has substantially failed to adequately prepare its attendees or participants to pass the national Home Inspection Examination or similar qualifying examination.

158:70-9-4. Instructor requirements

(a) **Instructor qualifications.** An instructor should have one of the following qualifications:

(1) Three (3) years of recent experience in the subject matter being taught; or

(2) A degree related to the subject area being taught; or

(3) Two (2) years of recent experience in the subject area being taught and twelve (12) hours of college credit and/or vocational technical school technical credit hours in the subject being taught.

(4) Other educational, teaching, or professional qualifications determined by the Committee which constitute an equivalent to one or more of the qualifications in the previously stated sub-paragraphs (1), (2), and (3) of this paragraph.

(b) **Instructor renewal.** In order to maintain approved status, an instructor must furnish evidence that the instructor has taught a Committee approved course, or any other CEU course the Committee determines to be equivalent, within a required thirty-six (36) month period.

(c) **Re-application.** Any instructor not meeting the requirements of this subsection will be required to re-apply as an original instructor applicant.

158:70-9-5. Continuing education

(a) **Continuing education hours.** No home inspection license shall be renewed unless the licensee has completed at least five (5) clock hours of continuing education prior to the date of renewal.

(b) **Special Approval requirements for continuing education.** All continuing education providers shall abide by the following requirements:

- (1) Course content should be designed to update knowledge and improve inspection skills directly related to the components and systems described in Subchapter 1 of this Chapter.
- (2) All courses shall be at least two (2) hours in length.
- (3) Unless provided after regular working hours, the training location shall be outside the regular work place.
- (4) Each attendee shall complete a course evaluation on a form provided by the Agency. The CEU provider shall return the completed evaluation forms to the home inspection license unit with the sign-in sheets.

158:70-9-6. Denied application appeal

(a) **Denied instructor/provider application.** If the Committee fails to approve or rejects any proposed instructor or entity seeking to conduct an approved course, the Committee shall give written notice of the rejection and the cause therefore within fifteen (15) days after such decision. The applicant may appeal the decision by filing a written request for a hearing before the Committee within thirty (30) days after notice of denial. The Committee shall set the matter for hearing to be conducted within sixty (60) days thereafter. No part of the application fee

Is refundable.

(b) **Denied course application.** If the Committee fails to approve or rejects any proposed continuing education offering or fifty (50) hour home inspection training course, the Committee shall give written notice of the rejection and the cause therefore within fifteen (15) days after such decision to the party applying for approval. Upon the written request from such party, filed within thirty (30) days after such notice of denial, the Committee shall set the matter for hearing to be conducted within sixty (60) days thereafter for an appeal of the determination of the cause for rejection. No portion of the fee is refundable.

158:170-9-7. Submission of records

(a) An entity conducting an offering shall, within five (5) working days of the completion thereof, submit to the Committee on a form approved by the Committee, a list of the names and license numbers or social security numbers of the licensees who successfully completed the said offering. Each licensee successfully completing an offering shall be furnished a certificate certifying completion.

(b) Providers shall maintain course records for at least five (5) years. The Committee may order an examination of the records for good cause shown.

158:70-9-8. Substantial compliance and reciprocity

(a) In addition to accepting courses approved as described in this Subchapter, qualifying and continuing education credits may be granted to an individual in such case that said individual supplies acceptable documentation showing that the offering meets applicable Committee requirements for the category of

credit applied for, including proof that said individual attended and successfully completed the offering.

(b) If a non-resident licensee satisfies a continuing education requirement in another state for license renewal, the Committee will exempt the non-resident licensee from the continuing education requirement in the state. In order to qualify for the exemption, the non-resident licensee must file with the license renewal of this state a certificate from the state in which the continuing education was satisfied stating that the non-resident licensee had completed the continuing education requirement for license renewal in that state. The certificate from the state verifying the non-resident's compliance with continuing education in the other state must be received by the Committee within sixty (60) days of issuance by the other state and must be received in conjunction with license renewal.

SUBCHAPTER 11. LICENSE REVOCATION AND SUSPENSION AND ADDITIONAL PROHIBITED ACTS

158:70-11-1. License revocation and suspension

(a) The employment or use of unlicensed individuals may be grounds to suspend, revoke, or deny renewal of the license of the person so employing or using unlicensed individuals.

(b) The repeated violation of any rule or provision of the Act, or the violation of multiple sections of this Chapter or provisions of the Act, may be grounds to suspend or revoke a licensee's license.

(c) Any person convicted in a court of competent jurisdiction of forgery, fraud, conspiracy to defraud, or any similar offense, or pleading guilty or nolo contendere to any such offense may be subject to license suspension or revocation.

(d) Any person failing to comply with a fine assessment or other administrative order of the Agency within ninety (90) days of issuance of such assessment or order shall be subject to license suspension.

(e) Any person whose license is suspended pursuant to these Rules may not perform a home inspection and, prior to reinstatement, must make application therefor, which must be accompanied by evidence of successful completion of the continuing education requirements set forth in OAC 158:70-9-3.

(f) Any person whose license is revoked pursuant to these rules may not perform a home inspection before attaining licensure pursuant to OAC 158:70-9-1.

(g) Failure to cooperate or provide information regarding an investigation may be grounds to suspend or revoke a licensee's home inspection license.

(h) Failure to maintain and furnish a certificate of insurance coverage as provided in OAC 158: 70-5-2(f) may be grounds to suspend or revoke a licensee's home inspection license.

158:70-11-2. Additional prohibited acts

(a) No person, entity, or firm may perform home inspection work without first obtaining a license or registration pursuant to these Rules.

Emergency Adoptions

- (b) No person shall offer to engage in work as a home inspector during the period his or her license is suspended or revoked.
- (c) No employing home inspection firm shall employ or use an unlicensed home inspector to perform home inspection work.
- (d) No person, entity, or firm may transfer a license or registration.
- (e) No home inspector, licensed pursuant to this Chapter, shall enter into an agreement for the use of his or her license with any firm or person who is, or has been adjudicated to be, in violation of any provision of the Act, or whose license is currently suspended or has within the last year been revoked, unless or until otherwise approved by the Agency.
- (f) No person shall make a materially false or fraudulent statement in an application for license or for approval of continuing education, engage in cheating, or otherwise commit an act in violation of 158:70-9-2(g).
- (g) No person shall falsify or fail to disclose in a home inspection report a material defect.
- (h) No person shall accept inspection assignments when the employment itself is contingent upon reporting a predetermined estimate, analysis or opinion.
- (i) No person shall accept inspection assignments when the fee to be paid is contingent upon the opinion, the conclusion, analysis, or report reached, or upon the consequences resulting from such assignments.
- (j) No person shall perform a home inspection upon a home, or any part thereof, where the home inspector has solicited or performed any work or repair service therein upon a system or component described in Subchapter 1 of this Chapter, within the previous thirty days. If the person performing the home inspection has performed such work within the previous one-hundred eighty days, such prior work must be disclosed to the client.
- (k) No person shall solicit or perform work or repair services upon, a home, or any part thereof, that the home inspector has inspected for one (1) year after the date of the inspection.
- (l) No person shall knowingly accept compensation from more than one client for a single home inspection, unless the home inspector has informed all clients who are paying a fee for that home inspection that such compensation is sought or anticipated.
- (m) Unless upon demand in writing by the Agency, a law enforcement agency, or by order of a court of competent jurisdiction, no person shall disclose the results of a home inspection to any person other than the client without the written consent of the client.
- (n) No person shall fail to disclose to the client any conflict of interest of which the inspector knows or should have known that may adversely affect the client. Based upon the potentially adverse affect to the home inspector's ability to produce an unbiased report, some circumstances or conditions are presumed to adversely affect the client and must be disclosed to the client in writing prior to the inspection. These include, but are not limited to, the following:
- (1) Situations where the payment of remuneration or other consideration is made by the home inspector to a

third party and representing a reward or compensation to the third party for the home inspector receiving inspection employment.

(2) Situations where the payment of remuneration or other consideration is received by the home inspector from a third party and representing a reward or compensation for the home inspector recommending services or products to the client or other persons having an interest in the

(3) In those cases where the client is the buyer of real property, situations where the home inspector has had some prior connection, relationship or association with the seller, his or her assigns or family members related to the seller within the second degree.

(4) Situations where prior reports or inspections have been made or conducted upon any system or component of the real property that the home inspector has agreed to inspect.

(o) No person shall fail to submit a written home inspection report within a reasonable time as determined by the Agency to the client after compensation has been paid to the home inspector.

[OAR Docket #08-1531; filed 12-22-08]

TITLE 210. STATE DEPARTMENT OF EDUCATION

CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL SERVICES

[OAR Docket #08-1496]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 9. Lifelong Learning
210:10-9-1. General provisions [AMENDED]
210:10-9-2. Adult basic education [AMENDED]

AUTHORITY:

70 O. S. § 3-104, State Board of Education

DATES:

Adoption:

October 30, 2008

Approved by Governor:

December 8, 2008

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2009, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Adult Basic Education program will receive a federal monitoring visit in January 2009. If the rules are not updated the State Department of Education will not have current state policies in place as required by federal adult education guidelines. This could put federal funds at risk.

ANALYSIS:

The proposed rule amendments bring Adult Basic Education into compliance with federal guidelines. The amendments establish state policies for adult education income, student assessment, student goal setting, state and federal fund allocation, teacher and director qualifications, administrative cost limits, state performance measures, and data collection.

CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O. S., SECTION 253 (D):

SUBCHAPTER 9. LIFELONG LEARNING

210:10-9-1. General provisions

(a) Purpose. The rules of this subchapter have been adopted for the purpose of establishing standards, guidelines, allocation of funds, development of projects and applications, and the implementation of Adult Education, and Literacy, Workplace Literacy, English Literacy, Adult Homeless, Battered Women, and Community Education Projects, and Integrated English Literacy/Civics. These projects provide educational programs to educationally disadvantaged adults and community needs.

(b) Definitions. The following words and terms, when used in this Subchapter, shall have the following meaning unless the context clearly indicates otherwise:

(1) "Act" means the Adult Education Act, and Family Literacy Act, Title II of the Workforce Investment Act of 1998 (P.L. 105-330).

(2) "Adult" means an individual who has attained 16 years of age or who is beyond the age of compulsory school attendance under State law who is not enrolled in secondary school; who lacks sufficient mastery of basic educational skills to enable him/her to function effectively in society or who does not have a certificate of graduation from a school providing secondary education, secondary school diploma or its recognized equivalent and who has not achieved an equivalent level of education; who is not currently required to be enrolled in school; and whose lack of mastery of basic skills results in an inability to speak, read, or write the English language.

(3) "Adult education" means services or instruction below the college level for educationally disadvantaged adults.

(4) "Adult education program" means a local education agency, postsecondary institution, community-based organization, corrections education agency or faith-based organization responsible for locally administering the Adult Education and Family Literacy Act grant.

(5) "Community-based organization" (CBO) means a private nonprofit organization which is representative of a community or significant segments of a community and which provides education, vocational education or rehabilitation, job training, or internship services and programs and includes neighborhood groups and organizations, community action agencies, community development corporations, union related organizations, employer-related organizations, tribal governments, and organizations serving Native Alaskans and Indians. The term 'private industry council' means the private industry

council established under section 102 of the Job Training Partnership Act.

"Community school" means a public elementary school, secondary school, community junior college, or vocational technical career technology school that has accepted the responsibility for stimulating community access to public facilities and equipment by providing leadership personnel; procedures for ensuring citizen involvement; processes for involving existing public and private agencies; and access to a wide range of programs for people of all ages.

(6) "Cooperative" means that the board of education of two or more school districts may enter into cooperative agreements and maintain joint programs including but not limited to, courses of instruction for handicapped children, courses of instruction in music and other subjects, practical instruction for trades and vocations, practical instruction in driver training courses, and health programs including visual care by persons legally licensed for such purpose, without favoritism as to either profession.

(7) "Disadvantaged Adult" means an adult who demonstrates basic skills equivalent to or below that of students at the fifth grade level.

(8) "General Educational Development" (GED) means a high school equivalency credential.

"Individual of limited English proficiency" means an adult or out of school youth who has limited ability in speaking, reading, writing, or understanding the English language.

(9) "Local educational agency" (LEA) means a public board of education or other public authority legally constituted within elementary or secondary schools in a city, county, township, school district, or other political subdivision of a state, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, except that, if there is a separate board of other legally constituted local authority having administrative control and direction of adult education in public schools therein, such term means such other board or authority.

"Rural" means a school district with an ADA of 800 or less.

(10) "State educational agency" (SEA) means the Oklahoma State Department of Education.

210:10-9-2. Adult basic education

(a) Programs, services and activities funded in accordance with uses specified in section 322 sections 203 and 231 of the Act are designed to expand or improve the quality of adult education programs, including priority programs for educationally disadvantaged adults (including first those adults with less than a 5th-grade achievement level, and second, those adults with a 6th-8th grade achievement level), adults with limited English speaking ability, handicapped adults, adults with disabilities, institutionalized adults and GED preparation.

(b) The SEA will use not less than 10% of the funds granted to the state for corrections education and education for other institutionalized adults under section 326 of the Act. The SEA

Emergency Adoptions

shall use not less than 15% for special experimental demonstration projects and teacher training projects under section 353 of the Act, with two thirds of the 15% to be used for teacher training.

~~(e) The SEA may use not more than 20% of the funds granted to the state under the Act for programs of equivalency for a certificate of graduation from secondary school.~~

~~(d) Adults enrolled in Adult Basic Education programs will not be charged tuition, fees, or any other charges, or be required to purchase any books or any other materials that are needed for participation in the program.~~

~~(e) The SEA will use Federal funds granted to the state under the Act to supplement, and not supplant, the amount of state and local funds available for uses specified in the Act.~~

~~(f) The SEA will provide such fiscal control and accounting procedures as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid to the state (including such funds paid by the state to eligible recipients under the Act).~~

~~(g) The SEA has instituted policies and procedures to ensure that copies of the state plan and amendments, all statements of general policy, rules, regulations, and procedures will be made available to the public.~~

(b) Adult education programs governed by the Act shall make every effort to provide free classes to students. Adult education programs may charge necessary and reasonable fees for consumable materials and work-based classes. Adult education programs that wish to implement fees must develop a fee policy that has been approved by the adult learning center's local governing board. The fee policy must be reasonable and may not restrict access to services.

(c) The Act permits local adult education programs to generate income. The purpose of income is not to make a profit, but rather to expand services. Income and donations received must be reinvested in the adult education program. Any income must be accounted for in records and reported to the state Lifelong Learning office for National Reporting System Financial Reports.

(d) Adult education programs governed by the Act must follow the state adult education Assessment Policy per federal guidelines.

(e) Adult education programs governed by the Act must follow the state adult education Student Goal Setting Policy per federal guidelines.

(hf) For each year covered by the plan, the fiscal effort per student from nonfederal sources available for expenditure by the state for adult education, during the second preceding fiscal year must not be less than the fiscal effort per student from nonfederal sources during the third preceding fiscal year in order to meet the maintenance of effort requirement.

(i) The SEA will plan and implement a program of literacy training and basic skills remediation for adult homeless individuals within the state.

(j) Directors of adult education located in the 40 adult learning centers funded by the state under the Act, shall have a valid Oklahoma Teacher's Certificate and shall be responsible for administering this plan.

(g) Teachers of adult education located in the adult learning centers funded by the state under the Act, shall have a valid Oklahoma Teacher's Certificate. Directors of adult education located in the adult learning centers shall have a valid Oklahoma Teacher's Certificate or a graduate degree.

(kh) For fiscal control, the obligation basis of accounting is used; expenditures will be supported by copies of paid claims and invoices and will be audited following accepted auditing procedures.

(l) The State Review Committee, using the annual evaluation reports and needs assessment from the Adult Education directors, and the latest census figures from the State Employment Securities Commission, reviews the overall program and makes recommendations of service priorities to the State Superintendent based on the above information. Further, the State Review Committee is encouraged to provide input and comments to assist in the planning of the program.

(i) Federal funds for adult education programs operating under a grant extension will be allocated according to local program data, program performance, and participation in state and national initiatives. Seventy percent of federal funds will be allocated according to the number of students with a pre-assessment and 12 hours of instruction as reported in National Reporting System (NRS) data. Twenty percent of federal funds will be allocated according to whether federal and state indicators of performance were met. Ten percent of funds will be allocated for participation in state and national initiatives. Allocations for the current fiscal year will be based on National Reporting System data from the second preceding fiscal year.

(j) State funds for adult education programs operating under a grant extension will be allocated according to program data. Fifty percent of state funds will be divided evenly among all programs to establish a funding base. The remaining fifty percent of state funds will be allocated according to the number of students enrolled. Allocations for the current fiscal year will be based on National Reporting System data from the second preceding fiscal year.

~~(mk) The SEA and the 40 local education agencies serving as the adult learning centers (ALCs) adult education programs participating in the plan shall enter into cooperative arrangements, when feasible and appropriate, with such entities as other state agencies, community based organizations, community action agencies, vo techs, career technology schools, churches, businesses, etc. in order to carry out the general purpose of the Act.~~

(nl) The SEA and the 40 local education agencies serving as the ALCs adult education programs will expend 95% of the funding for adult education activities and 5% will be used for administration, administrative costs, however if the administrative cost limits would be insufficient for adequate planning and administration of the program, the state agency may negotiate with the local grant recipient in order to determine an adequate level of funds to be used for noninstructional purposes. Negotiated administrative cost limits are indicated in the Adult Education and Literacy State Plan/State Plan Amendments.

~~(o) Facilities for adult education classes are identified as to the number of persons each can accommodate, the geographic location, cost, if any, and time availability. Lists of curriculum~~

materials for adult education classes which have proven to be effective are available for program use.

~~(p) Bilingual adult education classes will be established in areas where high concentration of non-English speaking or limited English proficient adults exist. The program of instruction will be designed to teach the adult English language skills and, if necessary, the native language skills as determined by the needs assessment.~~

~~(q) The SEA will provide direct and equitable access to and will review annual applications from public/private and profit/non profit agencies and organizations if these entities can make a significant contribution to obtaining the objectives of the Act, and can provide equivalent education services at a lesser cost, or can provide services not available in public institutions. Assurance that the services are coordinated with and are not duplicative services under other Federal, State and local programs must be documented to the SEA to show that consultation and guidance on the development of the services has been obtained by the applicable LEA. The comments of the LEA and responses thereto shall be attached to the application when it is forwarded to the state.~~

~~(r) Funds shall be allocated on the basis of an application and shall be paid on the number of students enrolled in each adult class. Funds will be matched on the ratio specified by the Adult Education Act regulations in existence for the current fiscal program year.~~

~~(s) Applications for adult education funds will be submitted to the 40 LEAs serving as ALCs and shall address the needs of the districts' adult population to be served as reflected in the local needs assessment. Further, the applicant shall state the adult standardized test to be used to assess the adult population when they enroll in adult education classes. Finally, the applicant shall address the methods used to annually gather data to determine the extent to which the adult students are achieving the goals set forth in the plan.~~

~~(t) The SEA will accept bids from eligible applicants to conduct adult basic education teacher training workshops with funds available for above mentioned training under section 353 of the Act, for the purpose of improving teaching techniques which have proven to be effective with the target population.~~

~~(u) The SEA shall set aside funds for public housing authorities to provide educational programs for disadvantaged adults living in public housing. Grants funded under this section shall be called Gateway Grants.~~

~~(v) The SEA will evaluate grant recipients based on the federal requirements for program evaluation.~~

(m) The SEA will provide direct and equitable access to and will review grant proposal applications during an open grant competition. The adult education program will demonstrate that the twelve considerations outlined in Section 231 of the Act are being met in order to be considered for a grant award. The adult education program must assure that the services are coordinated with and are not duplicative services under other Federal, State and local programs. The comments of the adult education program and responses thereto shall be attached to the application when it is forwarded to the state.

(n) Federal funds for new grantees shall be allocated on the basis of an application, budget, and proposed number of students to be served. State funds will be matched on the ratio specified by the Adult Education Act regulations in existence for the current fiscal program year.

(o) The SEA will evaluate grant recipients based on the federal requirements for program evaluation.

(p) Adult education programs will follow all requirements set forth in the SEA Adult Education State Plan and State Plan Amendments.

(q) Adult education programs will meet the state performance measures of pre-/post-assessing 60% of their students and increasing the average number of student contact hours each fiscal year.

(r) Adult education programs will use an SEA-approved management information system to document student enrollment, goals, attendance, educational gains, and other information as required by the National Reporting System (NRS). Programs will update data monthly.

[OAR Docket #08-1496; filed 12-17-08]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 25. SOONERCARE CHOICE

[OAR Docket #08-1502]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- Subchapter 7. SoonerCare
- Part 1. General Provisions
- 317:25-7-1. through 317:25-7-2. [AMENDED]
- 317:25-7-3. [AMENDED]
- 317:25-7-5. through 317:25-7-6. [AMENDED]
- Part 3. Enrollment Criteria
- 317:25-7-10. [AMENDED]
- 317:25-7-12. through 317:25-7-13. [AMENDED]
- Part 5. Enrollment Process
- 317:25-7-25. through 317:25-7-28. [AMENDED]
- Part 7. Coordination and Continuity of Care [NEW]
- 317:25-7-29. through 317:25-7-30. [AMENDED]
- Part 9. Reimbursement [NEW]
- 317:25-7-40. [NEW]

(Reference APA WF # 08-19)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes

DATES:

Adoption:

November 13, 2008

Approved by Governor:

December 11, 2008

Effective:

Immediately upon Governor's approval or January 1, 2009, whichever is later

Expiration:

Effective through July 14, 2009, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

Emergency Adoptions

FINDING OF EMERGENCY:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions to implement a new model for the SoonerCare Choice program that is based on the principles of a patient centered medical home. The patient centered medical home is the base from which health care services are coordinated to provide the most effective and efficient care to the patient. Without this transition, SoonerCare Choice members would be directly impacted by not allowing them the coordination of preventive and primary care services at the level promoted by the patient centered medical home model that is widely endorsed by primary care physicians' professional groups.

ANALYSIS:

SoonerCare rules are revised to incorporate the patient-centered medical home model of care in which providers are paid a monthly care coordination payment in addition to reimbursement for SoonerCare compensable services at the fee-for-service rate. The medical home model provides a partnership between a patient and a personal physician built around preventive and primary care. Currently, primary care providers (PCPs) in the SoonerCare Choice program are paid a capitated rate per member per month. This monthly fee assures the delivery of medically necessary primary care services and any non-capitated services are reimbursed at the traditional fee-for-service rate. After reviewing claims data, OHCA determined that an improvement to the current payment methodology would include the removal of the base capitation rate, reimbursement of all services based on OHCA's fee-for-service rate, and a monthly care coordination payment to the member's PCP. The care coordination payment would vary based on the scope of services provided by the PCP. Currently, SoonerCare Choice members select or are aligned with a primary care provider (PCP). Beginning January 1, 2009, PCPs will be responsible for serving as the medical home for enrolled members. Building on the success of the existing network, the OHCA believes this transition will help ensure that members get the right care at the right time from the right provider. OHCA intends to make this transition seamless to SoonerCare Choice members. SoonerCare rules are also amended to: (1) require provider or physician groups to designate a medical director to serve as primary contact with OHCA; (2) include a section on provider networks; and (3) include language regarding the development of a payment for excellence program. Without this transition, SoonerCare Choice members would be directly impacted by not allowing them the coordination of preventive and primary care services at the level promoted by the patient centered medical home model that is widely endorsed by primary care physicians' professional groups.

CONTACT PERSON:

Tywanda Cox at (405)522-7153

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY GOVERNOR OR JANUARY 1, 2009, WHICHEVER IS LATER:

SUBCHAPTER 7. SOONERCARE

PART 1. GENERAL PROVISIONS

317:25-7-1. Purpose

The purpose of this Subchapter is to describe the rules governing the statewide SoonerCare program. The rules provide assurances that Medicaid clients SoonerCare members have adequate access to primary care, while reducing costs and preventing unnecessary and inappropriate utilization.

317:25-7-2. SoonerCare Choice: overview

- (a) The Oklahoma Health Care Authority (OHCA) operates a Primary Care Case Management (PCCM) system for SoonerCare Choice eligible members. ~~The program enrolls SoonerCare Choice members with Primary Care Provider/Case Managers PCP/CMs who provide and/or authorize all primary care services and all necessary specialty services, with the exception of services described in subsection (e) of this Section for which authorization is not required.~~ PCCM is a managed care model in which each enrollee has a medical home with a primary care provider (PCP). Enrollees may select their own primary care provider or clinic as their PCP if that provider is enrolled with OHCA as a PCP and as a SoonerCare provider. For those who do not choose a PCP, they will be assigned to one. Members may change PCPs at any time.
- (b) ~~In exchange for a fixed, periodic rate, which~~ The PCP is paid a monthly care coordination payment in accordance with the conditions in the PCP's SoonerCare Choice contract per member per month, the Primary Care Provider/Case Manager (PCP/CM) to provides, provide or otherwise assures assure the delivery of medically-necessary preventive and primary care medical services, including securing referrals for specialty services and prior authorizations for an enrolled group of eligible members, with the exception of services described in subsection (c) of this Section for which authorization is not required. The PCP/CM PCP assists the member in gaining access to the health care system and monitors the member's condition, health care needs and service delivery.
- (c) Services which do not require a referral from the PCP/CM PCP include preventive or primary care services rendered by another SoonerCare contracted provider, outpatient behavioral health agency services, vision for refraction services for children, dental services, child abuse/sexual abuse examinations, prenatal and obstetrical services, family planning services, emergency physician and hospital services, disease management services, and services delivered to Native Americans at IHS, tribal, or urban Indian clinics. Female members may access a SoonerCare women's health specialist without a referral for covered routine and preventative preventive health care services. This is in addition to the enrollee's PCP/CM PCP if that source is not a woman's health specialist.
- (d) ~~Non-capitated~~ SoonerCare Choice covered services delivered by the PCP/CM PCP are reimbursed at the SoonerCare ~~Traditional fee for service fee~~ schedule rate under the procedure code established for each individual service. To the extent services are provided or authorized by the Primary Care ~~Provider/Case Manager Provider,~~ the OHCA does not make SoonerCare Choice payments for services delivered outside the scope of coverage of the SoonerCare Choice program, thus a referral by the ~~Primary Care Provider/Case Manager PCP~~ does not guarantee payment.
- (e) The PCP may charge a co-payment for services provided to SoonerCare members in accordance with OAC 317:30-3-5(d).
- (f) Members with chronic conditions may elect to enroll in a health management program to improve their health.
- (g) PCPs may elect to participate in Health Access Networks to improve access to care.

317:25-7-3. Definitions

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

"**Aged, Blind and Disabled**" means the Medicaid covered populations under 42 U.S.C., Section 1396a (a)(10)(A)(i) and (F).

"**Board**" means the board designated by the Oklahoma legislature to establish policies and adopt and promulgate rules for the Oklahoma Health Care Authority.

"**CEO**" means the Chief Executive Officer of the Oklahoma Health Care Authority.

"**Custody**" means the custodial status, as reported by the Oklahoma Department of Human Services.

"**Medicaid**" means the medical assistance program authorized by 42 U.S.C., Section 1396a et seq. The program provides medical benefits for certain low-income persons. It is jointly administered by the federal and state governments.

"**Medicare**" means the program defined at 42 U.S.C. §1395 et seq.

"**OHCA**" means the Oklahoma Health Care Authority.

"**OKDHS**" means the Oklahoma Department of Human Services.

"**PCCM**" means Primary Care Case Management.

"**PCP/CM PCP**" means Primary Care ~~Provider/Case Manager~~ Provider, including a Provider or Physician Group.

"**Primary Care Case Management**" means a managed care health service delivery system in which health services are delivered and coordinated by Primary Care ~~Provider/Case Managers~~ Providers.

"**Primary Care ~~Provider/Case Manager~~ Provider**" means a provider under contract ~~to~~ with the Oklahoma Health Care Authority to provide primary care services and case management, including securing all medically-necessary referrals for specialty services and prior authorizations.

"**Provider or Physician Group**" means a partnership, limited partnership, limited liability company, corporation or professional corporation composed of doctors of medicine and/or doctors of osteopathy and/or advanced ~~nurse practitioner~~ nurses, and/or physician assistants who provide health care of the nature provided by independent practitioners and is are permitted by state and federal law and regulations to receive ~~Medicaid~~ SoonerCare provider payments.

"**SoonerCare**" means the Medicaid program administered by the Oklahoma Health Care Authority.

"**SoonerCare Choice**" means a comprehensive medical benefit plan featuring a medical home including a Primary Care Provider for each member.

317:25-7-5. Primary care ~~provider/case managers~~ providers

For provision of health care services, the OHCA contracts with qualified Primary Care ~~Provider/Case Managers~~ Providers. All providers serving as ~~PCP/CMs~~ PCPs must have a valid ~~Medicaid Fee for Service~~ SoonerCare Fee-for-Service contract as well as a an exercised SoonerCare Choice contract addendum. Additionally, all ~~PCP/CMs~~ PCPs, excluding Provider or Physician Groups, must agree to accept a minimum

capacity of patients, however this does not guarantee ~~PCP/CMs~~ PCPs a minimum patient volume. Primary Care ~~Provider/Case Managers~~ Providers are limited to:

(1) **Physicians.** Any physician licensed to practice medicine in the state in which he or she practices who is engaged in a general practice or in family medicine, general internal medicine or general pediatrics may serve as a ~~PCP/CM PCP~~. ~~In addition, physicians who meet all requirements for employment by the Federal Government as a physician, are employed by the Federal Government in an IHS facility, and practice in one of the four designated primary care specialties may serve as a PCP/CM.~~ The Chief Executive Officer (CEO) of the OHCA may designate physicians to serve as ~~PCP/CMs~~ PCPs who are licensed to practice medicine in the state in which they ~~practices~~ practice who are specialized in areas other than those described above. In making this determination, the CEO may consider such factors as the percentage of primary care services delivered in the physician's practice, the availability of primary care providers in the geographic area of the state in which the physician's practice is located, the extent to which the physician has historically provided services to ~~Medicaid clients~~ SoonerCare members, and the physician's medical education and training.

(A) For physicians serving as SoonerCare Choice ~~PCP/CMs~~ PCPs, the State caps the number of members per physician at 2,500. However, the CEO in his/her discretion may increase this number in underserved areas based on a determination that this higher cap is in conformance with usual and customary standards for the community. If a physician practices at multiple sites, the capacity at each site is determined based on the number of hours per week the physician holds office hours, not to exceed one FTE. Thus, the physician cannot exceed a maximum total capacity of 2500 members.

(B) In areas of the State where cross-state utilization patterns have developed because of limited provider capacity in the State, the CEO may authorize contracts with out-of-state providers for ~~PCP/CM~~ PCP services. Out-of-State ~~PCP/CMs~~ PCPs are required to comply with all access standards imposed on Oklahoma physicians.

(2) **Advanced Practice Nurses.** Advanced Practice Nurses who have prescriptive authority may serve as ~~PCP/CMs~~ PCPs for the Primary Care Case Management delivery system if licensed to practice in the state in which he or she practices. ~~Additionally, Advanced Practice Nurses who meet all requirements for employment by the Federal Government as an advanced practice nurse, and is employed by the Federal Government in an Indian Health Service facility, may serve as a PCP/CM.~~ Advanced Practice Nurses who have prescriptive authority may serve as ~~primary care case managers~~ PCPs for a maximum number of 1,250 members. However, the CEO in his/her discretion may increase this number.

(3) **Physician Assistants.** Physician Assistants may serve as ~~PCP/CMs~~ PCPs if licensed to practice in the state

Emergency Adoptions

in which he or she practices. Additionally, ~~Physician Assistants who meet all requirements for employment by the Federal Government as a Physician Assistant, and are employed by the Federal Government in an Indian Health Service facility, may serve as a PCP/CM.~~ Physician Assistants may serve as primary care case managers PCPs for a maximum number of 1,250 members. However, the CEO in his/her discretion may increase this number.

(4) Medical Residents.

(A) Medical residents may serve as PCP/CMs PCPs when the following conditions are met:

- (i) The resident is licensed to practice in the state in which he or she practices.
- (ii) The resident is at least at the Post-Graduate 2 (PG-2) level.
- (iii) The resident serves as a PCP/CM PCP only within his or her continuity clinic setting (for example, Family Practice residents may only serve as the PCP/CM PCP within the Family Practice Residency clinic setting).
- (iv) The resident works under the supervision of a licensed attending physician.
- (v) The resident specifies the residency program or clinic to which payment will be made.

(B) Medical residents practicing as a PCP/CM PCP may not exceed a capacity of more than 875 members. However, the CEO in his/her discretion may increase this number.

(5) Indian Health Service (IHS) Facilities and Federally Qualified Health Center (FQHC) provider groups.

(A) Indian Health Service facilities whose professional staff meet the general requirements in paragraphs (1) through (3) of this Section and the provider participation requirements at OAC 317:30-5-1088 may serve as PCPs.

(B) Federally Qualified Health Centers whose professional staff meet the general requirements in paragraphs (1) through (3) of this Section and the provider participation requirements in OAC 317:30-5-660.2 may serve as PCPs.

(5) Provider or physician group capacity and enrollment.

(A) Provider or physician groups must agree to accept a minimum enrollment capacity and may not exceed 2,500 members per provider physician participating in the provider group.

(B) If licensed physician assistants or advanced practice nurses are members of a group, the capacity may be increased by 1,250 members if the provider is available full-time.

(C) Provider or physician groups must designate a medical director to serve as the primary contact with OHCA.

317:25-7-6. Primary Care Provider/Case Manager Provider Payment to Subcontractors responsibilities

- (a) Under the provisions of the SoonerCare Choice Contract, the contractor is responsible for providing all capitated services contained in the benefit package care coordination services for all enrolled members on his/her panel. ~~In the event that the PCP/CM orders a capitated service, the PCP/CM is responsible to make timely payment to the subcontractor or other provider.~~
- (b) ~~For purposes of subsection (a) of this Section timely payment or adjudication means payment or denial of a claim within 30 days of presentation to the PCP/CM. PCPs must provide access to medical care twenty-four hours per day, seven days a week, either directly or through coverage arrangements made with other providers, clinics, and/or local hospitals.~~
- (c) ~~No subcontractor of the PCP/CM may charge more than the Medicaid fee for service schedule for these services in the benefit package. The subcontractor may not bill the recipient for the services to the SoonerCare recipient until the PCP/CM has refused payment and the subcontractor/medical provider has appealed under OAC 317:2-1-2.1 and the OHCA permits the subcontractor to bill the recipient.~~

PART 3. ENROLLMENT CRITERIA

317:25-7-10. Enrollment with a Primary Care Provider/Case Manager Provider

(a) All SoonerCare Choice members described in OAC 317:25-7-12 ~~are enrolled may enroll~~ with a PCP/CM PCP. SoonerCare Choice applicants have the opportunity to select a PCP/CM PCP during the application process. Enrollment with a PCP may begin any day of the month. Enrollment with a PCP/CM for members determined to be eligible on or before the fifteenth day of the month are effective on the first day of the following month. Enrollment with a PCP/CM for members determined to be eligible after the fifteenth day of the month are effective on the first day of the second month following determination.

(1) The OHCA offers all members the opportunity to choose a PCP/CM PCP from a directory which lists available PCP/CMs PCPs.

(2) ~~If a SoonerCare Choice member moves more than the authorized distance/driving time from their current PCP/CM, that member will be disenrolled and assigned to an appropriate PCP/CM. When a notice of PCP/CM assignment PCP enrollment is sent to a member, the member is advised of the right to change the PCP/CM, PCP at any time, or after the effective date of enrollment with the PCP/CM pursuant to OAC 317:25-7-27.~~

(b) ~~Members are restricted to may receive services from the PCP/CM PCP or from a provider to which the member has been referred by the PCP/CM PCP. Notwithstanding this provision, subject to limitations which may be placed on services by the OHCA, members may self refer for preventive or primary care services rendered by another SoonerCare contracted provider, outpatient behavioral health agency services, vision for refraction services for children, dental services, child abuse/sexual~~

abuse examinations, prenatal and obstetrical services, family planning services, services delivered to Native Americans at IHS, tribal, or urban Indian clinics, and emergency physician and hospital services.

317:25-7-12. Enrollment/eligibility requirements

(a) Eligible ~~SoonerCare~~ SoonerCare Choice members mandatorily enrolled in SoonerCare Choice include ~~Medicaid~~ eligible persons or persons categorized categorically related to AFDC, Pregnancy-related services and as Aged, Blind or Disabled who are not dually-eligible for Medicaid SoonerCare and Medicare.

(b) Children in foster care may voluntarily enroll into SoonerCare Choice.

317:25-7-13. Enrollment ineligibility

Members in certain categories are excluded from participation in the SoonerCare Choice program. All other members are enrolled in the SoonerCare Choice program and subject to the provisions of this Subchapter. Members excluded from participation in SoonerCare Choice include:

- (1) Individuals receiving services in a nursing facility, in an intermediate care facility for the mentally retarded (ICF-MR) or through a Home and Community Based Waiver.
- (2) Individuals privately enrolled in an HMO.
- (3) Individuals who would be traveling more than 45 miles or an average of 45 minutes to obtain primary care services, ~~or a greater or lesser distance/driving time as determined pursuant to OAC 317:25-7-10(a).~~
- (4) Children who are known to the OHCA to be in custody, as reported by the Oklahoma Department of Human Services.
- (5) Individuals who are eligible for SoonerCare solely due to presumptive eligibility.
- (6) Non-qualified or ineligible aliens.
- (7) Children in subsidized adoptions.
- (8) Individuals who are dually-eligible for ~~Medicaid~~ SoonerCare and Medicare.
- (9) Individuals who are in an Institution for Mental Disease (IMD).

PART 5. ENROLLMENT PROCESS

317:25-7-25. Recipient Member enrollment process

(a) ~~Medicaid~~ SoonerCare eligible individuals ~~residing in any of the areas defined in OAC 317:25-7-11~~ whose eligibility is based on one of the aid categories included in the program as defined in OAC 317:25-7-12 must enroll with a PCP/CM PCP. Parents or guardians will choose on behalf of minor clients members in the household. Families with more than one beneficiary enrollee may choose a different PCP/CM PCP for each family member. ~~If a beneficiary does not select a PCP/CM, the OHCA will assign the member to one, from the pool of providers within the established distance/driving time who have available capacity.~~

(b) Until the effective date of enrollment with a PCP/CM PCP, services for a newborn are reimbursed at a fee-for-service rate. Upon eligibility determination, newborns may enroll with a PCP/CM PCP ~~or are assigned to a PCP/CM~~ who is in general practice, family practice or general pediatrics. Enrollment materials will advise the parent or guardian of the right to change the PCP/CM PCP after the effective date of enrollment.

(c) A description of the PCCM program and the PCP/CM PCP directory is provided by the OHCA to OKDHS for distribution to OKDHS county offices.

(d) For purposes of determining the client's member's choice of PCP/CM PCP, the most recent PCP/CM PCP selection received by the OHCA determines the PCP/CM PCP which the client member is enrolled with as long as capacity is available. ~~If capacity is not available then or the member does not choose, the client member is assigned according to the assignment mechanism as defined by the OHCA.~~ A member who is eligible for SoonerCare Choice but is not assigned, may request enrollment with a PCP by contacting the SoonerCare Helpline.

(e) PCP/CMs PCPs may not refuse an assignment, seek to disenroll a client member, or otherwise discriminate against a client member on the basis of age, sex, race, physical or mental disability, national origin or type of illness or condition, unless that condition can be better treated by another provider type, except that IHS, tribal or urban Indian programs may provide services to Native American IHS beneficiaries members consistent with federal law.

~~(f) PCP/CMs must provide access to medical care twenty four hours per day, seven days per week, either directly or through coverage arrangements made with other providers, clinics, and/or local hospitals.~~

~~(g) Until PCP/CM enrollment is effective, Medicaid eligible individuals receive all services on a fee for services basis.~~

317:25-7-26. Automatic re-enrollment

~~Medicaid recipients who are not in the six month period of guaranteed eligibility~~ SoonerCare members who become disenrolled from a PCP/CM PCP solely by virtue of becoming temporarily (for ~~180~~ 365 days or less) ineligible for ~~Medicaid~~ SoonerCare services, are automatically re-enrolled with their previously-selected PCP/CM PCP, subject to capacity. The client member is notified of the automatic re-enrollment and any right to disenroll from that PCP/CM PCP.

317:25-7-27. Changing PCP/CMs PCPs

(a) The OHCA ~~shall be~~ is responsible for changing a member's enrollment from one PCP/CM PCP to another:

- (1) without cause ~~up to 4 times per year~~, upon the member's request; or
- (2) upon demonstration of good cause. For purposes of this paragraph, Good good cause shall mean means:
 - (A) those members who are habitually non-compliant with the documented medical directions of the provider; or
 - (B) those members who pose a threat to employees, or other patients of the PCP/CM PCP; or

Emergency Adoptions

- (C) as a result of a grievance determination by the OHCA; or
- (D) in those cases where reliable documentation demonstrates that the physician-patient relationship has so deteriorated that continued service would be detrimental to the member, the provider or both; or
- (E) the member's illness or condition would be better treated by another type of provider; or
- (3) when the state imposes an intermediate sanction.
- (b) A written request by the ~~PCP/CM~~ PCP to change the enrollment of a member ~~shall be~~ is acted upon by the OHCA within ~~thirty (30)~~ days of its receipt. The decision to change ~~PCP/CMs~~ PCPs for cause ~~will be~~ is made at the discretion of the OHCA, subject to appeals policies delineated at OAC 317:2-1. The effective date of change ~~shall be~~ is set so as to avoid the issue of abandonment.
- (c) In the event a SoonerCare ~~PCP/CM~~ PCP contract is terminated by OHCA for any reason, or the ~~PCP/CM~~ PCP terminates participation in the SoonerCare program the CEO may, at his or her discretion, assign members to a participating ~~PCP/CM~~ PCP when it is determined to be in the best interests of the ~~client member~~ member whose ~~PCP/CM~~ PCP has terminated.

317:25-7-28. Disenrolling a client member from SoonerCare

- (a) The OHCA may disenroll a member from SoonerCare if:
- (1) the member is no longer eligible for ~~Medicaid~~ SoonerCare services; ~~or~~
 - (2) the member has been incarcerated; ~~or~~
 - (3) the member dies; ~~or~~
 - (4) disenrollment is determined to be necessary by the OHCA; ~~or~~
 - (5) the status of the member changes, rendering him/her ineligible for SoonerCare; ~~or~~
 - (6) the member is already enrolled in the SoonerCare Program, when they are taken or found to be in custody as reported by the Oklahoma Department of Human Services; ~~or~~
 - (7) the member is authorized to receive services in a nursing facility, in an intermediate care facility for the mentally retarded (ICF-MR) or through a Home and Community Based Waiver; or
 - (8) the member becomes dually-eligible for ~~Medicaid~~ SoonerCare ~~or~~ and Medicare.
- (b) The OHCA may disenroll the member at any time if the ~~client member~~ member is disenrolled for good cause, as it is defined in OAC 317:25-7-27. The OHCA will inform the ~~PCP/CM~~ PCP of any disenrollments from his or her member roster.
- (c) OHCA may disenroll a member upon the PCP's request as described in (1) through (5) of this subsection.

(1) The PCP may file a written request asking OHCA to take action including, but not limited to, disenrolling a member when the member:

- (A) is physically or verbally abusive to office staff, providers and/or other patients;
- (B) is habitually non-compliant with the documented medical directions of the PCP; or

- (C) regularly fails to arrive for scheduled appointments without cancelling and the PCP has made all reasonable efforts to accommodate the member.
- (2) The request from the PCP for disenrollment of a member must include one of more of the following:
- (A) documentation of the difficulty encountered with the member including the nature, extent and frequency of abusive or harmful behavior, violence, and/or inability to treat or engage the member;
 - (B) identification and documentation of unique religious or cultural issues that may be effecting the PCP's ability to provide treatment effectively to the member; or
 - (C) documentation of special assistance or intervention offered.
- (3) The PCP may not request disenrollment because of a change in the member's health status, the member's utilization of medical services, diminished mental capacity, or uncooperative or disruptive behavior resulting from the member's special needs except when the member's enrollment with the PCP seriously impairs his/her ability to furnish services to this member or other members.
- (4) The PCP must document efforts taken to inform the member orally or in writing of any actions that have interfered with the effective provision of covered services, as well as efforts to explain what actions or language of the member are acceptable and unacceptable and the consequences of unacceptable behavior, including disenrollment from the PCP.
- (5) The OHCA will give written notice of the disenrollment request to the member.

PART 7. COORDINATION AND CONTINUITY OF CARE

317:25-7-29. Plan benefit package Screening, diagnosis and preventive benefits

- (a) The ~~PCP/CM~~ PCP is responsible for coordinating or delivering preventive and primary care and case management services defined in a benefit package developed by the OHCA which are medically necessary to all Medicaid beneficiaries SoonerCare members enrolled with him/her and is reimbursed for these services on a per member per month pre-determined capitated rate. The PCP/CM benefit package will be determined by the Medical Director, with the approval of the CEO, and will be included with the PCP/CM contract.
- (b) ~~Services which are not included in the PCP/CM capitated rates will be reimbursed at a fee for service rate under the procedure code established for each individual service.~~
- (e**b**) School and health department clinics may conduct EPSDT screening examinations on children who have not been screened by their ~~PCP/CM~~ PCP pursuant to the EPSDT periodicity schedule. If it is ascertained that a child is not current, the school or health department clinic must first contact the ~~PCP/CM~~ PCP and attempt to set up an appointment for the child within three weeks. If the ~~PCP/CM~~ PCP cannot meet this condition, the clinic will be permitted to conduct the screen

and bill fee-for-service. ~~The State considers the cost of these screens in the rate setting process.~~

(1) The school or health department clinic must submit a claim for reimbursement, as well as documentation that:

(A) the ~~PCP/CM~~ PCP was contacted and an examination could not be conducted by the ~~PCP/CM~~ PCP within the specified guidelines; and

(B) the ~~PCP/CM~~ PCP has forwarded information for the patient file regarding the diagnosis, services rendered and need for follow-up. This documentation must be returned to the child's record for verification that ~~PCP/CMs~~ PCPs have first been contacted and that school and health department clinics are providing ~~PCP/CMs~~ PCPs with the information necessary to ensure continuity of care.

(2) The school-based clinic or health department must ~~obtain a referral number from the PCP/CM and~~ conduct the screening examination within ~~3~~ three weeks from the date the determination was made that the ~~PCP/CM~~ PCP could not conduct the exam within the specified guidelines.

~~(d) PCP/CM providers are protected from excessive losses incurred through the provision of services to Medicaid clients with conditions which result in costs to the provider which greatly exceed the average cost of a Medicaid client through a stop loss mechanism.~~

~~(e) The PCP/CM is prohibited from charging a co-payment for services provided to SoonerCare recipients.~~

~~(f) For capitated services purchased by the PCP/CM from a Medicaid contracted provider, the provider is prohibited from charging the PCP/CM more than the current Medicaid fee for service schedule for these services, but may charge less.~~

~~(g) The PCP/CM is not obligated to provide emergency services, and is not responsible for authorization or approval for payment for recipients seen in the emergency room. The PCP/CM may not require recipients to seek prior authorization for emergency services. However, the PCP/CM may provide emergency care in an emergency room setting, within his/her legal scope of practice. The PCP/CM may receive reimbursement for Medicaid covered emergency services at the fee for service rate.~~

317:25-7-30. Obtaining Medicaid SoonerCare services not covered by the PCP/CM

(a) Medical services ~~which are not included as capitated primary care services or~~ which are not the responsibility of the ~~PCP/CM~~ PCP to authorize under the ~~case management care coordination~~ component of SoonerCare, as described in ~~OAC 317:25-7-2(d) and~~ OAC 317:25-7-10(b), are obtained in the same manner as under the regular Medicaid SoonerCare fee-for-service program.

(b) Authorization for out-of-state transportation for primary care and specialty care is determined by the OHCA Medical Director.

(c) An eligible SoonerCare member may choose a ~~PCP/CM~~ PCP from the provider directory, including the IHS, tribal and Urban Indian clinics that participate as SoonerCare ~~PCP/CMs~~

PCPs. The member needs to have the Certified Degree of Indian Blood information in order to enroll. An American Indian member in SoonerCare may enroll with a ~~PCP/CM~~ PCP who is not an IHS, tribal, or urban Indian clinic and still use the IHS, tribal or urban Indian clinic for medical care. A referral from the ~~PCP/CM~~ PCP is needed for services that the clinic cannot provide, except for self-referred services. ~~Except services delivered through an Indian facility for which the State receives 100% Federal reimbursement, services are reimbursed at the Medicaid fee for service rate under the procedure code established for each individual service.~~

~~(d) If an IHS, tribal or urban Indian clinic is unable to deliver a service to a SoonerCare enrollee and must refer the client member for the service to a non-IHS, tribal or urban Indian clinic, Medicaid SoonerCare reimbursement is made only when the service is referred by the ~~PCP/CM~~ PCP, unless PCP/CM PCP authorization is not required under OAC 317:25-7-2(d) and OAC 317:25-7-10(b).~~

~~(e) Capitated services delivered at IHS, tribal, and urban Indian clinics during the preceding year to SoonerCare clients enrolled with non-Indian PCP/CMs are considered during the rate setting process.~~

~~(f) For non-capitated covered Medicaid compensable services provided for individuals enrolled in SoonerCare, reimbursement is made at the Medicaid fee for service rate under the procedure code established.~~

~~(e) The PCP is not obligated to provide emergency services and is not responsible for authorization or approval for payment for members seen in the emergency room. The PCP may not require members to seek prior authorization for emergency services. However, the PCP may provide emergency care in an emergency setting, within his/her legal scope of practice.~~

~~(f) Some outpatient procedures require prior authorization. The PCP is responsible for obtaining a list before an outpatient procedure is done.~~

PART 9. REIMBURSEMENT

317:25-7-40. SoonerCare Choice reimbursement

~~(a) **Care coordination component.** Participating PCPs are paid a monthly care coordination payment to assure the delivery of medically-necessary preventive and primary care medical services, including referrals for specialty services for an enrolled group of eligible members. The PCP assists the member in gaining access to the health care system and monitors the member's condition, health care needs and service delivery.~~

~~(b) **Visit-based fee-for-service component.** SoonerCare Choice covered services provided by the PCP are reimbursed at the SoonerCare fee schedule rate under the procedure code established for each individual service. To the extent services are authorized by the PCP, the OHCA does not make SoonerCare Choice payments for services delivered outside the scope of coverage of the SoonerCare Choice program, thus a referral by the PCP does not guarantee payment.~~

~~(c) **Incentive program component.** Subject to the availability of funds, OHCA will develop a bonus payment program~~

Emergency Adoptions

to encourage coordination of services, to reward improvement in health outcome and promote efficiency.

(d) **SoonerCare networks.** For every PCP who participates in an OHCA approved health care access network, a per-member-per-month payment is established by OHCA and paid to the network.

[OAR Docket #08-1502; filed 12-18-08]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY

[OAR Docket #08-1503]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 9. ICF/MR, HCBW/MR, and Individuals Age 65 or Older in Mental Health Hospitals

Part 3. Application Procedures

317:35-9-26. [AMENDED]

Subchapter 19. Nursing Facility Services

317:35-19-6. [AMENDED]

(Reference APA WF #08-33)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 C.F.R. Section 435.902; 42 C.F.R. Section 435.930

DATES:

Adoption:

November 13, 2008

Approved by Governor:

December 11, 2008

Effective:

Immediately upon Governor's approval or January 1, 2009, whichever is later

Expiration:

Effective through July 14, 2009, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions to allow individuals to apply for SoonerCare compensable nursing home services or private Intermediate Care Facilities for the Mentally Retarded (ICF/MR) services at the OKDHS human services center of their choice. Without this change, individuals will continue to be required to apply in the county in which they live. This currently creates a barrier for individuals to enroll in SoonerCare by creating an unnecessary delay caused by administrative procedures for eligibility. This change will help serve the best interests of the individuals desiring to apply for and who qualify for SoonerCare services.

ANALYSIS:

Agency rules are revised to allow individuals to apply for SoonerCare compensable nursing home and ICF/MR services at the OKDHS human services center of their choice. Current eligibility rules require individuals to apply at the local office in the county where the individual lives. Federal regulation 42 C.F.R. Section 435.902 requires eligibility to be determined in a manner that is consistent with simplicity of administration and the best interests of the applicant. Additionally, 42 C.F.R. Section 435.930 requires agencies to furnish Medicaid promptly to members without delay caused by

the agency's administrative procedures. Allowing individuals to apply at the OKDHS human services center of their choice will help eliminate a barrier and serve the best interests of the individuals desiring to apply for and who qualify for SoonerCare services.

CONTACT PERSON:

Tywanda Cox at (405)522-7153

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY GOVERNOR OR JANUARY 1, 2009, WHICHEVER IS LATER:

SUBCHAPTER 9. ICF/MR, HCBW/MR, AND INDIVIDUALS AGE 65 OR OLDER IN MENTAL HEALTH HOSPITALS

PART 3. APPLICATION PROCEDURES

317:35-9-26. Application procedures for private ICF/MR

~~A request for payment for private ICF/MR is made to the local office in the county where the applicant lives. Individuals may apply for private ICF/MR at the OKDHS human services center (HSC) of their choice.~~ A written application is not required for an individual who has an active ~~Medicaid~~ ~~SoonerCare~~ case. The ~~DHS~~ ~~OKDHS~~ Notification Regarding Patient in a Nursing Facility, Intermediate Care Facility for the Mentally Retarded or Hospice form ~~(ABCDM 83) 08MA083E~~, when received in the ~~county office~~ ~~HSC~~, also constitutes an application request and is handled the same as an oral request. The local ~~county office~~ ~~HSC~~ will send the ICF/MR ~~DHS~~ ~~OKDHS~~ form ~~ABDCM 37D 08MA038E~~, ~~Notice to Nursing Care Facility or LTCA~~, within three working days of receipt of ~~DHS~~ ~~OKDHS~~ forms ~~ABCDM 83 08MA083E~~ and ~~ABCDM 96 08MA084E~~, Management of Recipient's Funds, indicating actions that are needed or have been taken regarding the ~~client member~~.

SUBCHAPTER 19. NURSING FACILITY SERVICES

317:35-19-6. Application procedures for NF

~~A request for payment for NF is made to the local office in the county where the applicant lives. Individuals may apply for nursing home care at the OKDHS human services center (HSC) of their choice.~~ A written application is not required for an individual who has an active ~~Medicaid~~ ~~SoonerCare~~ case. For NF, ~~DHS~~ ~~OKDHS~~ Form ~~ABCDM 83 08MA083E~~, Notification Regarding Patient in a Nursing Facility, Intermediate Care Facility for the Mentally Retarded or Hospice form,

when received in the ~~county office~~ HSC, also constitutes an application request and is handled the same as an oral request.

[OAR Docket #08-1503; filed 12-18-08]

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 45. INSURE OKLAHOMA/
OKLAHOMA EMPLOYER AND EMPLOYEE PARTNERSHIP FOR INSURANCE COVERAGE**

[OAR Docket #08-1504]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 11. Insure Oklahoma/O-EPIC IP
Part 3. Insure Oklahoma/O-EPIC IP Member Health Care Benefits
317:45-11-10. through 317:45-11-11. [AMENDED]
(Reference APA WF # 08-35)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Section 1010.1 et seq. of Title 56 of Oklahoma Statutes

DATES:

Adoption:

November 13, 2008

Approved by Governor:

December 11, 2008

Effective:

Immediately upon Governor's approval or January 1, 2009, whichever is later

Expiration:

Effective through July 14, 2009, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions to the Insure Oklahoma/O-EPIC Individual Plan (IP) benefits package. IP benefits are revised to cover: (1) physical, occupational and speech therapy services for adults in an outpatient hospital setting; and (2) outpatient behavioral health services provided by an individual Licensed Behavioral Health Professional (LBHP). Without the addition of the therapies benefit, IP members will continue to be unable to have coverage for these therapies that may be recommended as medically necessary following an injury or illness and help the effected individuals more quickly and safely return to full working function and prevent further injury from occurring. Without the coverage of outpatient behavioral health services by an individual LBHP, members will have to travel further for behavioral health services and their choices will be limited. In many cases, the members will also have to wait long periods of time for appointments in mental health centers.

ANALYSIS:

Rules are revised to expand the Insure Oklahoma/O-EPIC IP benefits package to include physical therapy, occupational therapy and speech therapy in an outpatient hospital setting and outpatient behavioral health services provided by an individual LBHP. Currently, adult therapies is not offered as a covered service under the IP program. The added adult therapies benefit will only be compensable when provided in an outpatient hospital setting. This addition to the IP program is consistent with current benefit offerings within many private insurance plans. Without this added benefit, IP members will continue to be unable to have coverage for adult therapies that may be recommended as medically necessary. Following an injury or illness, the provision of adult therapies can help individuals more quickly and safely return to full working function and prevent further injury from occurring. Outpatient behavioral health services are currently offered under the IP program but only

at mental health centers. The addition of outpatient behavioral health services by individual LBHPs is consistent will current benefit offerings within many private insurance plans. By allowing outpatient behavioral health services provided by individual LBHPs, IP members in rural parts of Oklahoma will be better able to access behavioral health services as currently there are limited resources in rural areas.

CONTACT PERSON:

Tywanda Cox at (405)522-7153

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY GOVERNOR OR JANUARY 1, 2009, WHICHEVER IS LATER:

SUBCHAPTER 11. INSURE OKLAHOMA/O-EPIC IP

PART 3. INSURE OKLAHOMA/O-EPIC IP MEMBER HEALTH CARE BENEFITS

317:45-11-10. Insure Oklahoma/O-EPIC IP benefits

(a) All ~~O-EPIC~~ IP benefits are subject to rules delineated in OAC 317:30 except as specifically set out in this Section. The scope of IP benefits described in this Section are subject to specific non-covered services listed in OAC 317:45-11-11.

(b) A PCP referral is required to see any other provider with the exception of the following services:

- (1) behavioral health services;
- (2) prenatal and obstetrical supplies and services, meaning prenatal care, delivery and 60 days of postpartum care;
- (3) family planning supplies and services, meaning an office visit for a comprehensive family planning evaluation, including obtaining a Pap smear;
- (4) women's routine and preventive health care services;
- (5) emergency medical condition as defined in OAC 317:30-3-1; and
- (6) services delivered to American Indians at Indian Health Service, tribal, or urban Indian clinics.

(c) ~~O-EPIC~~ IP covered benefits for in-network services, limits, and applicable co-payments are listed in this subsection. In addition to the benefit-specific limits, there is a maximum lifetime benefit of \$1,000,000. Coverage includes:

- (1) Anesthesia / Anesthesiologist Standby. Covered in accordance with OAC 317:30-5-7. Eligible services are covered for covered illness or surgery including services provided by a Certified Registered Nurse Anesthetist (CRNA).
- (2) Blood and Blood Products. Processing, storage, and administration of blood and blood products in inpatient and outpatient settings.
- (3) Chelation Therapy. Covered for heavy metal poisoning only.

Emergency Adoptions

- (4) Diagnostic X-ray, including Ultrasound. Covered in accordance with OAC 317:30-5-22(b)(2). PCP referral is required. Standard radiology (X-ray or Ultrasound): \$0 co-pay. Specialized scanning and imaging (MRI, MRA, PET, or CAT Scan); \$25 co-pay per scan.
- (5) Emergency Room Treatment, services and supplies for treatment in an emergency. Contracted provider services are subject to a \$30 co-pay per occurrence. The emergency room co-pay will be waived if the member is admitted to the hospital or death occurs before admission.
- (6) Inpatient Hospital Benefits. Covered in accordance with OAC 317:30-5-41, 317:30-5-47 and 317:30-5-95; \$50 co-pay per admission.
- (7) Preventive Office Visit. For services of evaluation and medical management (wellness exam); one visit per year with a \$10 co-pay. This visit counts as an office visit.
- (8) Office Visits/Specialist Visits. Covered in accordance with OAC 317:30-5-9, 317:30-5-10, and 317:30-5-11. For services of evaluation and medical management; up to four visits are covered per month; PCP referral required for specialist visits; \$10 co-pay per visit.
- (9) Outpatient Hospital/Facility Services.
- (A) Includes hospital surgery services in an approved outpatient facility including outpatient services and diagnostic services. Prior authorization required for certain procedures; \$25 co-pay per visit.
- (B) Therapeutic radiology or chemotherapy on an outpatient basis without limitation to the number of treatments per month for persons with proven malignancies or opportunistic infections; \$10 co-pay per visit.
- (C) Physical, Occupational and Speech Therapy services. Coverage is limited to one evaluation/re-evaluation visit (unit) per discipline per calendar year and 15 visits (units) per discipline per date of service per calendar year; \$10 co-pay per visit.
- (10) Maternity (Obstetric). Covered in accordance with OAC 317:30-5-22. Nursery care paid separately under eligible child; \$50 inpatient hospital co-pay.
- (11) Laboratory/Pathology. Covered in accordance with OAC 317:30-5-20; \$0 co-pay.
- (12) Mammogram (Radiological or Digital). Covered in accordance with OAC 317:30-5-901; \$0 co-pay.
- (13) Immunizations ~~for Adults~~. Covered in accordance with OAC 317:30-5-2; ~~\$10 co-pay per immunization.~~
- (14) Assistant Surgeon. Covered in accordance with OAC 317:30-5-8.
- (15) Dialysis, Kidney dialysis, and services and supplies, either at home or in a facility; \$0 co-pay.
- (16) Oral Surgery. Services are limited to the removal of tumors or cysts; Inpatient Hospital \$50 or Outpatient Hospital/Facility; \$25 co-pay applies.
- (17) ~~Mental Behavioral Health (Mental Health and Substance Abuse) Treatment (Inpatient)~~. Covered in accordance with OAC 317:30-5-95.1; \$50 co-pay per admission.

- (18) ~~Mental Behavioral Health (Mental Health and Substance Abuse) Treatment (Outpatient)~~. ~~Covered in accordance with OAC 317:30-5-241; \$10 co-pay per visit.~~
- (A) Agency services. Covered in accordance with OAC 317:30-5-241; \$10 co-pay per visit.
- (B) Individual provider services. Licensed Behavioral Health Professionals (LBHPs) are defined as follows for the purpose of Outpatient Mental Health Services and Outpatient Substance Abuse Treatment:
- (i) Allopathic or Osteopathic Physicians with a current license and board certification in psychiatry or board eligible in the state in which services are provided, or a current resident in psychiatry practicing as described in OAC 317:30-5-2.
- (ii) Practitioners with a license to practice in the state in which services are provided or those actively and regularly receiving board approved supervision, and extended supervision by a fully licensed clinician if board's supervision requirement is met but the individual is not yet licensed, to become licensed by one of the licensing boards listed in (I) through (VI) below. The exemptions from licensure under 59 §1353(4) and (5), 59 §1903(C) and (D), 59 §1925.3(B) and (C), and 59 §1932(C) and (D) do not apply to Outpatient Behavioral Health Services.
- (I) Psychology.
- (II) Social Work (clinical specialty only).
- (III) Professional Counselor.
- (IV) Marriage and Family Therapist.
- (V) Behavioral Practitioner, or
- (VI) Alcohol and Drug Counselor.
- (iii) Advanced Practice Nurse (certified in a psychiatric mental health specialty), licensed as a registered nurse with a current certification of recognition from the board of nursing in the state in which services are provided.
- (iv) A Physician's Assistant who is licensed in good standing in this state and has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or counseling functions.
- (v) LBHPs must have a valid Insure Oklahoma contract in order to bill for services rendered.
- (vi) LBHP services require prior authorization and are limited to 8 therapy services per month and 8 testing units per year; \$10 co-pay per visit.
- (19) ~~Substance Abuse Treatment (Outpatient)~~. ~~Covered in accordance with OAC 317:30-5-241; \$10 co-pay per visit.~~
- (20) ~~19~~ Durable Medical Equipment and Supplies. Covered in accordance with ~~OAC 317:30-5, Part 17~~ OAC 317:30-5-210 through 317:30-5-218. A PCP referral and prior authorization is required for certain items. DME/Supplies are covered up to a \$15,000 annual maximum; exceptions from the annual DME limit are diabetic supplies, oxygen, home dialysis, and parenteral

therapy; \$5 co-pay for durable/non-durable supplies and \$25 co-pay for durable medical equipment.

~~(21 20)~~ Diabetic Supplies. Covered in accordance with ~~OAC 317:30-5, Part 17 OAC 317:30-5-211.15~~; not subject to \$15,000 annual DME limit; \$5 co-pay per prescription.

~~(22 21)~~ Oxygen. Covered in accordance with ~~OAC 317:30-5, Part 17 OAC 317:30-5-211.11 through 317:30-5-211.12~~; not subject to \$15,000 annual DME limit; \$5 co-pay per month.

~~(23 22)~~ Pharmacy. Covered in accordance with OAC 317:30-5-72.1 and 317:30-5-72. Prenatal vitamins and smoking cessation products do not count against monthly prescription limits; \$5/\$10 co-pay per prescription.

~~(24 23)~~ Smoking Cessation Products. Products do not count against monthly prescription limits. Covered in accordance with ~~OAC 317:30-5-77.2~~ OAC 317:30-5-72.1; \$5/\$10 co-pay per product.

~~(25 24)~~ Nutrition Services. Covered in accordance with OAC 317:30-5-1076; \$10 co-pay per visit.

~~(26 25)~~ External Breast Prosthesis, Bras and Prosthetic Garments. Covered in accordance with ~~OAC 317:30-5, Part 17 OAC 317:30-5-211.13~~; \$25 co-pay per prosthesis.

~~(27 26)~~ Surgery. Covered in accordance with OAC 317:30-5-8; \$50 co-pay per inpatient admission and \$25 co-pay per outpatient visit.

~~(28 27)~~ Home Dialysis. Covered in accordance with ~~OAC 317:30-5, Part 17 OAC 317:30-5-211.13~~; not subject to \$15,000 annual DME limit; \$0 co-pay.

~~(29 28)~~ Parenteral Therapy. Covered in accordance with ~~OAC 317:30-5, Part 17 OAC 317:30-5-211.14~~; not subject to \$15,000 annual DME limit; \$25 co-pay per month.

~~(30 29)~~ Family Planning Services and Supplies, including Sterilizations. Covered in accordance with OAC 317:30-3-57; \$0 co-pay.

~~(31 30)~~ Home Health Medications, Intravenous (IV) Therapy and Supplies. Covered in accordance with ~~OAC 317:30-5-211(a)(3)(D)(i) and 317:30-5-41(2)(J)(iii)~~ OAC 317:30-5-211.15 and 317:30-5-42.16(b)(3).

~~(32 31)~~ Ultraviolet Treatment-Actinotherapy.

~~(33 32)~~ Fundus photography.

~~(34 33)~~ Perinatal dental care for pregnant women. Covered in accordance with OAC 317:30-5-696; \$0 co-pay.

(6) supportive devices for the feet (orthotics) except for the diagnosis of diabetes;

(7) cosmetic surgery, except as medically necessary and as covered in OAC 317:30-3-59(19);

(8) over-the-counter drugs, medicines and supplies except contraceptive devices and products, and diabetic supplies;

(9) experimental procedures, drugs or treatments;

(10) dental services (preventive, basic, major, orthodontia, extractions or services related to dental accident) except for pregnant women and as covered in OAC 317:30-5-696;

(11) vision care and services (including glasses), except services treating diseases or injuries to the eye;

(12) physical medicine including ~~speech, physical, occupational,~~ chiropractic, acupuncture and osteopathic manipulation therapy;

(13) hearing services;

(14) transportation [emergent or non-emergent (air or ground)];

(15) rehabilitation (inpatient);

(16) cardiac rehabilitation;

(17) allergy testing and treatment;

(18) home health care with the exception of medications, intravenous (IV) therapy, supplies;

(19) hospice regardless of location;

(20) Temporomandibular Joint Dysfunction (TMD) (TMJ);

(21) genetic counseling;

(22) fertility evaluation/treatment/and services;

(23) sterilization reversal;

(24) Christian Science Nurse;

(25) Christian Science Practitioner;

(26) skilled nursing facility;

(27) ~~long-term~~ long-term care;

(28) stand by services;

(29) thermograms;

(30) abortions (for exceptions, refer to OAC 317:30-5-6);

(31) services of a Lactation Consultant;

(32) services of a Maternal and Infant Health Licensed Clinical Social Worker; and

(33) enhanced services for medically high risk pregnancies as found in OAC 317:30-5-22.1.

[OAR Docket #08-1504; filed 12-18-08]

317:45-11-11. Insure Oklahoma/O-EPIC IP non-covered services

Certain health care services are not covered in the Insure Oklahoma/O-EPIC IP benefit package listed in OAC 317:45-11-10. These services include, but are not limited to:

- (1) services that the member's PCP or Insure Oklahoma/O-EPIC does not consider medically necessary;
- (2) any medical service when the member refuses to authorize release of information needed to make a medical decision;
- (3) organ and tissue transplant services;
- (4) treatment of obesity;
- (5) procedures, services and supplies related to sex transformation;

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 25. CHILD SUPPORT ENFORCEMENT DIVISION**

[OAR Docket #08-1509]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 5. Operational Policies
Part 15. Case Initiation, Case Management, and Case Closure

Emergency Adoptions

340:25-5-123 [AMENDED]
Part 20. Medical Support
340:25-5-171 [AMENDED]
APA WF # 08-14

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; 45 CFR Parts 302, 303, 304, 305, and 306; Section 303.6 of Title 45 of the Code of Federal Regulations; Sections 115 and 137 of Title 43 of the Oklahoma Statutes (O.S.); Section 237 and 240.1 of Title 56 of the O. S.; and Section 724.1 of Title 3A of the O. S.

DATES:

Adoption:

December 2, 2008

Approved by Governor:

December 15, 2008

Effective:

Immediately upon Governor's approval.

Expiration:

Effective through July 14, 2009, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

Emergency rulemaking approval is requested to meet the federal provisions of the Code of Federal Regulations that were revised effective July 21, 2008 in the Federal Register/Volume 73, No. 140.

ANALYSIS:

The proposed revisions to Subchapter 5 of Chapter 25: (1) amend OAC 340:25-5-123 to add when the custodial person is receiving non-TANF Medicaid benefits for a child(ren) only, the child support case may be closed when the conditions in either Section 303.11(b)(10) or Section 303.11(b)(11) of Title 45 of the Code of Federal Regulations are met; (2) language that is no longer applicable is removed; and (3) OAC 340:25-5-171 requires the National Medical Support Notice be used to enforce medical support against either parent.

CONTACT PERSON:

Dena Thayer at (405)521-4326

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D) AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR:

SUBCHAPTER 5. OPERATIONAL POLICIES

PART 15. CASE INITIATION, CASE MANAGEMENT, AND CASE CLOSURE

340:25-5-123. Case closure system

- (a) Except as provided in (b) and (c) of this Section, the Child Support Enforcement Division (CSED) closes cases eligible for closure under Section 303.11 of Title 45 of the Code of Federal Regulations (CFR).
- (b) A child support case may not be closed when:
- (1) court-ordered support is owed to the state; and
 - (2) current child support is being collected by income assignment.
- (c) A child support case may be closed when any of the criteria in (1) through (5) of this subsection applies.

(1) Less than \$500 in court-ordered support is owed to the state, unless there has been:

- (A) a collection during the past six months; or
- (B) a federal or state income tax refund intercept in the past 18 months.

(2) The custodial person is participating in the Oklahoma Department of Human Services (OKDHS) child care subsidy program, is not receiving Temporary Assistance for Needy Families (TANF) or non-TANF Medicaid, requests closure, and (A) and (B) of this paragraph apply.

- (A) There is a child support order.
- (B) The custodial person is receiving the full amount of the current monthly child support obligation and has reported to the person's Family Support Services worker receipt of this child support income.

~~(3) The custodial person is receiving non-TANF Medicaid benefits for a child(ren) only, requests closure, and (A) and (B) of this paragraph apply.~~

~~(A) The custodial person later contacts CSED to decline child support services.~~

~~(B) No court hearing has been held to enforce the child support order.~~

(4) The custodial person is participating in the OKDHS child care subsidy program, is receiving non-TANF Medicaid benefits for a child(ren) only, requests closure, and all the criteria in paragraphs (2) and (3) of this subsection apply.

(5) The noncustodial parent is receiving Supplemental Security Income, has no income or assets to pay arrears, and the child support order is set at or modified to \$0.00 per month due to the parent's disability and lack of income.

(d) A child support case may be closed when the custodial person is receiving non-TANF Medicaid benefits for a child(ren) only when the custodial person:

(1) cannot be located under Section 303.11(b)(10) of Title 45 of CFR; or

(2) fails to cooperate and an action by the custodial person is essential for the next step in providing child support services under Section 303.11(b)(11) of Title 45 of CFR.

~~(e) When CSED closes a non-public assistance child support case because the parties to a case reunite or the child(ren) is adopted, CSED terminates the Order/Notice to Withhold Income for Child Support with the employer.~~

~~(e) When CSED closes a non-public assistance child support case for reasons other than reunification, CSED keeps the Order/Notice to Withhold Income for Child Support with the employer in effect unless ordered by district or administrative court to terminate the notice with the employer.~~

(1) The income assignment order remains in effect as long as support is owed under 12 O.S. § 1171.3(B)(44). If the district or administrative court orders that the Order/Notice to Withhold Income for Child Support be terminated, CSED sends a termination notice to the employer.

(2) Income assignment child support payments continue to be processed in a non-IV-D child support case through the Centralized Support Registry under 43 O.S. § 413(A)(2) and OAC 340:25-5-350.3.

(fg) Under Section 302.33 of Title 45 of the ~~Code of Federal Regulations, CFR~~ when IV-A TANF, IV-E foster care, and non-TANF Medicaid services are discontinued, CSED notifies the recipient that CSED maintains a full-service child support case unless the custodial person affirmatively declines services in writing. If the custodial person declines services in writing, CSED closes the case. If the custodial person fails to respond, CSED maintains a full-service child support case.

PART 20. MEDICAL SUPPORT

340:25-5-171. Enforcement of a medical support order

(a) When ~~the noncustodial~~ a parent has been ordered to provide health insurance for the child(ren) and has failed to voluntarily enroll the child(ren), the Oklahoma Department of Human Services (OKDHS) Child Support Enforcement Division (CSED) uses the National Medical Support Notice (NMSN) to aid in enrolling the child(ren) in the group health plans for which ~~the noncustodial~~ a parent is eligible. CSED sends the NMSN to the noncustodial parent's employer as required by Section 666 of Title 42 of the United States Code, Section 609 of the Employee Retirement Income Security Act of 1974, Section 303.32 of Title 45 of the Code of Federal Regulations, and Section 6058A of Title 36 and Section 118.2 of Title 43 of the Oklahoma Statutes.

(b) When a child is eligible for enrollment in the United States Department of Defense's managed health care program, TRICARE, (a) of this Section does not apply. CSED notifies the custodial person to contact the Defense Manpower Data Center Support Office at 1-800-538-9552 to enroll the child, using the Defense Enrollment Eligibility Reporting System registration process.

(c) If the employer response to the NMSN indicates that enrollment cannot be completed because of the cost of coverage, CSED applies OAC 340:25-5-168 to determine if coverage is available at reasonable cost. CSED conducts a review of the order under OAC 340:25-5-198.1 and seeks a modified order if the review indicates that modification would result in an enforceable medical support order or that the child support order should be adjusted.

(d) CSED issues a non-compliance letter to the employer when the employer:

- (1) has not returned the NMSN within 20 business days after the date of the NMSN notifying CSED that:
 - (A) the employer does not offer group dependent health coverage;
 - (B) the employee is among a class of employees that is not eligible for family coverage under the employer's plans;
 - (C) the employee is not employed by the employer; or
 - (D) state or federal withholding limitations or prioritization of withholding prevent the required employee contribution to obtain coverage;
- (2) has not forwarded the NMSN to the insurer within 20 business days after the date of the NMSN; or

(3) is the insurer and has not returned the NMSN within 20 business days after the date of the NMSN indicating that either the child(ren) has been enrolled in the plan and the effective date of coverage or there is more than one option available and one must be selected.

(e) CSED issues a non-compliance letter to the insurer when the insurer has not returned the NMSN within 40 business days after the date of the NMSN indicating that either the child(ren) has been enrolled in the plan and the effective date of coverage or there is more than one option available and one must be selected.

(f) CSED may initiate legal proceedings to request the court to fine employers and insurers when there is no response indicating full compliance with the requirements of the NMSN within ten business days after the date of the non-compliance letter. Fines may be imposed by the court for up to \$200 a month per child for each failure to comply with the requirements of the NMSN under Section 6058A of Title 36 and Section 118.2 of Title 43 of the Oklahoma Statutes.

(g) If the employer or insurer complies with the requirements of the NMSN, CSED may dismiss the case against the employer or insurer.

(h) Employers and insurers must send any fine(s) imposed by the court, under Section 225 of Title 56 of the Oklahoma Statutes, by check or money order to CSED, Attn: Finance, P.O. Box 53552, Oklahoma City, Oklahoma 73125-3552.

(i) ~~If~~ In addition to the NMSN, when the custodial person is ordered to provide medical support for the minor child(ren) and is not complying with the order, CSED may either:

- (1) ~~enforces~~ enforce the medical support order under Section 139.1 of Title 43, or Section 566 of Title 21 of the Oklahoma Statutes; or
- (2) ~~seeks~~ seek a modification of the order under OAC 340:25-5-198.2.

[OAR Docket #08-1509; filed 12-19-08]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 75. CHILD WELFARE**

[OAR Docket #08-1500]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 7. Foster Home Care
Part 2. Development of Resources
340:75-7-24 [AMENDED]
(Reference APA WF 08-11)

AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution, and Title 10 of the Oklahoma Statutes

DATES:

Adoption:
October 28, 2008

Approved by Governor:
November 20, 2008

Effective:
Immediately upon Governor's approval or November 1, 2008, whichever is later.

Emergency Adoptions

Expiration:

Effective through July 14, 2009, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

Emergency rulemaking approval is requested as OKDHS finds compelling public interest to inform kinship families and OKDHS staff of a financial resource now available to certain kinship families fostering a child or sibling group.

ANALYSIS:

The proposed revisions to Subchapter 7 of Chapter 75 amend the rules to provide information regarding the kinship start-up stipend now available to certain kinship families.

CONTACT PERSON:

Dena Thayer at (405)521-4326

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D) AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR OR NOVEMBER 1, 2008, WHICHEVER IS LATER:

SUBCHAPTER 7. FOSTER HOME CARE

PART 2. DEVELOPMENT OF RESOURCES

340:75-7-24. Kinship placements

(a) **Kinship care.** Kinship care is considered as the first option in providing care for the child requiring out-of-home placement, provided the child's needs are met and safety is reasonably ensured in the kinship placement. A kinship placement is assessed as a potential permanent placement for the child if reunification is not achieved. Kinship relationships do not require a blood relationship. The types of kinship relationships are identified in (1) through (6).

(1) **Related by blood.** Blood relatives considered as kinship, including half-blood, are:

- (A) siblings;
- (B) grandparents, including those denoted by prefixes of great and great-great;
- (C) aunts and uncles, including those denoted by prefixes of great and great-great;
- (D) nieces and nephews, including those denoted by prefixes of grand and great-grand; and
- (E) cousins.

(2) **Related by marriage.** Per OAC 340:75-7-24(a)(1), relationships by marriage, whether common-law or ceremonial, including step-relations and even after the marriage is terminated by death or divorce, are considered kinship.

(3) **Related by adoption.** Relatives by adoption, per OAC 340:75-7-24(a)(1) and (2), are considered kinship.

(4) **Paternal relatives.** Paternal relatives, per OAC 340:75-7-24(a)(1) through (3), of children born out of wedlock, are considered kinship.

(5) **Related by emotional tie or bond.** An emotional tie or bond exists when a child or the child's parent acknowledges and accepts a person as part of the extended family or in the family's close network of friends and relationships. The family relationship role exists prior to the necessity for out-of-home placement of the child.

(6) **Noncustodial parent.** A child returned to or placed with a noncustodial parent or a parent whose rights were terminated is not a kinship placement. Biological parents are not kinship resources and are not eligible for foster care reimbursement.

(b) **Initial kinship placement.** A child may be placed in a kinship foster home prior to completion of the resource family assessment and pre-service training, provided:

- (1) Form 04FC001E, Initial Kinship Placement Agreement, is completed and signed;
- (2) Forms 04AF001E, Resource Family Assessment Application, and 04AD003E, Request for Background Check, are completed and signed, per OAC 340:75-7-15 and 340:75-7-18;
- (3) an Oklahoma Department of Human Services (OKDHS) records search, including Child Welfare (CW) records, is completed and documented on Form 04AF007E, Records Check;
- (4) Form 04AF004E, House Assessment, is completed and approved; and
- (5) three personal references, only one of whom is a family member, are interviewed by phone.

(c) **Kinship reimbursement option.** The kinship applicant may opt for payment by OKDHS or a money payment for which the child is eligible instead of the foster home reimbursement.

(1) The foster home reimbursement is reduced by the amount of the money payment if the money payment is less than the foster home reimbursement. Refer to OAC 340:75-7-52.1 for Supplemental Security Income (SSI) or Social Security Administration (SSA) benefits received for a parent who is deceased or disabled.

- (2) Payment may include:
 - (A) other financial resources, per OAC 340:75-13-28; or
 - (B) Temporary Assistance for Needy Families (TANF) benefits, per OAC 340:10-9.

(d) **Kinship requirement.** All kinship foster homes, paid or non-paid, must meet the same requirements as all other CW foster homes. Kinship foster homes, that have not been approved within the preceding five years, are entitled to receive;

(1) a one-time kinship start-up stipend to assist with initial expenditures for each child placed in the home for fourteen days; and

(2) a training stipend as set in OKDHS Appendix C-20, Children and Family Services Division Rates Schedule, at half after enrollment and half after completion of the pre-service training when a child has been placed in the home. The kinship start-up stipend and the training

stipends are set out in OKDHS Appendix 04AX003E, Children and Family Services Division Rates Schedule.
For paid kinship foster homes, reimbursements begin at the time requirements are met and are not retroactive.

[OAR Docket #08-1500; filed 12-18-08]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 110. LICENSING SERVICES**

[OAR Docket #08-1501]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- Subchapter 1. General Provisions
 - Part 1. Licensing Services - Child Care
 - 340:110-1-4.1. [AMENDED]
 - 340:110-1-5. [AMENDED]
 - 340:110-1-6. [AMENDED]
 - 340:110-1-8. [AMENDED]
 - 340:110-1-8.1. [AMENDED]
 - 340:110-1-8.3. [AMENDED]
 - 340:110-1-9. [AMENDED]
 - 340:110-1-9.2. [AMENDED]
 - 340:110-1-9.3. [AMENDED]
 - 340:110-1-9.4. [AMENDED]
 - 340:110-1-10. [AMENDED]
 - 340:110-1-13. [AMENDED]
 - 340:110-1-17. [AMENDED]
 - Part 3. Licensing Services - Residential Care and Agencies
 - 340:110-1-43.1. [AMENDED]
 - 340:110-1-44. [AMENDED]
 - 340:110-1-45. [AMENDED]
 - 340:110-1-46. [AMENDED]
 - 340:110-1-47. [AMENDED]
 - 340:110-1-47.1. [AMENDED]
 - 340:110-1-47.2. [AMENDED]
 - 340:110-1-51. [AMENDED]
 - 340:110-1-52. [AMENDED]
 - 340:110-1-54.1. [NEW]
- Subchapter 3. Licensing Standards for Childcare Facilities
 - Part 1. Requirements for Child Care Centers
 - 340:110-3-3. [AMENDED]
 - 340:110-3-5. [AMENDED]
 - 340:110-3-5.1. [AMENDED]
 - 340:110-3-6. [AMENDED]
 - 340:110-3-7.1. [AMENDED]
 - Part 2. Requirement for Part-Day Children's Programs
 - 340:110-3-37. [AMENDED]
 - 340:110-3-39. [AMENDED]
 - 340:110-3-40. [AMENDED]
 - 340:110-3-41. [AMENDED]
 - 340:110-3-42. [AMENDED]
 - Part 5. Requirements for Family Child Care Homes and Large Family Child Care Homes
 - 340:110-3-82. [AMENDED]
 - 340:110-3-85. [AMENDED]
 - 340:110-3-88. [AMENDED]
 - 340:110-3-89.1. [AMENDED]
 - Part 14. Requirements For School-Age Programs
 - 340:110-3-222. [AMENDED]
 - 340:110-3-223. [AMENDED]
 - 340:110-3-224. [AMENDED]
 - 340:110-3-225. [AMENDED]
 - 340:110-3-226. [AMENDED]
- Subchapter 5. Requirements for Child-Placing Agencies
 - Part 1. Requirements for Child-Placing Agencies
 - 340:110-5-4. [AMENDED]

- 340:110-5-6. [AMENDED]
 - 340:110-5-7. [AMENDED]
 - 340:110-5-8. [AMENDED]
 - 340:110-5-12. [AMENDED]
 - Part 3. Requirements for Adoption Agencies
 - 340:110-5-30. [AMENDED]
 - Part 5. Requirements for Foster Home Agencies
 - 340:110-5-57. [AMENDED]
 - 340:110-5-61.1. [AMENDED]
- Reference APA WF 08-12**

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution, Child Care Facility Licensing Act, Section 401 et seq. of Title 10 of the Oklahoma Statutes; Section 589 of Title 57 of the Oklahoma Statutes; HB 2643; HB 2863; SB 1601; and the Adam Walsh Child Protection and Safety Act.

DATES:

Adoption:

October 28, 2008

Approved by Governor:

November 20, 2008

Effective:

Immediately upon Governor's approval or November 1, 2008, whichever is later.

Expiration:

Effective through July 14, 2009, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

Emergency rulemaking approval is requested as OKDHS finds an imminent peril to the preservation of the public health, safety, or welfare of children in child care facilities. Licensed facilities are required to meet new legislative mandates. Health and safety of children could be jeopardized if revisions were not implemented.

ANALYSIS:

The proposed revisions for November 1, 2008 are reflective of changes in the Oklahoma Child Care Facilities Licensing Act which include revisions to: (1) term limits for Child Care Advisory Committee members; (2) background investigations prior to the employment of any person in a child care facility, the facility submits a criminal history records search by OSBI to OKDHS and OKDHS conduct records search of the Oklahoma State Court Network; (3) criminal background checks will also apply to persons 18 years or older residing in a child care facility; and for persons who have lived in Oklahoma for less than three years, criminal history records searches shall be obtained from previous states of residence. OKDHS shall not grant approval for a permit or license for a new child care facility to receive and care for children until: all requirements for searches of criminal history records are met as listed above; and all required training including, but not limited to, CPR, first aid, health and safety training, and minimum education requirements have been completed for any person left alone with children. OKDHS may issue an Emergency Order for facilities that are unlicensed. A CLEET certified officer may issue a citation not less than \$100.00 nor more than \$500.00 every day the facility maintains and receives children after: the issuance of Emergency Order when the request for license has been denied, or the license has been revoked. Section 404.3 of Title 10 of the Oklahoma Statute includes parent notification regarding liability insurance coverage. Licensed child care facilities will maintain liability insurance coverage of at least \$200,000 for each occurrence of negligence. Annual documentation is required from insurance agents stating the facility has an unexpired and uncanceled insurance policy meeting required amounts. The facility may claim an exception to the coverage because they are unable to secure the insurance because of financial reason, lack of availability of an underwriter willing to issue this policy, or policy limits are exhausted. The facility provides a written notice to parents of each child in care that liability coverage is not provided. Facilities also notify OKDHS that coverage is not provided. Revisions to Child-Placing Agencies are reflective of Adam Walsh Child Protection Safety Act.

CONTACT PERSON:

Dena Thayer at (405)521-4326

DUE TO EXCESSIVE LENGTH OF THESE RULES (AS DEFINED IN OAC 655:10-7-12), THE FULL TEXT OF THESE RULES WILL

Emergency Adoptions

NOT BE PUBLISHED. THE RULES ARE AVAILABLE FOR PUBLIC INSPECTION AT THE DEPARTMENT OF HUMAN SERVICES, SEQUOYAH BUILDING, OKLAHOMA CITY AND AT THE SECRETARY OF STATE'S OFFICE OF ADMINISTRATIVE RULES. THE FOLLOWING SUMMARY HAS BEEN PREPARED PURSUANT TO 75 O.S., SECTION 255(B):

SUMMARY:

340:110-1-4.1 is amended to reflect deletion of division forms. New forms were developed with regard to documentation of liability insurance, background investigations, referrals to CLEET-certified officers, and district attorneys.

340:110-1-5 is amended to reflect new procedures regarding temporary authorization for child care facilities.

340:110-1-6 is amended to reflect new procedures regarding temporary authorization for child care facilities.

340:110-1-8 is amended to reflect a child care facility's compliance with specified requirements for background investigations and liability insurance documentation as it relates to permit and license issuance.

340:110-1-8.1 is amended to reflect revisions to procedures for background investigations for child care facilities.

340:110-1-8.3 is amended to reflect revisions to non-compliances that may be considered as serious.

340:110-1-9 is amended to reflect revisions of on-going monitoring of child care facilities with regard to background investigations and liability insurance documentation. Revisions also clarify documentation necessary when a change in primary caregiver occurs.

340:110-1-9.2 is amended to reflect the addition of categories to Risk Level 1 complaints to include operating an unlicensed facility, violating an Emergency Order, staff lacking cardio-pulmonary resuscitation/ first aid training, and failure to obtain necessary background investigations.

340:110-1-9.3 is amended to reflect revisions to non-compliances that may be considered as serious.

340:110-1-9.4 is amended to reflect revisions of the issuance of an Emergency Order when an unlicensed facility continues to operate. Revisions also include acquiring the assistance of CLEET-certified officers that may issue fines to unlicensed facilities when violation of an Emergency Order occurs.

340:110-1-10 is amended to reflect revisions regarding procedures of the issuance of an Emergency Order when a facility's license has been denied or revoked and continues to operate. Revisions also include acquiring the assistance of CLEET-certified officers that may issue fines to facilities when violation of an Emergency Order occurs.

340:110-1-13 is amended to reflect revisions regarding the operation of unlicensed facilities, issuances of Emergency Orders, and assistance of CLEET-certified officers.

340:110-1-17 is amended to reflect revisions to Child Care Advisory by-laws specifically with term limits for officers/advisory members and the establishment of a membership subcommittee.

340:110-1-43.1 is amended to reflect deletion of division forms. New forms were developed with regard to documentation of liability insurance, background investigations, referrals to CLEET-certified officers, and district attorneys.

340:110-1-44 is amended to reflect new procedures regarding temporary authorization for child care facilities.

340:110-1-45 is amended to reflect new procedures regarding temporary authorization for child care facilities.

340:110-1-46 is amended to reflect a child care facility's compliance with specified requirements for background investigations and liability insurance documentation as it relates to permit and license issuance.

340:110-1-47 is amended to reflect revisions of on-going monitoring of child care facilities with regard to background investigations and liability insurance documentation.

340:110-1-47.1 is amended to reflect the addition of categories to Risk Level 1 complaints to include operating an unlicensed facility, violating an Emergency Order, staff lacking cardio-pulmonary resuscitation/ first aid training, and failure to obtain necessary background investigations.

340:110-1-47.2 is amended to reflect revisions to language associated with injunctions.

340:110-1-51 is amended to reflect revisions to procedures for background investigations for child care facilities.

340:110-1-52 is amended to reflect revisions regarding procedures of the issuance of an Emergency Order when a facility's license has been denied or revoked and continues to operate. Revisions also include acquiring the assistance of CLEET-certified officers that may issue fines to facilities when violation of an Emergency Order occurs.

340:110-1-54.1 is amended to reflect revisions regarding the operation of unlicensed facilities, issuances of Emergency Orders, and assistance of CLEET-certified officers.

340:110-3-3 is amended to reflect clarification of needed authorization by OKDHS when providing care for children.

340:110-3-5 is amended to reflect notification regarding changes in liability insurance.

340:110-3-5.1 is amended to reflect procedures regarding documentation for liability insurance.

340:110-3-6 is amended to reflect procedures regarding documentation for liability insurance and background investigations.

340:110-3-7.1 is amended to reflect revisions to procedures regarding background investigations.

340:110-3-37 is amended to reflect clarification of needed authorization by OKDHS when providing care for children.

340:110-3-39 is amended to reflect notification regarding changes in liability insurance.

340:110-3-40 is amended to reflect procedures regarding documentation for liability insurance.

340:110-3-41 is amended to reflect procedures regarding documentation for liability insurance and background investigations.

340:110-3-42 is amended to reflect revisions to procedures regarding background investigations.

340:110-3-82 is amended to reflect clarification of needed authorization by OKDHS when providing care for children.

340:110-3-85 is amended to reflect procedures regarding documentation for background investigations, notification of changes in liability insurance, and revisions to procedures regarding background investigations.

340:110-3-88 is amended to reflect procedures regarding documentation for liability insurance and background investigations.

340:110-3-89.1 is amended to reflect procedures regarding documentation for liability insurance.

340:110-3-222 is amended to reflect clarification of needed authorization by OKDHS when providing care for children.

340:110-3-223 is amended to reflect notification regarding changes in liability insurance.

340:110-3-224 is amended to reflect procedures regarding documentation for liability insurance.

340:110-3-225 is amended to reflect procedures regarding documentation for liability insurance and background investigations.

340:110-3-226 is amended to reflect revisions to procedures regarding background investigations.

340:110-5-4 is amended to reflect clarification of needed authorization by OKDHS when providing care for children.

340:110-5-6 is amended to reflect notification regarding changes in liability insurance.

340:110-5-7 is amended to reflect minimum insurance coverage.

340:110-5-8 is amended to reflect revisions to procedures regarding background investigations.

340:110-5-12 is amended to reflect procedures regarding documentation for background investigations.

340:110-5-30 is amended to reflect applicable statutes for background investigations affecting adoptive families.

340:110-5-57 is amended to reflect revisions to procedures regarding background investigations for foster families.

340:110-5-61.1 is amended to reflect revisions to background investigations.

[OAR Docket #08-1501; filed 12-18-08]

TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY CHAPTER 10. PHARMACISTS; INTERNS, PRECEPTORS AND TRAINING AREAS

[OAR Docket #08-1498]

RULEMAKING ACTION:

Adoption of emergency rules

RULES:

Subchapter 7. Pharmacist Licensure

535:10-7-8. Foreign pharmacy graduates licensure applicants [AMENDED]

AUTHORITY:

Oklahoma State Board of Pharmacy is the regulatory authority under Title 59 O.S., Sec. 353.7, 353.18, and 353.24 through 353.26.

DATES:

Adoption:

November 20, 2008

Approved by Governor:

December 11, 2008

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2009, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTION:

n/a

INCORPORATED BY REFERENCE:

n/a

FINDING OF EMERGENCY:

Background:

Last year the Board changed the foreign pharmacy graduate applicant rules to allow reciprocity. The rules as changed are confusing for the applicants and staff to interpret as promulgated. These emergency rules will eliminate the confusion.

Finding of emergency:

A compelling public interest exists to the preservation of public health safety and welfare. By eliminating staff and applicant confusion on the requirements of these rules it makes it easier for applicants and staff to follow the rules.

ANALYSIS:

These rules clear up the confusion for applicants and staff as to applicants' ability to use score transfer for initial licensure once the requirements of foreign pharmacy graduates are met.

CONTACT PERSON:

Bryan Potter, Executive Director, Oklahoma State Board of Pharmacy, 4545 N Lincoln, Suite 112, Oklahoma City, OK 73105-3488, Phone: 405-521-3815:

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

535:10-7-8. Foreign pharmacy graduates licensure applicants

(a) Foreign pharmacy graduate applicants shall meet the requirements set forth in 535:10-7-4, 535:25 and this Subchapter and Title.

(b) Foreign pharmacy graduate applicants, as defined in 535:10-7-2 shall:

- (1) First, submit a copy of applicant's valid NABP FPGEC Certificate to the Board;
(2) second, apply and be approved for an Oklahoma intern certificate as required by 535:10-5-2; and,

(3) third, complete 1000 hours of internship in Oklahoma within 12 months of licensure as an Oklahoma intern.

(A) The foreign pharmacy graduate intern and the preceptor shall satisfactorily report these hours on forms supplied by the Board.

(B) The foreign pharmacy graduate intern is subject to all Board rules.

(c) Upon satisfactorily completing the requirements of this section, a foreign pharmacy graduate may make application for (1) the NAPLEX (licensure by examination) as set forth in 535:10-7-5; or,

(2) Reciprocity as set forth in 535:10-7-6; or,

(3) Score transfer as set forth in 535:10-7-7

(d) Foreign pharmacy graduates applicants may apply for licensure by reciprocity once they have met the following:

(1) Successfully complete the NABP FPGEC certificate, and submit a copy to the Board;

(2) Have passed the NAPLEX Examination; and,

(3) Meet the requirements in 535:10-7-6.

[OAR Docket #08-1498; filed 12-17-08]

TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY CHAPTER 20. MANUFACTURERS, PACKAGERS, AND WHOLESALERS

[OAR Docket #08-1499]

RULEMAKING ACTION:

Adoption of emergency rules

RULES:

Subchapter 7. Wholesalers and Pedigree Rules

535:20-7-7.7. Recordkeeping; including pedigree requirement

AUTHORITY:

Oklahoma State Board of Pharmacy is the regulatory authority under Title 59 O.S., Sec. 353.7, 353.18, and 353.24 through 353.26.

DATES:

Adoption:

November 20, 2008

Approved by Governor:

December 11, 2008

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2009, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTION:

n/a

INCORPORATED BY REFERENCE:

n/a

FINDING OF EMERGENCY:

Background:

Changes in Title 59 O.S. 353.18 by SB-640 effective 6/07/2005 and HB-1347 effective 11/01/2005 required the Board to write rules regarding Wholesaler / Pedigree rules. These rules were revised and promulgated.

Technological advances have not occurred to allow electronic pedigree that the wholesalers thought would resolve the pedigree issue. FDA rules for wholesaler pedigrees for secondary wholesalers were challenged and the challenge has been upheld. California has delayed their pedigree rules to 2011.

Finding of emergency:

A compelling public interest exists to the preservation of public health safety and welfare. Applying the pedigree to Wholesaler in January, 2009 would disrupt distribution of prescription drugs. There is inadequate time

Emergency Adoptions

to allow notice for permanent rulemaking to occur and to get the rules to the legislature before the April 1 deadline, therefore these wholesaler rules need to be changed by emergency.

ANALYSIS:

Technological advances have not occurred to resolve the pedigree issue. FDA rules for pedigrees for secondary wholesalers were challenged and the challenge was upheld. California has delayed their pedigree rules to 2011. Applying the pedigree to Wholesaler in January, 2009 would disrupt distribution of prescription drugs.

CONTACT PERSON:

Bryan Potter, Executive Director, Oklahoma State Board of Pharmacy, 4545 N Lincoln, Suite 112, Oklahoma City, OK 73105-3488, Phone: 405-521-3815:

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

535:20-7-7.7. Recordkeeping; including pedigree requirement

(a) Wholesale distributors shall establish and maintain complete inventories and records of all transactions regarding the receipt and distribution or other disposition of drugs and devices.

(b) After January 1, ~~2009~~2011, each person who is engaged in wholesale distribution of prescription drugs, (including repackagers of the finished form of the prescription drug) whether located in or out-of-state, must maintain and provide a pedigree record developed in accordance with standards and requirements of the Board, for all drugs received, distributed, sold and/or offered for sale outside of the normal distribution channel, or that leave or have ever left the normal distribution channel and shall before each wholesale distribution of such drug provide a pedigree to the person who receives such prescription drug.

(1) A statement or record in written or electronic form shall be used to record each distribution of any given drug, from the sale by a manufacturer through acquisition and sale by any wholesaler distributor, packager and/or repackager.

(2) The pedigree shall include, but not be limited to, the following information for each transaction:

(A) The source of the drug(s), including the name and principal address of the seller;

(B) The name of the drug and the national drug code (NDC) number, the amount of the drug, the date of the purchase, quantity (container size, number of containers), and lot number(s) of the drug;

(C) The business name and address of each owner of the drug, its shipping information, including the name and address of the facility of each person certifying delivery or receipt of the drug;

(D) A certification that the information contained therein is true and accurate under penalty of perjury.

(3) The wholesale distributor must conduct due diligence in verifying pedigrees.

(4) The pedigree or electronic record requirements do not apply to compressed medical gases (medical gas suppliers and medical gas distributors, etc.)

(5) The pedigree or electronic record requirements do not apply to drugs labeled for veterinarian use.

(c) Wholesale distributors shall establish and maintain inventories and records of all transactions regarding the receipt and distribution, or other disposition of all drugs and devices. Such records shall include the dates of receipt and distribution or other disposition of the drugs and devices. Inventories and records shall be maintained and made available for inspection and photocopying for a period of two (2) years following their creation date.

(1) Records described in this section that are kept at the inspection site or that can be immediately retrieved by computer or other electronic means shall be readily available for authorized inspection during the retention period.

(2) Records kept at a central location apart from the inspection site and not electronically retrievable shall be made available for inspection within two (2) working days of a request by an authorized official of a federal, state, or local law enforcement agency.

(d) Each wholesale distributor should maintain an ongoing list of persons with whom they do business.

[OAR Docket #08-1499; filed 12-17-08]

TITLE 580. DEPARTMENT OF CENTRAL SERVICES CHAPTER 15. CENTRAL PURCHASING

[OAR Docket #08-1493]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 2. General Provisions

580:15-2-2 [AMENDED]

Subchapter 4. Supplier Provisions

580:15-4-5 [AMENDED]

580:15-4-6 [AMENDED]

580:15-4-7 [AMENDED]

580:15-4-11 [AMENDED]

Subchapter 6. State Agency Provisions

580:15-6-6 [AMENDED]

AUTHORITY:

Department of Central Services, 74 O.S., Section 85.5

DATES:

Adoption:

October 14, 2008

Approved by Governor:

November 12, 2008

Effective:

Immediately upon gubernatorial approval

Expiration:

Effective through July 14, 2009 unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The Department of Central Services finds that a compelling public interest requires these emergency rules be adopted to address public issues related to state government procurement. In response to the issues, the Oklahoma legislature passed revisions to the Oklahoma Central Purchasing Act in Enrolled House Bill No. 3325 (Effective November 1, 2008) to ensure timely and efficient procurement practices for state agencies and public suppliers doing business with the State.

ANALYSIS:

Statutory amendments enacted by House Bill 3325, effective November 1, 2008, eliminate and/or add language related to procurement documents that compliment the use of technology in procurement practices. These proposed emergency rules provide information and revisions related to procurement processes to be consistent with the statute changes and to ensure agencies and suppliers comply with the new mandates. In addition, an incorrect rule citation and statute citation adopted in 2007 permanent rules are included in these emergency rules.

CONTACT PERSON:

Gerry Smedley, Rules Liaison, 522-8519

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 2. GENERAL PROVISIONS

580:15-2-2. Definitions

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

"Acceptable Electronic Signature Technology" means technology that is capable of creating a signature that is unique to the person using it; is capable of verification, is under the sole control of the person using it, and is linked to the data in such a manner that if the data is changed, the electronic signature is invalidated.

"Acquisition authority" means the dollar amount within which a state agency is approved to make acquisitions without submitting a requisition to the State Purchasing Director.

"Affiliates" means associated business entities or individuals that directly or indirectly control or can control other business entities, or individuals that associate with a business entity but derive financial benefit from another business entity.

"Aircraft" means any device now known, or hereafter invented, used, or designed for navigation of or flight in the air or airspace.

"All or none bid" means a bid in which the bidder states only an award for all items or services included in the solicitation will be accepted.

"All or none solicitation" means a solicitation in which the state indicates it will award a contract to a single supplier for all items or service included in the solicitation.

"Alteration" means a written modification to a contract.

"Alternate bid" means that with the submission of a bid that meets the requirements of the solicitation, a bidder, at the same time, includes another bid, which contains an intentional substantive variation to a basic provision, specification, term or condition of the solicitation.

"Amendment" means a written change, addition, alteration, correction, or revision to a solicitation issued by the state agency responsible for making the acquisition. The terms addendum and amendment are synonymous.

"Authorized signature" means a manual, electronic or digital signature or other identifier uniquely linked to a person the supplier authorizes to sign documents the supplier submits to the State Purchasing Director.

"Bid bond", "performance bond" or "surety bond" means a form of surety or guaranty that the State Purchasing Director may require bidders to submit with a bid.

"Business days" means Monday through Friday and is exclusive of weekends and state holidays.

"Certified procurement officer or CPO" means a state agency procurement official certified by the State Purchasing Director under the provisions of the Oklahoma Central Purchasing Act.

"Clarification" means a bidder's explanation of all or part of a bid that does not change, alter or supplement the bid.

"Closing date" means the date and time a solicitation specifies after which a bid is considered late and the Purchasing Division or state agency will not accept a bid.

"Commodity classification" means numeric designations the State Purchasing Director assigns to classify goods and services into similar categories.

"Commodity list" means a list of all items and services in a commodity classification.

"Competitive bidding" means a process of acquisition wherein bidders submit bids to the Purchasing Division or a state agency pursuant to terms, conditions and other requirements of a solicitation. The competitive bidding process may be electronic when the terms of the solicitation expressly permit electronic submission and the requirement of the statutes and/or rules are met.

"Days" means calendar days unless otherwise specified.

"Debar" or "debarment" means action taken by the State Purchasing Director to exclude any business entity from inclusion on the suppliers list, bidding, offering to bid, receiving an award of contract with the State of Oklahoma for acquisitions by state agencies or a contract the Department of Central Services awards or administers.

"Department" or "DCS" means the Department of Central Services.

"Director" means the Director of the Department of Central Services.

"Electronic Record" means a record created, generated, sent, communicated, received, or stored by electronic means.

"Electronic Signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record. Unless otherwise provided by this Chapter or law, an electronic signature may be used to sign a document and shall have the same force and effect as a written signature.

"Emergency acquisition" means an acquisition made by the State Purchasing Director or a state agency without seeking competitive bids to relieve an unforeseen condition believed to endanger human life, safety poses imminent danger

Emergency Adoptions

to significant property or is condition certified by the Governor as a serious environmental situation.

"Firm bid" means an offer by a bidder which contains no conditions which may prevent acceptance and which, by its terms, remains open and binding until the State Purchasing Director accepts or rejects the bid.

"Fiscal year" means the period of time from July 1 of a calendar year through June 30 of the succeeding calendar year.

"Fixed rate" means a rate the Department establishes for contracts for services a supplier provides to persons directly benefiting from the services.

"Forms" means documents the Director prescribes and requires suppliers and state agencies to use to provide information to the Department or Purchasing Division.

"Indefinite quantity contract" means a contract the State Purchasing Director or a state agency establishes based on historical usage of a service or product rather than a specified quantity of said service or product and which does not obligate the State to purchase any certain amount.

"Information technology" or "IT" means any electronic information equipment or interconnected system that is used in the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information, including audio, graphic, and text. [62 O.S., Section 41.5t.1]

"Internet" means the global information network of both federal and nonfederal systems that are linked together by a globally unique address and includes the subnetwork called the World Wide Web.

"Invitation to bid" means a type of solicitation a state agency or the State Purchasing Director sends to suppliers for submission of bids for acquisitions.

"Life Cycle Costing" means a procurement technique that takes into account demonstrable and documented operating, maintenance, the cost of money, other costs of ownership, usage, resale or residual value in addition to acquisition price in making an award on lowest and best or best value.

"Material deficiency" or "material deviation" means failure to provide information necessary to evaluate a solicitation.

"Minor deficiency" or "minor informality" means an immaterial defect in a bid or variation in a bid from the exact requirements of a solicitation that may be corrected or waived without prejudice to other bidders. A minor deficiency or informality does not affect the price, quantity, quality, delivery or conformance to specifications and is negligible in comparison to the total cost or scope of the acquisition.

"Nonecollusion affidavit Non-collusion certification" means a ~~document~~ certification required of a supplier ~~submits to be submitted~~ pursuant to the Oklahoma Central Purchasing Act with any competitive bids bid or for acquisitions by contract executed by the state for goods or services.

"Nonresponsive" means a bid that does not conform to essential requirements in a solicitation.

"Office of State Finance" or "OSF" means the Oklahoma Office of State Finance.

"Oklahoma Central Purchasing Act" means 74 O.S., Sections 85.1 et seq.

"Oklahoma Correctional Industries" or "OCI" means a program of the State Department of Corrections for utilization of inmate labor for the manufacture or production of items or products for use by state agencies.

"Oklahoma Information Technology Accessibility Standards" or "IT Accessibility Standards" or "Standards" means the accessibility standards adopted by the Office of State Finance together with the Department of Central Services, to address all technical standard categories of Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as amended by the Workforce Investment Act of 1998 (P.L. 105-220), August 7, 1998 to be used by each state agency in the procurement of information technology, and in the development and implementation of custom-designed information technology systems, web sites, and other emerging information technology systems.

"Online Bidding" means an electronic procurement process in which state agencies receive bids from vendors for goods, services, construction, or information services over the Internet or other electronic medium in a real-time, competitive bidding event.

"Original Signature" ~~means a manual handwritten symbol or mark by a person that serves as an identifier of that person, or an authorized electronic signature, from which a copy may be made.~~

"Procurement" means buying, purchasing, renting, leasing, or otherwise acquiring any goods, services, construction, or information services. The term also means all functions that pertain to the obtaining of any goods, services, construction, or information services, including, but not limited to, the description of requirements, selection, and solicitation of sources, preparation and award of contracts, and all phases of contract administration.

"Purchasing Division" or "Division" means the Purchasing Division of the Department of Central Services.

"Ratification" means the act of approving an unauthorized commitment made by a state agency.

"Reciprocity" means a preference, which the State Purchasing Director shall apply against the price an out of state bidder submits for an acquisition whose home state applies a similar preference against Oklahoma bidders.

"Registered supplier" means a supplier that registers with the Purchasing Division pursuant to 580:15-4-2.

"Remedy" means to cure, alter, correct or change.

"Request for proposal" means a type of solicitation a state agency or the State Purchasing Director provides to suppliers requesting submission of proposals for acquisitions.

"Request for quotation" means a simplified written or oral solicitation a state agency or the State Purchasing Director sends to suppliers requesting submission of a quote.

"Requisition number" means an identifier the state agency or Purchasing Division assigns to a requisition.

"Requisitioning unit" means the unit in a state agency responsible for making acquisitions.

"Responsive offer" means an offer a supplier submits, which conforms in all material respects to requirements a solicitation states.

"Responsible supplier" means a supplier who demonstrates capabilities in all respects to fully perform the requirements of a contract that may include, but not limited to, finances, credit history, experience, integrity, perseverance, reliability, capacity, facilities and equipment, which will ensure good faith performance.

"Reverse Auctioning" means a procurement method wherein bidders are invited to bid on specified goods or services through real-time electronic bidding, with the award being made to the lowest responsive and responsible bidder. During the bidding process, bidders' prices are revealed and bidders shall have the opportunity to modify their bid prices for the duration of the time period established for bid opening.

"Scheduled acquisition" means a recurring acquisition that consolidates multiple state agency requirements for a given commodity or group of commodities.

"Services" means the furnishing of labor, time, or effort by a contractor not required to deliver a specific end product, other than reports which are merely incidental to required performance.

"Settlement agreement" means a document that reflects an agreement between the state and an individual or business entity that ratifies an unauthorized commitment.

"Solicitation" means *a request or invitation by the State Purchasing Director or a state agency for a supplier to submit a priced offer to sell acquisitions to the state. A solicitation may be an invitation to bid, request for proposal or a request for quotation. [74 O.S., Section 85.2 (34)]*

"State official" means a person that works for a department, state agency, trusteeship, authority, school district, fair board, advisory group, task force or study group supported in whole or in part by public funds or administering or operating public property.

"State Purchasing Director" means the director of the Purchasing Division of the Department of Central Services appointed by the Director of the Department or the Purchasing Director's designee.

"State Use Committee" means a committee that certifies severely disabled individuals and sheltered workshops as qualified organizations that contract with the state to provide products and services made by severely disabled individuals, and establishes the State Use Committee procurement schedule for state agency use pursuant to 74 O.S., Sections 3001 et seq.

"Statement of Work" means a detailed description of the work which a state agency requires a contractor or supplier to perform or accomplish.

"Supplier complaint" or **"performance evaluation"** means information a state agency or the Purchasing Division provides to the State Purchasing Director, in a manner the Director prescribes, that documents supplier performance.

"Supplier registration" means a process a supplier uses to register with the Purchasing Division to receive solicitations for commodities on a commodity list for a specified period of time. The process for bidder registration for the receipt of online solicitations may be a separate list. Online bidders may be required to prequalify and online solicitations may be restricted to prequalified online bidders.

"Suppliers list" means a list of individuals or business entities that desire notification of solicitations for specified commodity lists.

"Suspension" means action by the State Purchasing Director to exclude an individual or business entity from the suppliers list.

~~**"Written, Writing, and in Writing"** shall include handwriting, printing, typewriting and all other methods and means of forming letters and characters upon paper, other materials, or any electronic medium, that can be read, retrieved, and reproduced. When used in these rules, a writing may include an electronic writing.~~

SUBCHAPTER 4. SUPPLIER PROVISIONS

580:15-4-5. Bid solicitation

(a) **General.** The Purchasing Division shall comply with provisions of the Oklahoma Central Purchasing Act and rules the Department promulgates pursuant to the Oklahoma Central Purchasing Act to ensure fair competition for suppliers. When a state agency purchasing agent determines that electronic or online bidding is more advantageous than other procurement methods provided by the laws of this state, the purchasing agent may use online bidding to obtain bids as authorized by the Oklahoma Central Purchasing Act for the purchase of goods, services, construction, or information services.

(b) **Competitive solicitations.** The State Purchasing Director shall issue solicitations for acquisitions by invitation to bid, request for proposal or request for quotation.

(c) **Supplier notification.**

(1) **Registered suppliers.** The State Purchasing Director shall notify suppliers of solicitations for commodity classes for which the supplier registers.

(2) **Suppliers a state agency recommends.** The State Purchasing Director may notify suppliers a state agency recommends for a solicitation.

(3) **Emergency notification.** For an emergency acquisition pursuant to 74 O.S. §85.7(4)–§85.7(A)(4), the State Purchasing Director or a state agency shall select a supplier or a group of suppliers to notify utilizing telephone, facsimile or electronic commerce.

(4) **Notification pursuant to a waiver.** When the State Purchasing Director issues a waiver pursuant to 580:15-2-11, the State Purchasing Director or a state agency may select a supplier or group of suppliers to notify using telephone, facsimile or electronic commerce.

(5) **Amendments to a solicitation.** If the State Purchasing Director amends a solicitation, the State Purchasing Director shall notify suppliers sent the original solicitation of the amendment. Suppliers submitting bids or quotations shall acknowledge receipt of an amendment in the supplier's bid or quotation. If the supplier has already submitted a bid, the supplier shall submit an acknowledgment of the amendment prior to the closing date.

Emergency Adoptions

(d) **Evaluation method.** The State Purchasing Director shall ensure that an evaluation method is clearly identified in any solicitation. The method shall be one of the following:

- (1) lowest and best; or,
- (2) best value.

(e) **Specifications.** Solicitations shall include specifications or a statement of work. The State Purchasing Director may reference manufacturer names, product names, or other product references as specifications to describe the type or quality of the acquisition.

(f) **Terms and Conditions.** The State Purchasing Director shall include all the terms and conditions for the acquisition in the solicitation.

(1) **Copyrights, patents or intellectual property.** If an acquisition includes copyrights, patents or intellectual property rights pursuant to federal law, the solicitation shall request conditions of use for the acquisition.

(2) **Other terms and conditions.** The State Purchasing Director may not accept supplier terms and conditions in a supplier's bid. No alterations or variations of the terms of the contractor shall be valid or binding upon the state, unless made in writing and accepted by the State Purchasing Director.

(3) **Other rights and remedies.** Actions of the State Purchasing Director shall not limit the rights or remedies of a state agency.

(4) **Rejection of all bids.** If the State Purchasing Director finds it to be in the best interest of the State of Oklahoma, any or all bids or proposals may be rejected and a solicitation may be reissued or canceled.

(g) **Affidavit Non-Collusion certification.** The Purchasing Director shall include a ~~non-collusion affidavit form~~ non-collusion certification statement in a solicitation. The ~~non-collusion affidavit~~ non-collusion certification shall be included submitted to the Division with any bid or proposal submitted to the Purchasing Division. The ~~non-collusion affidavit~~ shall have an original signature of an authorized person, signed in ink, and notarized with full knowledge and acceptance of all its provisions. ~~A facsimile or photocopy of an original signature will not be accepted.~~

(h) **Pre-bid conference.** The State Purchasing Director shall state in a solicitation if the State Purchasing Director shall hold a supplier pre-bid conference and shall state whether supplier attendance is mandatory or non-mandatory.

(i) **Shipping.** Bidders shall deliver the acquisition F.O.B. destination to the receiving state agency unless otherwise specified in the solicitation.

(j) **Closing date.** The State Purchasing Director shall provide notice to suppliers in the solicitation of the closing date, time and location of a bid opening. In the event it is determined that a significant error or event occurred that affected the electronic receipt of an online bid, the Director of Central Services may authorize the Division to accept an electronic bid after the specified official closing date and time. Failure of the bidder's computer or electronic equipment or service is not an acceptable event.

(k) **Sample submission.** For acquisitions of items or products, the solicitation may specify submission of samples of the required items or products to the State Purchasing Director.

(1) **Sample receipt.** If a bidder submits a sample, the bidder shall submit the sample to the Purchasing Division prior to the closing date.

(2) **Sample identification.** The bidder shall identify the sample the bidder submits with the bidder's name, bidder's address, state bid identification number and closing date. The supplier shall place the information on the sample container and on the sample shipping container.

(3) **Sample costs.** The bidder shall pay costs for the sample and submission to the State Purchasing Director.

(4) **Sample requirements.** A sample a bidder submits to the Purchasing Division shall represent the quality of the whole.

(5) **Sample tests.** Whenever testing is determined necessary by the State Purchasing Director, appropriate standard testing procedures will be used.

(6) **Sample tests costs.** If the sample a bidder submits to the Purchasing Division fails to meet the specification or standards the solicitation requires, the bidder shall pay testing costs the Purchasing Division incurs.

(7) **Unsuccessful bidder samples.**

(A) **Bidder requests sample return.** Bidders may request that the State Purchasing Director return samples examination does not destroy.

(B) **State Purchasing Director retains sample.** The State Purchasing Director may retain samples that bidders submit that examination does not destroy.

(C) **State Purchasing Director returns sample.** The State Purchasing Director may return samples that bidders submit that examination does not destroy. Bidders shall pay costs the Division incurs for sample return.

(8) **Successful bidder samples.** The State Purchasing Director may retain samples the successful bidder submits to ensure that acquisitions the successful bidder delivers meet specifications in the solicitation.

(9) The State Purchasing Director, with input from the requisitioning agency, shall make the final determination whether a sample meets the solicitation specifications.

(l) **Subcontractor notice.** If a solicitation specifies submission of information for subcontractors a bidder intends to use for an acquisition, the supplier shall provide the information in the supplier's bid.

580:15-4-6. Bid preparation

(a) **General.** A bid a supplier submits to the Purchasing Director shall agree to all terms and conditions the solicitation specifies.

(b) **Forms the Purchasing Director requires suppliers to submit.** The Purchasing Director shall include forms in the solicitation suppliers shall submit with the supplier's bid.

(c) **Additional form requirements.**

(1) **Data the supplier submits.**

(A) The solicitation shall indicate all information the supplier shall submit with the supplier's bid.

- ~~(B)~~ All form information entries shall be in ink.
- ~~(C)~~ Information the supplier submits shall be legibly hand written, typewritten, ~~or printed or electronically conveyed~~ and shall meet all terms and conditions of the solicitation.
- ~~(D)~~ Should the supplier alter form or bid information, the supplier shall initial each alteration.
- (2) **Authorized signature.** A form a supplier submits with the supplier's bid to the Purchasing Division shall bear an authorized signature. Any form requiring a supplier's signature submitted to the Purchasing Division shall have an authorized signature.
- (3) **Notary seal.** If a form specifies notarization, the form shall bear the signature and seal of a licensed Notary Public in the manner state laws of the bidder's state specify.
- (d) **Contract.** The contract the State Purchasing Director awards pursuant to a solicitation shall consist of the following contract documents: invitation to bid, or request for proposal or request for quotation; Purchasing Division attachments including, but not limited to, amendments, change orders or modifications; the supplier's bid or quotation with attachments, reviewed and approved by the State Purchasing Director; and, the purchase order the State Purchasing Director issues. A contract the State Purchasing Director awards may incorporate by reference all provisions of the Oklahoma Central Purchasing Act and rules of the Purchasing Division.
- (e) **Firm bid for sixty (60) days.** The Purchasing Director shall consider a supplier's bid a firm bid for sixty (60) days following the bid closing date.
- (f) **Bidder travel expenses.** The price a bidder submits in response to a solicitation shall include travel expenses for the bidder to perform the contract. The state shall not pay travel expenses the bid price does not include.
- (g) **Tax exemptions.** State agency acquisitions are exempt from sales taxes [68 O.S., §1365] and federal excise taxes [Chapter #.32, Internal Revenue Code #73-73-016-3K]. Bidders shall not include these taxes in price quotes. The Purchasing Director shall supply tax exemption certificates to bidders if the bidder requests.
- (h) **Payment terms.** State agencies shall pay suppliers pursuant to 62 O.S., Section 41.4a, et seq. Suppliers shall not consider a payment late until forty-five (45) days after state agency receipt of invoice.
- (i) **Bonds and sureties.** The solicitation may require bidders to submit a bid bond, performance bond, or other type of approved surety ~~bond~~ with the bid.
- (1) **Form of bond.** The bid bond, performance bond or other type of surety ~~bond~~ shall be subject to the approval of the State Purchasing Director. For bonds requiring a cash deposit, the amount specified by the State Purchasing Director shall be paid by certified check or cashiers check.
 - (2) **Irrevocable letter of credit.** In lieu of bonds specified in this subsection, the State Purchasing Director may approve submission of an irrevocable letter of credit.
 - (3) **Bond or surety return.** When the State Purchasing Director specifies a bid contain a bid bond, performance bond, or other type of surety ~~bond~~, the State Purchasing Director shall retain the bond or surety until the successful completion of the purpose for which the bond or surety was drawn.
- (j) **Used or new products.** A bid shall offer new items of current design unless the solicitation specifies used, reconditioned or remanufactured products are acceptable.
- (k) **Price.** Unless the solicitation specifies otherwise, a bidder shall submit a firm, fixed price for the term of the contract.
- (l) **Alternate bids.** Unless the solicitation prohibits, a bidder may submit alternate bids. If a bidder submits an alternate bid, the alternate bid shall be a complete bid. The bidder shall clearly identify an alternate bid. If the bidder submits more than one alternate bid, the bidder shall number each alternate bid as "Alternate Bid 1", "Alternate Bid 2", etc.
- (m) **All or none bid.**
- (1) **Award to more than one bidder.** If the solicitation specifies that the Purchasing Director may award a contract to more than one bidder, the bidder may indicate on the bid that terms and conditions of the bid are all or none.
 - (2) **Award by item.** If the solicitation indicates that the Purchasing Director may award the bid to more than one bidder by item, the bidder may indicate that the terms and conditions of the bid are all or none.
- (n) **High technology systems.**
- (1) **New high technology system.** The Purchasing Director shall not evaluate a bid for a high technology system unless the bid includes a statement of work and:
 - (A) **System upgrade schedule.** Documentation by the bidder of the projected schedule of recommended or required upgrades or improvements to the high technology system over a projected three-year period following the target purchase date; or,
 - (B) **No system upgrades.** Documentation that the bidder does not plan any recommended or required system upgrades or improvements to the high technology system, over a projected three-year period following the target purchase date.
 - (2) **High technology system upgrades.** The State Purchasing Director shall not evaluate a bid for an upgrade to a high technology system unless the bid includes a statement of work and:
 - (A) documentation that the vendor agrees to provide the upgrade or improvement at no charge to the state;
 - (B) documentation that the vendor previously agreed in a contract to provide the upgrade or improvement at no additional charge to the state;
 - (C) documentation the state agency obtained from the vendor that any required or recommended upgrade will enhance or is necessary for the performance of the state agency duties and responsibilities; or,
 - (D) documentation the vendor will no longer supply assistance to the state agency for the purpose of maintenance of the high technology system and the state agency documents that the functions performed by the high technology system are necessary for the performance of the state agency duties and responsibilities.

Emergency Adoptions

(o) **Bidder delivery.** A solicitation shall specify a delivery date or allow the bidder to specify a firm delivery date. If the solicitation does not specify a delivery date, the bidder shall specify the delivery date in the bid.

(p) **Sample submission.** For acquisitions of items or products, the solicitation may specify submission of samples of the required items or products to the Purchasing Director. [Reference OAC 580:15-4-5(k)]

(q) **Subcontractor notice.** If a solicitation specifies submission of information for subcontractors a bidder intends to use for an acquisition, the supplier shall provide the information in the supplier's bid.

580:15-4-7. Bid submission

(a) **Submission location.** Bidders shall submit bids to the location the solicitation specifies.

(b) **Bid submission contents.** Bidders shall submit all forms, documents and contents required by a solicitation as instructed in the solicitation. The legal name and complete address of the bidder, bid number and closing date shall be prominently displayed as stated in the solicitation.

(c) **Submission of ~~noncollusion affidavit~~ non-collusion certification.** The certification shall have an authorized signature certifying the non-collusion statement with full knowledge and acceptance of all its provisions. When electronic submission of the bid is allowed, an original noncollusion affidavit must be submitted to the Central Purchasing Division as prescribed in the solicitation. An original signature shall be properly executed by an authorized person, signed in ink, and notarized with full knowledge and acceptance of all its provisions. A facsimile or photo copy of an original signature will not be accepted.

(d) **Purchasing Division bid receipt.** Upon receipt, the Purchasing Division shall clearly mark the outside of all envelopes or containers with the receipt date and time. Electronic submission of bids, when allowed, must be submitted in such a manner that the time and date of submission is electronically linked to the bid and cannot be changed.

(e) **Signatures on solicitation documents.** ~~All signatures required on any bid document shall be original unless otherwise authorized by state law and approved by the State Purchasing Director. An original signature shall be properly executed by an authorized person, signed in ink, and notarized with full knowledge and acceptance of all its provisions. A facsimile or photocopy of an original signature will not be accepted.~~

(f) **Late bids.** The State Purchasing Director shall reject all bids or proposals received after the closing date and time. Electronic bids solicited by online bidding may be accepted after the closing date and time only if the Director of the Department of Central Services has authorized acceptance of bids due to a significant error or event that occurred which affected the electronic receipt of an online bid. Unless opened for identification, bids received late will be returned unopened in a timely manner.

580:15-4-11. Bid evaluation

(a) **Evaluation document.** The State Purchasing Director shall establish an evaluation document that contains evaluation criteria the Purchasing Division shall use to evaluate bids. The evaluation document shall be open for public inspection following contract award.

(b) **Bid clarification.** The State Purchasing Director may solicit clarification from a bidder regarding the bidder's bid. The clarification shall not alter or supplement the bid.

(c) **Reasons for bid rejection.** The State Purchasing Director shall indicate in the solicitation file if a bid is nonresponsive. Unless the State Purchasing Director finds that a bid deficiency may be cured by a supplier pursuant to (j) of this Section, the State Purchasing Director may reject a bid that is nonresponsive or a bid from a nonresponsible bidder for reasons that include, but are not limited to the following:

(1) **Terms and conditions.** A bid that does not meet the terms and conditions of the solicitation shall be considered nonresponsive.

(2) **Forms use.** A bid that does not contain forms or other information the solicitation specifies may be considered nonresponsive.

(3) **Incomplete forms.** If forms required by the solicitation do not contain complete information, the bid may be considered nonresponsive.

(4) **Form entries improper.** If information provided in the solicitation documents is not ~~in ink~~, legible, typewritten or printed, or submitted in the electronic format specified in the solicitation, the bid may be considered nonresponsive.

(5) **Improper alterations.** If alterations do not bear the initials of the person making the alteration, the bid may be considered nonresponsive.

(6) **Use of unauthorized signature.** If a signature on a form is not an authorized signature pursuant to state laws and the rules of this chapter, the bid shall be considered nonresponsive.

(7) **Absence of notary seal.** If forms do not contain a notary seal where forms indicate or otherwise comply with the manner of notarization prescribed for the bidding suppliers' state of residence, the bid shall be considered nonresponsive.

(8) **Bid does not contain bid bond or other surety.** If a bidder fails to include a bid bond or other surety specified as a requirement by a solicitation, the bid shall be considered nonresponsive.

(9) **Bid does not contain samples.** If a solicitation specifies that the bid shall contain samples and the bid does not contain samples, the bid shall be considered nonresponsive.

(10) **Bid nonresponsive.** If a bid does not offer items suitable for the intended use of the items, the bid shall be considered nonresponsive.

(11) **Pricing.** If bid pricing does not meet requirements of a solicitation, the bid shall be considered nonresponsive.

(12) **Bid fails to acknowledge solicitation amendment.** If a bid fails to acknowledge an amendment the

Purchasing Director issues to a solicitation, the bid may be considered nonresponsive.

(13) **Bidder not responsible.** If the solicitation specifies that suppliers submit information relating to responsibility and a bidder does not submit said information, or the State Purchasing Director determines the bidder is not responsible, the bid may be rejected.

(14) **One bid from multiple suppliers.** One bid from multiple suppliers that does not designate a prime contractor shall be considered nonresponsive.

(15) **Additional supplier terms and conditions.** If a supplier adds terms and conditions to an acquisition that are contrary to the laws of Oklahoma the bid shall be considered nonresponsive.

(16) **Past performance.** If the Purchasing Director has received complaints on a supplier, the supplier may be found not responsible.

(17) **Signatures on solicitation documents.** ~~If a an authorized signature is omitted from facsimile or photocopy signature appears in any solicitation document that requires an original authorized signature [Reference 580:15-4-7.(e)], the bid shall may be considered nonresponsive. An original signature shall be properly executed by an authorized person, signed in ink, and notarized with full knowledge and acceptance of all its provisions. A facsimile or photocopy of an original signature will not be accepted.~~

(18) **Proof of insurance.** Whenever applicable to a solicitation, if a supplier is unable to provide proof of workers' compensation insurance or an alternative or exemption as authorized by state law, the supplier may be found not responsible.

(e) **Samples.** When a solicitation specifies a bidder submit samples, the State Purchasing Director shall examine the sample to determine the expected performance and service capabilities. The State Purchasing Director shall indicate the method of testing and rate the sample's performance in the evaluation document.

(f) **Supplier past performance.** The State Purchasing Director shall consider bidder performance on previous contract awards and indicate past performance in the evaluation document.

(g) **Lowest and best bid.** If the State Purchasing Director specifies in the solicitation that the bid evaluation criteria is lowest and best, the State Purchasing Director shall consider criteria the Oklahoma Central Purchasing Act specifies to determine the lowest and best bid.

(h) **Best value bid.** If the State Purchasing Director specifies in the solicitation that the bid evaluation criteria is best value, the State Purchasing Director shall consider criteria specified to determine the best value bid.

(i) **Life cycle costing.** If the State Purchasing Director specifies in the solicitation the evaluation criteria is life cycle costing, the State Purchasing Director shall consider the specified criteria to determine the factors and methodology to be used in the life cycle costing adjustments.

(j) **Other factors in determination of award.**

(1) **Minor deficiencies.** The State Purchasing Director may waive minor deficiencies or informalities in a bid if the State Purchasing Director determines the deficiencies or informalities do not prejudice the rights of other bidders, or are not a cause for bid rejection.

(2) **Other types of deficiencies.** If the State Purchasing Director determines there is sufficient time prior to the award of a contract and it is in the best interest of the State, the State Purchasing Director may authorize a bidder to cure the following types of deficiencies prior to the award of a contract:

(A) failure to sign a bid have an authorized signature;

(B) failure to obtain a notary signature, stamp or seal;

(C) failure to sign or initial amendments to bid.

(k) **Proof of insurance.** A vendor who contracts to do business with the state shall provide proof of workers' compensation insurance or proof of an alternative or exemption authorized by state law.

SUBCHAPTER 6. STATE AGENCY PROVISIONS

580:15-6-6. State agency acquisitions

(a) **Acquisition authority.** All acquisitions made by state agencies shall be in accordance with the Oklahoma Central Purchasing Act, 74 O.S., §85.1 et. seq., other applicable statutory provisions, this Chapter and the agency's approved internal purchasing procedures.

(b) **Acquisitions under \$2,500.00** State agencies shall make open market acquisitions not exceeding Two Thousand Five Hundred Dollars (\$2500.00) that are fair and reasonable.

(c) **Acquisitions over \$2,500.00 and under \$10,000.00.** State agencies that have an internal CPO or a designated CPO through an interagency agreement and approved internal purchasing procedures pursuant to the requirements of 580:15-6-2 and 580:15-6-3 shall make acquisitions not exceeding Ten Thousand Dollars (\$10,000.00) pursuant to this subsection. All awards shall be based on lowest and best or best value criteria. ~~An acquisition for professional or nonprofessional services must include statutory language required by the Oklahoma Central Purchasing Act as a term of the requisition or contract and must be signed by the chief administrative officer of the agency or the chief administrative officer of the requisitioning unit certifying compliance with the Act.~~

(1) **Solicitations.** The state agency shall prepare and document the state agency's specifications for an acquisition. ~~The state agency shall provide the complete specifications, terms and conditions for the acquisition to all notified suppliers.~~

(A) The state agency shall provide a complete set of specifications, terms and conditions for the acquisition to all notified suppliers each supplier selected for notification.

(B) Any competitive bid for goods or services shall contain a non-collusion certification.

Emergency Adoptions

(2) **Supplier selection.** The state agency shall solicit a price quote from a minimum of three suppliers, which may be from the registered supplier list in the appropriate commodity classification compiled by the Purchasing Division and made available to state agencies. Selection of suppliers shall be rotated. Suppliers that have been suspended or debarred by the State Purchasing Director, the Oklahoma Tax Commission or the Federal government shall not be solicited.

(3) **Pricing.** State agencies shall solicit prices and delivery dates by mail, telephone, facsimile or by means of electronic commerce. The state agency shall secure the suppliers' pricing and delivery dates in writing or document price quotation and delivery dates.

(4) **Evaluation.** The state agency shall make a written evaluation of criteria considered in selection of the supplier for the acquisition. The written evaluation shall be placed in the acquisition file.

(5) **Contracts.** If the state agency and the supplier execute a contract for the acquisition, the supplier shall provide ~~an affidavit~~ a non-collusion certification pursuant to 74 O.S., Section ~~85-23~~ 85.22 (~~DCS/Purchasing Form 003~~). ~~The affidavit certification shall have the original an authorized signature of an authorized person, signed in ink, and notarized certifying the non-collusion statement with full knowledge and acceptance of all its provisions. A facsimile or photocopy of an original signature is not acceptable.~~

(A) **Sales Tax Permit Verification.** Prior to the award of a contract, the state agency must verify that the supplier has obtained a sales tax permit in accordance with the laws of Oklahoma.

(B) **Verification and documentation.** Sales tax verification may be confirmed through the link provided on the Department of Central Services' website or by calling the Oklahoma Tax Commission for assistance. Verification of the sales tax permit must be documented in the acquisition file.

~~(C) **Exceptions.** Sales tax permit verification does not apply to acquisitions for services only.~~

(C) **Services contracts.** Additional documents required to be included in contracts for professional or nonprofessional services include:

(i) **If the final product of a professional services contract is a written proposal, report or study, the supplier shall provide a sworn statement certifying that the supplier has not previously provided a substantial duplication of the final product to the state agency or another state agency. [Reference 74 O.S. §85.41]**

(ii) **An acquisition for professional or nonprofessional services must include statutory language required by the Oklahoma Central Purchasing Act as a term of the requisition or contract and must be signed by the chief administrative officer of the agency or the chief administrative officer of the requisitioning unit certifying compliance with the Act. [Reference 74 O.S. §85.4]**

(iii) **Each contract for services shall include an affidavit certifying that no person who has been involved in any manner in the development of that contract while employed by the State of Oklahoma shall be employed to fulfill any of the services provided for under said contract. [Reference 74 O.S. §85.42]**

(6) **Delivery documentation.** The state agency shall receive a delivery document from the supplier stating, at a minimum, the date of the delivery, the name and address of the supplier, and a description of the acquisition. The state agency shall note the delivery date and person receiving the acquisition on the delivery document.

(7) **Supplier payment.** The state agency shall pay the supplier following receipt, inspection, and acceptance of the acquisition by the state agency and upon receipt of a proper invoice from the supplier.

(d) **Acquisitions over \$10,000.00 and under \$25,000.00.** State agencies that have an internal CPO or a designated CPO through an interagency agreement and approved internal purchasing procedures pursuant to the requirements of 580:15-6-2 and ~~580:15-6~~ 580:15-6-3 shall make acquisitions exceeding \$10,000.00 but not exceeding \$25,000.00 in accordance with this subsection. All awards shall be based on lowest and best or best value criteria. ~~An acquisition for professional or nonprofessional services must include statutory language required by the Oklahoma Central Purchasing Act as a term of the requisition or contract and must be signed by the chief administrative officer of the agency or the chief administrative officer of the requisitioning unit certifying compliance with the statute.~~

(1) **Solicitations.** The state agency shall prepare and document the state agency's specifications for an acquisition. The state agency shall provide ~~the a complete set of~~ specifications, terms and conditions for the acquisition to all notified suppliers each supplier selected for notification. Whenever the state agency issues a solicitation for acquisition by invitation to bid or request for proposal, the solicitation shall also include:

(A) evaluation criteria for the acquisition; and,

(B) a non-collusion ~~affidavit form certification~~ certification pursuant to 74 O.S., Section 85.22 and the provisions of ~~(d)(4) of this Section 580:15-4-7(c).~~

(2) **Supplier selection.** The state agency shall solicit a minimum of ten (10) suppliers in the appropriate commodity classification from the registered suppliers list compiled by the Purchasing Division and available to state agencies along with any other suppliers identified by the state agency. Selection of suppliers shall be rotated. Suppliers that have been suspended or debarred by the State Purchasing Director, the Oklahoma Tax Commission or the Federal government shall not be solicited.

(3) **Pricing.** State agencies shall solicit prices and delivery dates by mail, telephone, facsimile or by means of electronic commerce. The suppliers shall provide pricing and delivery dates in writing.

(4) **Non-Collusion Affidavit certification.** ~~The state agency shall provide suppliers a non-collusion affidavit~~

~~form pursuant to 74 O.S., Section 85.22 (DCS/Purchasing Form 004) with any solicitation that is competitively bid. Any state agency solicitation that is competitively bid shall contain a non-collusion certification statement pursuant to 74 O.S., Section 85.22. A supplier shall complete and submit the non-collusion affidavit certification with their response to the solicitation. The non-collusion affidavit shall have the original signature of an authorized person, signed in ink, and notarized with full knowledge and acceptance of all its provisions. A facsimile or photocopy of an original signature is not acceptable. If a supplier submits a bid by facsimile or by means of electronic commerce, the supplier shall submit the non-collusion affidavit with the original signature prior to the closing date the state agency specifies. The certification shall have an authorized signature certifying the non-collusion statement with full knowledge and acceptance of all its provisions.~~

(5) **Evaluation.** The state agency shall make a written evaluation of criteria considered in selection of the supplier for the acquisition. The written evaluation shall be placed in the acquisition file. When a selection has been made, the state agency shall notify the supplier of the award.

(6) **Contracts.** ~~If the state agency and the supplier execute a contract for the acquisition, the supplier shall provide an affidavit the contract must include the non-collusion certification, signed and submitted with the solicitation pursuant to 580:15-4-7(c) and 74 O.S., Section 85.23 85.22 (DCS/Purchasing Form 003). The affidavit shall have the original signature of an authorized person, signed in ink, and notarized with full knowledge and acceptance of all its provisions. A facsimile or photocopy of an original signature is not acceptable.~~

(A) **Sales Tax Permit Verification.** Prior to the award of a contract, the state agency must verify that the supplier has obtained a sales tax permit in accordance with the laws of Oklahoma.

(B) **Verification and documentation.** Sales tax verification may be confirmed through the link provided on the Department of Central Services' website or by calling the Oklahoma Tax Commission for assistance. Verification of the sales tax permit must be documented in the acquisition file.

~~(C) **Exceptions.** Sales tax permit verification does not apply to acquisitions for services only.~~

(C) **Services contracts.** Additional documents required to be included in contracts for professional or nonprofessional services include:

(i) **If the final product of a professional services contract is a written proposal, report or study, the supplier shall provide a sworn statement certifying that the supplier has not previously provided a substantial duplication of the final product to the state agency or another state agency. [Reference 74 O.S. §85.41]**

(ii) **An acquisition for professional or nonprofessional services must include statutory language**

required by the Oklahoma Central Purchasing Act as a term of the requisition or contract and must be signed by the chief administrative officer of the agency or the chief administrative officer of the requisitioning unit certifying compliance with the Act. [Reference 74 O.S. §85.4]

(iii) **Each contract for services shall include an affidavit certifying that no person who has been involved in any manner in the development of that contract while employed by the State of Oklahoma shall be employed to fulfill any of the services provided for under said contract. [Reference 74 O.S. §85.42]**

(7) **Delivery documentation.** The state agency shall receive a delivery document from the supplier stating, at a minimum, the date of the delivery, the name and address of the supplier, and a description of the acquisition. The state agency shall note the delivery date and person receiving the acquisition on the delivery document.

(8) **Supplier payment.** The state agency shall pay the supplier following receipt, inspection, and acceptance of the acquisition by the state agency and upon receipt of a proper invoice from the supplier.

(e) **Additional information:**

(1) **Split purchases.** State agencies shall not make split purchases for the purpose of evading their approved dollar threshold for competitive bids. Conviction for making an acquisition by split purchase is a felony pursuant to the Oklahoma Central Purchasing Act.

(2) **Change orders.** Contracts including component or phased deliveries may be increased by an amount that does not exceed ten percent (10%) of the total acquisition purchase price. In determining the ten percent (10%) dollar amount, the cumulative value of all change orders shall be compared to the original total acquisition price. All other contracts may be increased only if the change order does not exceed the scope of the original solicitation.

(A) **Acquisitions by a state agency.** If a change order would increase the total contract dollar amount above the dollar amount requiring the state agency to submit a requisition to the State Purchasing Director, the state agency shall seek approval of the State Purchasing Director prior to issuing the change order.

(B) **Acquisitions by the Purchasing Division.** If a requested change order exceeds ten percent (10%) in a contract that includes component or phased deliveries or exceeds the scope of the original solicitation, the State Purchasing Director may deny the requested change order and notify the state agency. The State Purchasing Director may deny a requested change order which exceeds the scope of the original solicitation.

(3) **Fixed rates.** The Department may approve service acquisitions as qualifying for a fixed rate pursuant to the provisions of Oklahoma Central Purchasing Act.

(4) **Acquisitions from another governmental agency.** A state agency may contract with a political division or subdivision, agency of the United States or

Emergency Adoptions

another state agency pursuant to 74 O.S., Section 581 or Sections 1001 through 1008. Acquisitions shall not be made for the purpose of evading competitive bidding requirements, provisions of the Oklahoma Central Purchasing Act, rules of the Purchasing Division or provisions related to the State Use Committee.

(5) **Recycled materials.** State agencies shall procure products or materials with recycled content as stated in the Oklahoma State Recycling and Recycled Material Procurement Act, when such products or materials are available and practical. Upon request, the State Purchasing Director shall supply information regarding acquisitions that contain recycled materials to a state agency.

(6) **Trade-ins.** State agencies may trade in items when they make an acquisition of a like item with prior written approval of the State Purchasing Director. The state agency shall determine fair market value for the trade-in item and receive that amount or more as credit on the purchase price of the acquisition. The state agency may seek advice from the State Purchasing Director to determine fair market value of the trade-in.

(7) **OneNet acquisitions.** State agencies may make acquisitions through OneNet pursuant to provisions of the Oklahoma Central Purchasing Act.

(8) **Authorized signature.** State agencies shall provide the State Purchasing Director with a current original Authorized Signature Form, (DCS/Purchasing Form 001). The form shall be dated and identify the name, title, and signature of those individuals designated by the appointing authority to sign and approve requisitions, purchase orders, sole source affidavits, change order requests, and surplus property transactions. The State Agency shall submit an updated form to the State Purchasing Director within 30 days of any change in the authorized signatures.

[OAR Docket #08-1493; filed 12-11-08]

TITLE 605. OKLAHOMA REAL ESTATE COMMISSION CHAPTER 10. REQUIREMENTS, STANDARDS AND PROCEDURES

[OAR Docket #08-1515]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 3. Education and Examination Requirements

605:10-3-5. Examinations [AMENDED]

Subchapter 5. Instructor and Entity Requirements and Standards

605:10-5-1. Approval of prelicense course offerings [AMENDED]

AUTHORITY:

Title 59 O.S., Section 858-208. Oklahoma Real Estate Commission

DATES:

Adoption:

November 12, 2008

Approved by Governor:

December 11, 2008

Effective:

January 1, 2009

Expiration:

Effective through July 14, 2009, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The Commission has determined that an imminent peril to the preservation of the public health, safety, welfare or other compelling extraordinary circumstances exists which necessitates the promulgation of emergency rules, due to the Commission contracting out our examination services and rules are necessary to implement this service and thus the Commission hereby adopts the emergency rules as presented with an effective date of January 1, 2009.

ANALYSIS:

The amendments to Subchapter 3 605:10-3-5 are to advise license applicants of our examination procedures, special accommodations requirements for American with Disabilities Act, applicant's right to challenge an examination question, and the process for reviewing failed questions. The amendments to Subchapter 5 605:10-5-1 are regarding the instructor application fee amount in that the amount is not being increased but rather adjusted to where the instructor pays \$25.00 to the Commission and the remainder of the fee to the examination supplier.

CONTACT PERSON:

Anne M. Woody (405) 521-3387

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253 (D), WITH A LATER EFFECTIVE DATE OF JANUARY 1, 2009:

SUBCHAPTER 3. EDUCATION AND EXAMINATION REQUIREMENTS

605:10-3-5. Examinations

(a) **Applicant must appear in person.** When an application for examination has been submitted to the Commission, the applicant shall be required to appear in person, at a time and place to be designated by the Commission, and answer questions based on the required subject matter as prescribed elsewhere in the rules of this Chapter. ~~Unless otherwise directed by the Commission, all examinations will be conducted in Oklahoma City.~~ On and after August 1, 2001, each broker examination fee shall be Seventy-five Dollars (\$75.00) and each provisional sales associate/sales associate examination fee shall be Sixty Dollars (\$60.00).

(b) ~~Computer and written examinations~~ **Special Accommodations.** In the event a computer is available and in working order, the Commission shall administer the examination by computer. If an applicant requests to take the examination in a written form and a computer is available, a charge of Twenty Dollars (\$20.00) in addition to the regular examination fee will be assessed the applicant. In the event a written request is made by a handicapped individual, the Commission may waive the fee. In cases where special accommodations are necessary under the requirements of the Americans with Disabilities Act, applicants must notify the examination supplier in advance by submitting a written request, on a form prescribed by the Commission, describing the disability and necessary accommodations.

(c) **Failure to pass examination.** If an applicant fails to pass the examination prescribed by the Commission, the Commission may permit subsequent examinations upon receipt of a new examination fee for each examination to be attempted.

(d) **Applicant request to view failed examination.** An applicant who fails the examination ~~may, within thirty (30) days of the date of the examination, personally visit the Commission office and view his or her~~ has the option of reviewing their missed questions at the end of their examination. If, as a result of such viewing, the applicant is of the opinion incorrect grading was the cause for his or her receiving a failing grade, he or she may within ten (10) days request a review by the Commission of his or her examination. The purpose of such a review by the Commission shall be to determine whether or not such examination was correctly graded. An applicant may challenge the validity of any question(s) they identify as incorrectly graded. A challenge to a question that pertains to the Oklahoma law portion of the examination will be sent to the Commission by the examination supplier. A challenge to a question that pertains to the national portion will fall under the review policy of the examination supplier. In either case, both the examination supplier and/or the Commission shall have five (5) business days in which to review and issue a response to the applicant. Applicants will be allowed up to one (1) hour to review their exam and the applicant will not be allowed to test on the same day they review a failed examination. No notes, pencils, or electronic devices will be allowed during review nor will they be allowed to leave the examination area with the examination questions.

(e) **Application valid for one year.** The original examination application shall be valid for one (1) year from date of filing. ~~A request to write an examination submitted more than one (1) year from the most recent original application filing must be accompanied by a new original application form. After such date, an applicant must complete a new original application form.~~

(f) **Passing percentile of examination.** A score of seventy-five percent (75%) or more shall be considered a passing grade on the broker or provisional sales associate/sales associate examination.

(g) **Validity period of examination results.**

(1) ~~Approved or incomplete application.~~ The results of an examination wherein an applicant scored a passing grade shall be valid for ~~ninety (90) days~~ one (1) year from the date of such examination.

(2) ~~Unapproved application.~~ The results of an examination wherein an applicant scored a passing grade shall be valid for ~~ninety (90) days from the date the application has received final approval but shall not be valid for more than one year from the date of examination.~~

(h) ~~Extension of examination grade validity period.~~ An applicant may request in writing for an extension of the validity period, showing cause why such period should be extended. At the discretion of the Commission, such validity period may be extended.

(i) ~~Disciplinary examination fee.~~ A fee shall be charged for an examination which is directed by Order of the Commission as disciplinary action.

(j) ~~Broker applicants.~~ A broker applicant who completes an entire broker examination and who is unsuccessful, may, if he or she retakes the examination within thirty (30) days, elect not to complete the written closing statement portion again, but be given his or her first written closing statement and re-enter his or her multiple choice closing statement answers.

SUBCHAPTER 5. INSTRUCTOR AND ENTITY REQUIREMENTS AND STANDARDS

605:10-5-1. Approval of prelicense course offerings

(a) **Course approval.** Any person or entity seeking to conduct an approved course of study shall make application and submit documents, statements and forms as may reasonably be required by the Commission. The request shall include the following:

- (1) Completed course application.
- (2) Application fee of One Hundred Twenty-five Dollars (\$125.00) for each course.
- (3) An approved course syllabus encompassing the contents enumerated in 605:10-3-1 and divided by instructional periods, the name, author and publisher of the primary textbook, or a statement stating the entity will use the OREC syllabus and other items as may be required by the Commission.

(b) **Course offering requirements.**

- (1) An entity not conducting an applicable approved course within any thirty-six (36) month period shall automatically be removed from approved status. In such event, the person and/or entity must re-apply as an original applicant.
- (2) If a course of study is to be conducted in the name of a corporation, the application shall include the names and addresses of all directors and officers.
- (3) An approved entity shall immediately report any changes in information in regards to the application previously filed with the Commission.

(c) **Denied applications.** No portion of the fees enumerated in this Section is refundable. If an instructor, entity or course application is not approved, the applicant may appeal the decision by filing a written request for a hearing before the Commission. The hearing procedure shall be that as outlined in 605:10-1-3 titled "Appeal of administrative decisions; procedures."

(d) **Advertising course offerings.** No person or entity sponsoring or conducting a course of study shall advertise that it is endorsed, recommended or accredited by the Commission. Such person or entity may indicate that a course of study has been approved by the Commission.

(e) **Instructor application and approval requirements.** An individual determined by the Commission to possess one or more of the following qualifications may, upon receipt of an application and evidence of education and/or experience, be considered for approval as an approved instructor. Each application for approval must be accompanied by a Twenty-Five Dollar (\$25.00) ~~One Hundred Dollar (\$100.00)~~ application fee, and documentation required for compliance necessary to

Emergency Adoptions

verify citizenship, qualified alien status, and eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. In order to qualify, an individual must possess proof of one of the following:

- (1) A bachelor's degree with a major in real estate from an accredited college or university.
 - (2) A bachelor's degree from an accredited college or university, and at least two (2) years active experience within the previous ten (10) years as a real estate broker.
 - (3) A real estate broker licensed in Oklahoma with a minimum of five (5) years active experience within the previous ten (10) years as a real estate broker and proof of high school education or its GED equivalent.
 - (4) An individual determined by the Commission to possess a combination of education and/or active broker experience in real estate or real estate related fields which ~~constitute~~ constitutes an equivalent ~~to~~ of one or more of the qualifications in paragraphs (1), (2), or (3) of this subsection.
- (f) **Course content examination.** Final approval will be considered after the instructor applicant has paid the appropriate examination fee and successfully completed an applicable Commission administered course content examination with a passing score of 80% or more. ~~An instructor shall be allowed to successfully complete the applicable examination one time without charge; thereafter, the applicable examination fee shall be charged for each examination.~~ If an instructor applicant fails to pass the examination prescribed by the Commission, the Commission may permit subsequent examinations upon receipt of the applicable examination fee for each examination to be taken. If an instructor applicant has successfully taken an applicable license examination with a passing score of 80% or more within thirty (30) days of filing an instructor application, such passing score may be utilized to meet the applicable examination requirement in this section. If however, the instructor applicant does not obtain approval within 90 days of filing an instructor application, due to no fault on the part of the Commission, the instructor will be required to take the applicable examination again.
- (g) **Instructor renewal requirements.**
- (1) In order to maintain approved status, an instructor must comply with the following:
 - (A) Attend a Commission directed Instructor Renewal Course every twelve (12) months. Instructors approved solely for distance education offerings must complete three (3) hours every twelve (12) months of instructor training as accepted by the Commission and sign a statement that changes to current law and rules have been reviewed and that the instructor has made applicable amendments to the course material.
 - (B) Furnish evidence that the instructor has taught a Commission approved prelicense course, or any other real estate related course(s) the Commission determines to be equivalent, within a required thirty-six (36) month period.
 - (2) Any instructor not meeting the requirements of this subsection will be required to re-apply as an original instructor applicant.

(h) **Guest instructors.** Guest instructors may be utilized for in-class instruction provided an approved instructor is also present during presentations. Total guest instruction and lectures shall not consume more than thirty percent (30%) of the total course time.

(i) **Instructor and entity requirements.**

- (1) **Instructor must be present.** An approved instructor must be present in the same room during all in-class course instruction for students to receive credit toward course completion.
 - (2) **Retention of records.** An instructor/entity shall maintain ~~a record~~ of enrollment records and roll sheets which include number of hours attempted by each student.
 - (3) **Course completion certificate.** Each individual successfully completing a course of study approved by the Commission shall be furnished a certificate prescribed or approved by the Commission certifying completion. The Commission shall accept from a college or university a certified transcript or a course completion certificate as prescribed by the Commission.
 - (4) **Commission authorized to audit and inspect records.** A duly authorized designee of the Commission may audit any offering and/or inspect the records of the entity at any time during its presentation or during reasonable office hours or the entity may be required to provide the records to the Commission.
 - (5) **Clock hours and breaks.** Not more than one clock hour may be registered within any one sixty (60) minute period and no more than ten (10) minutes of each hour shall be utilized for breaks.
 - (6) **Class size limited.** Instructor ratio to students shall not exceed sixty (60).
- (j) **Facility approval requirements.** Before an approved course offering can be presented at a location, the person or group presenting the course must seek approval of the facility to be used for presentation of the course. A Commission approved application must be completed and accompanied by a Seventy-five Dollar (\$75.00) application fee.
- (1) The application fee may be waived if the facility request for approval has been approved for use as a classroom by the State Department of Education, State Regents of Higher Education, or State Vocational and Technical Education.
 - (2) The application fee may be waived if an entity is requesting to utilize a facility that is currently approved by the Commission as an active facility site.
 - (3) The Commission shall act on a facility application within thirty (30) days of receipt of application.
- (k) **Disciplinary action.** An approved course of study, director, instructor and/or facility may be withdrawn or disciplined as outlined in Title 59, O.S., Section 858-208, paragraph 6 either on a complaint filed by an interested person or the Commission's own motion, for the following reasons, but only after a hearing before the Commission and/or a Hearing Examiner appointed by the Commission:
- (1) In the event the real estate license of a director is suspended or revoked, the course of study shall automatically be revoked.

- (2) In the event the real estate license of an instructor is suspended or revoked.
- (3) Failure to comply with any portion of the Code or the rules of this Chapter.
- (4) Failure of an approved entity to maintain a 50% or better pass/fail ratio on the Commission examinations.
- (5) Falsification of records and/or application(s) filed with the Commission.
- (6) False and/or misleading advertisement.
- (7) Any other improper conduct or activity of the director, instructor, or entity as may be determined by the Commission to be unacceptable.

[OAR Docket #08-1515; filed 12-22-08]

**TITLE 800. DEPARTMENT OF WILDLIFE
CONSERVATION
CHAPTER 25. WILDLIFE RULES**

[OAR Docket #08-1587]

RULEMAKING ACTION:

EMERGENCY adoption

RULE:

Subchapter 7. General Hunting Seasons

Part 19. Season on Areas Owned or Managed by the Oklahoma Department of Wildlife Conservation and the U.S. Fish and Wildlife Service
800:25-7-92.2. Cimarron Hills Wildlife Management Area [NEW]

AUTHORITY:

Title 29 O.S., Section 3-103 and 5-401; Section 1 and 3 of the Constitution of Oklahoma; Department of Wildlife Conservation.

DATES:

Adoption:

December 1, 2008

Approved by Governor:

December 15, 2008

Effective:

Upon Governor Approval

Expiration:

Effective through July 14, 2009, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTION:

n/a

INCORPORATED BY REFERENCE:

n/a

FINDING OF EMERGENCY:

Property was recently purchased and emergency rules are needed to establish turkey hunting season dates and regulations for Spring 2009.

ANALYSIS:

This property was just recently purchased. Before the sportsmen of the state can utilize this area in spring 2009, hunting season dates and rules governing the use of the area have to be established.

CONTACT PERSON:

Alan Peoples, Chief of Wildlife Division, 405/521-2739 or APA Liaison, Rhonda Hurst, Administrative Assistant, 405/522-6279.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN,
THE FOLLOWING EMERGENCY RULES ARE
CONSIDERED PROMULGATED AND EFFECTIVE
UPON APPROVAL BY THE GOVERNOR AS SET
FORTH IN 75 O.S., SECTION 253(D):**

**SUBCHAPTER 7. GENERAL HUNTING
SEASONS**

**PART 19. SEASON ON AREAS OWNED
OR MANAGED BY THE OKLAHOMA
DEPARTMENT OF WILDLIFE CONSERVATION
AND THE U.S. FISH AND WILDLIFE SERVICE**

**800:25-7-92.2. Cimarron Hills Wildlife Management
Area**

The following hunting and trapping seasons apply to the
Cimarron Hills WMA: Turkey - Spring: Same as statewide
season dates. One (1) tom limit.

[OAR Docket #08-1587; filed 12-24-08]

