

Volume 26
Number 21
July 15, 2009
Pages 2663 - 2804

The Oklahoma Register

Oklahoma
Secretary of State
Office of Administrative Rules



Brad Henry, Governor
M. Susan Savage,
Secretary of State
Peggy Coe, Managing Editor

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ISSN 0030-1728

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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 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 75. OKLAHOMA-BRED PROGRAM

[OAR Docket #09-1193]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULE:

325:75-1-15. Distribution of funds for Oklahoma-Bred pari-mutuel races [AMENDED]

SUMMARY:

The Oklahoma Horse Racing Commission proposes amendment to this rule to reflect that the number of races per breed specified in the race track's current Organization License Order will be the method used for distribution of breakage and unclaimed ticket proceeds generated outside of race meetings and designated for use as purse supplements or awards at a race track.

AUTHORITY:

75 O.S., §303; Title 3A O.S. §204(A); Oklahoma Horse Racing Commission.

COMMENT PERIOD:

Persons wishing to present their views in writing may do so before 4:30 p.m., Monday, August 17, 2009, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

PUBLIC HEARING:

A public hearing will be held between the hours of 9:00 a.m. and 12:00 p.m. and 1:00 p.m. and 4:30 p.m. on Monday,

August 17, 2009, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107. Anyone who wishes to present oral comment at the public hearing must sign a speaker's register.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Oklahoma Horse Racing Commission requests that business entities affected by this proposed rule provide the Commission, within the comment period, in dollar amounts, if possible, 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 rule. Business entities may submit this information in writing to the Commission, at the above address, before the close of the comment period on September 8, 2008.

COPIES OF PROPOSED RULES:

A copy of the proposed rule amendment may be obtained from the Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D), a rule impact statement will be prepared by July 30, 2009 may be obtained from the Oklahoma Horse Racing Commission at the above address.

CONTACT PERSON:

Bonnie Morris, Assistant to the Administrator, (405) 943-6472.

[OAR Docket #09-1193; filed 6-25-09]

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 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 10. DRIVER LICENSES AND IDENTIFICATION CARDS AND MOTOR LICENSE AGENT PROCEDURES

[OAR Docket #09-1178]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

- Subchapter 1. Procedures for Obtaining and Maintaining a Driver License or Identification Card [AMENDED]
- Subchapter 3. Examination [AMENDED]
- Subchapter 5. Medical Aspects [AMENDED]
- Subchapter 9. Certified Schools and Designated Examiners [REVOKED]

SUBMITTED TO GOVERNOR:

April 1, 2009

SUBMITTED TO HOUSE:

April 1, 2009

SUBMITTED TO SENATE:

April 1, 2009

[OAR Docket #09-1178; filed 6-23-09]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 11. COMMERCIAL DRIVER LICENSES

[OAR Docket #09-1179]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

- Subchapter 1. Procedures for Obtaining and Maintaining a Commercial Driver License [NEW]
- Subchapter 3. Examination [NEW]
- Subchapter 5. Medical Aspects [NEW]
- Subchapter 7. [RESERVED]
- Subchapter 9. Certified Schools and Designated Examiners [NEW]

SUBMITTED TO GOVERNOR:

April 1, 2009

SUBMITTED TO HOUSE:

April 1, 2009

SUBMITTED TO SENATE:

April 1, 2009

[OAR Docket #09-1179; filed 6-23-09]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 25. WRECKERS AND TOWING SERVICES

[OAR Docket #09-1180]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

- Subchapter 1. General Provisions
595:25-1-2 [AMENDED]
- Subchapter 3. Wrecker License
595:25-3-4 [AMENDED]
- Subchapter 5. All Wrecker Operators
595:25-5-3 [AMENDED]
595:25-5-4 [AMENDED]
- Subchapter 9. Oklahoma Highway Patrol Rotation Log - Additional Requirements
595:25-9-1 [AMENDED]
- Subchapter 11. Denial, Suspension, Revocation or Cancellation of License; Denial or Removal of Class Aa Operators from Rotation Log of the Oklahoma Highway Patrol
595:25-11-2 [AMENDED]

SUBMITTED TO GOVERNOR:

April 1, 2009

SUBMITTED TO HOUSE:

April 1, 2009

SUBMITTED TO SENATE:

April 1, 2009

[OAR Docket #09-1180; filed 6-23-09]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 30. SIZE AND WEIGHT PERMITS

[OAR Docket #09-1181]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

Submissions for Review

RULES:

Subchapter 3. Size and Weight Permit Load

595:30-3-3 [AMENDED]

595:30-3-4 [AMENDED]

595:30-3-5 [AMENDED]

595:30-3-7 [AMENDED]

595:30-3-8 [AMENDED]

595:30-3-13 [AMENDED]

595:30-3-16 [AMENDED]

595:30-3-17 [AMENDED]

595:30-3-17.1 [AMENDED]

595:30-3-19 [AMENDED]

595:30-3-21 [AMENDED]

595:30-3-22 [AMENDED]

Subchapter 5. Special Combination Vehicles

595:30-5-2 [AMENDED]

Subchapter 9. National and Regional Permits

595:30-9-1 [AMENDED]

Appendix A. Oversize Load Sign [REVOKED]

Appendix B. Troop Areas [REVOKED]

SUBMITTED TO GOVERNOR:

April 1, 2009

SUBMITTED TO HOUSE:

April 1, 2009

SUBMITTED TO SENATE:

April 1, 2009

[OAR Docket #09-1181; filed 6-23-09]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 40. DRIVER TRAINING AND IMPROVEMENT

[OAR Docket #09-1182]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

Subchapter 1. Driver Education Instruction

595:40-1-1 [AMENDED]

595:40-1-2 [AMENDED]

595:40-1-3 [AMENDED]

595:40-1-4 [AMENDED]

595:40-1-9 [AMENDED]

595:40-1-11 [AMENDED]

595:40-1-13 [AMENDED]

595:40-1-15 [AMENDED]

SUBMITTED TO GOVERNOR:

April 1, 2009

SUBMITTED TO HOUSE:

April 1, 2009

SUBMITTED TO SENATE:

April 1, 2009

[OAR Docket #09-1182; filed 6-23-09]

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 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 10. DRIVER LICENSES AND IDENTIFICATION CARDS AND MOTOR LICENSE AGENT PROCEDURES

[OAR Docket #09-1183]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 1. Procedures for Obtaining and Maintaining a Driver License or Identification Card [AMENDED]
- Subchapter 3. Examination [AMENDED]
- Subchapter 5. Medical Aspects [AMENDED]
- Subchapter 9. Certified Schools and Designated Examiners [REVOKED]

GUBERNATORIAL APPROVAL:

May 4, 2009

[OAR Docket #09-1183; filed 6-23-09]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 11. COMMERCIAL DRIVER LICENSES

[OAR Docket #09-1184]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 1. Procedures for Obtaining and Maintaining a Commercial Driver License [NEW]
- Subchapter 3. Examination [NEW]
- Subchapter 5. Medical Aspects [NEW]
- Subchapter 7. [RESERVED]
- Subchapter 9. Certified Schools and Designated Examiners [NEW]

GUBERNATORIAL APPROVAL:

May 4, 2009

[OAR Docket #09-1184; filed 6-23-09]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 25. WRECKERS AND TOWING SERVICES

[OAR Docket #09-1185]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 1. General Provisions
595:25-1-2 [AMENDED]
- Subchapter 3. Wrecker License
595:25-3-4 [AMENDED]
- Subchapter 5. All Wrecker Operators
595:25-5-3 [AMENDED]
595:25-5-4 [AMENDED]
- Subchapter 9. Oklahoma Highway Patrol Rotation Log - Additional Requirements
595:25-9-1 [AMENDED]
- Subchapter 11. Denial, Suspension, Revocation or Cancellation of License; Denial or Removal of Class Aa Operators from Rotation Log of the Oklahoma Highway Patrol
595:25-11-2 [AMENDED]

GUBERNATORIAL APPROVAL:

May 4, 2009

[OAR Docket #09-1185; filed 6-23-09]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 30. SIZE AND WEIGHT PERMITS

[OAR Docket #09-1186]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 3. Size and Weight Permit Load
595:30-3-3 [AMENDED]
595:30-3-4 [AMENDED]
595:30-3-5 [AMENDED]
595:30-3-7 [AMENDED]
595:30-3-8 [AMENDED]
595:30-3-13 [AMENDED]
595:30-3-16 [AMENDED]
595:30-3-17 [AMENDED]
595:30-3-17.1 [AMENDED]
595:30-3-19 [AMENDED]

Gubernatorial Approvals

595:30-3-21 [AMENDED]
595:30-3-22 [AMENDED]
Subchapter 5. Special Combination Vehicles
595:30-5-2 [AMENDED]
Subchapter 9. National and Regional Permits
595:30-9-1 [AMENDED]
Appendix A. Oversize Load Sign [REVOKED]
Appendix B. Troop Areas [REVOKED]

GUBERNATORIAL APPROVAL:

May 4, 2009

[OAR Docket #09-1186; filed 6-23-09]

**TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 40. DRIVER TRAINING AND IMPROVEMENT**

[OAR Docket #09-1187]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 1. Driver Education Instruction
595:40-1-1 [AMENDED]
595:40-1-2 [AMENDED]
595:40-1-3 [AMENDED]
595:40-1-4 [AMENDED]
595:40-1-9 [AMENDED]
595:40-1-11 [AMENDED]
595:40-1-13 [AMENDED]
595:40-1-15 [AMENDED]

GUBERNATORIAL APPROVAL:

May 4, 2009

[OAR Docket #09-1187; filed 6-23-09]

**TITLE 650. OKLAHOMA CENTER FOR THE ADVANCEMENT OF SCIENCE AND TECHNOLOGY
CHAPTER 18. OKLAHOMA NANOTECHNOLOGY APPLICATIONS PROJECT**

[OAR Docket #09-1167]

RULEMAKING ACTION:

Gubernatorial Approval of permanent rules

RULES:

650:18-1-1 [NEW]
650:18-1-2 [NEW]
650:18-1-3 [NEW]
650:18-1-4 [NEW]
650:18-1-5 [NEW]
650:18-1-6 [NEW]
650:18-1-7 [NEW]
650:18-1-8 [NEW]
650:18-1-9 [NEW]
650:18-1-10 [NEW]
650:18-1-11 [NEW]
650:18-1-12 [NEW]
650:18-1-13 [NEW]
650:18-1-14 [NEW]
650:18-1-15 [NEW]

GUBERNATORIAL APPROVAL:

May 6, 2009

[OAR Docket #09-1167; filed 6-10-09]

Permanent Final Adoptions

An agency may promulgate rules on a permanent basis upon "final adoption" of the proposed new, amended, or revoked rules. "Final adoption" occurs upon approval by the Governor and the Legislature, or upon enactment of a joint resolution of approval by the Legislature. Before proposed permanent rules can be reviewed and approved/disapproved by the Governor and the Legislature, the agency must provide the public an opportunity for input by publishing a Notice of Rulemaking Intent in the *Register*.

Permanent rules are effective ten days after publication in the *Register*, or on a later date specified by the agency in the preamble of the permanent rule document.

Permanent rules are published in the *Oklahoma Administrative Code*, along with a source note entry that references the *Register* publication of the permanent action.

For additional information on the permanent rulemaking process, see 75 O.S., Sections 303, 303.1, 303.2, 308 and 308.1.

TITLE 360. OKLAHOMA STATE AND EDUCATION EMPLOYEES GROUP INSURANCE BOARD CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #09-1169]

EDITOR'S NOTE: Amendments to several Sections in this Chapter were published in an earlier issue of the *Register* [see 26 Ok Reg 1518, 6-1-09; Docket # 09-847]. However, after publication in the *Register*, the agency discovered they had inadvertently submitted amendments that had been promulgated last year, instead of the amendments that were adopted, reviewed, and approved for promulgation this year. On 6-10-09, the agency submitted a filing with this year's amendments, and that filing is published below.

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 5. Hearing Procedures
360:1-5-1. [AMENDED]
360:1-5-2 [AMENDED]
360:1-5-3 [AMENDED]

AUTHORITY:

Oklahoma State and Education Employees Group Insurance Board
74 O.S., Sections 1304, 1306 and 1344

DATES:

Comment Period:

September 15, 2008 through October 17, 2008

Public Hearing:

October 17, 2008

Adoption:

February 27, 2009

Submitted to Governor:

March 3, 2009

Submitted to House:

March 3, 2009

Submitted to Senate:

March 3, 2009

Gubernatorial approval:

March 24, 2009

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on April 28, 2009

Final adoption:

April 28, 2009

Effective:

January 1, 2010

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

Changes to Chapter 1 clarify definitions, conform rules to recent benefit changes, clarify language, and clarify existing plan exclusions.

CONTACT PERSON:

Gary Goff, Attorney, Assistant Administrator, (405) 717-8744

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JANUARY 1, 2010:

SUBCHAPTER 5. HEARING PROCEDURES

360:1-5-1. Access to Grievance Panel; request for hearing

(a) **Aggrieved covered member.** Any covered member aggrieved regarding the allowance and payment or denial of claims, eligibility, benefits and provision of services, or other matters may request a hearing before the Grievance Panel [hereinafter referred to as Panel] to determine the validity of the grievance. All requests for hearings must be filed within one [1] year from the date the member is notified of a denial of the claim, benefit or coverage. After more than one [1] year from the date the member was first notified of a denial of a claim, benefit, or coverage, the matter an allowance, payment, or denial of a claim, benefit, coverage, or other matter, the matter shall be deemed finally resolved.

(b) **Aggrieved member covered by an HMO.** Any member covered by an HMO is entitled to a hearing before the Panel in the same manner as all other covered members. The member must exhaust the HMO's internal grievance procedure, except for an emergency or if the HMO fails to timely respond, before requesting a grievance panel hearing. The member must file, along with his request for hearing, a written certification from the HMO that the member has exhausted said procedure, or a detailed explanation of the emergency or of the HMO's failure to respond.

(c) **Submission of Request for Hearing.** The Request for Hearing shall be in writing on a form provided by OSEEGIB for such purpose or in writing by the employee if in substantial compliance with the form and shall contain the following information:

- (1) Name of employee, Social Security Number and address;
- (2) Name of dependent for whom claim was submitted, if not the covered employee;
- (3) Name of employee's employing entity, location, and identifying number;
- (4) Nature of claim: Health, Dental, Life, Eligibility, Disability, HIPAA or HMO;
- (5) Date claim submitted for payment, claim number;

Permanent Final Adoptions

(6) The reason given, if any, by the claims administration contractor for denying the claim in whole or in part; and

(7) A short statement as to the nature of the illness or injury giving rise to the claim.

(d) **Mailing address for submission of Request for Hearing.** The Request for Hearing shall be mailed or delivered to OSEEGIB to the attention of Attorney - Grievance Procedures, at 3545 N. W. 58th Street, Suite 110, Oklahoma City, Oklahoma 73112.

360:1-5-2. Notice of hearing

Upon receipt of a Request for Hearing form, a hearing number shall be assigned thereto and notice shall be forwarded to the claims administration contractor by mail at its closest office. The employee shall be notified of the hearing date by certified mail, return receipt requested. A copy of all rules pertinent to the hearing shall be forwarded with the Notice, along with a statement of claimant's rights, ~~and the basis for denial.~~

360:1-5-3. Prehearing conference

The Attorney representing OSEEGIB, the claimant, or ~~his~~ the claimant's attorney may request a pre-hearing conference to determine legal or factual issues. The Attorney representing OSEEGIB may conduct such a conference.

[OAR Docket #09-1169; filed 6-10-09]

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

[OAR Docket #09-1170]

RULEMAKING ACTION:

PERMANENT final adoption

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]

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.

DATES:

Comment period:

January 15, 2009 thru February 17, 2009

Public hearing:

February 17, 2009

Adoption:

March 13, 2009

Submitted to Governor:

March 23, 2009

Submitted to House:

March 23, 2009

Submitted to Senate:

March 23, 2009

Gubernatorial approval:

April 28, 2009

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 15, 2009

Final adoption:

May 15, 2009

Effective:

July 25, 2009

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

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.

CONTACT PERSON:

Stephanie Kennedy, Administrative Rules Liaison, Department of Mental Health and Substance Abuse Services, Post Office Box 53277, Oklahoma City, Oklahoma 73152-3277, (405) 522-3871.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 25, 2009:

SUBCHAPTER 9. CERTIFICATION AND DESIGNATION OF FACILITY SERVICES

450:1-9-1. Applicability of certification

This subchapter applies to all entities and individuals which are subject to certification or credentialing by the Board, or the Commissioner or designee, as set forth in 43A O.S. ~~§ 3-306.1 (Community Mental Health Centers); § 3-315 (Community Residential Mental Health Facilities); § 3-317 (Community based Structured Crisis Centers); § 3-319 (Programs of Assertive Community Treatment); § 3-320 (Eating Disorder Treatment Programs); § 3-415 (Alcohol and Drug Treatment Programs); § 3-222 (Gambling Addiction Treatment Programs), and § 3-601 (Narcotic Treatment Programs).~~

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

(a) Qualifications for certification are as follows:

(1) Compliance with applicable Standards and Criteria as set forth in the Chapter of OAC Title 450 regulating the area for which certification is being sought is required to qualify for certification. Recovery Support Specialist shall comply with applicable standards specified by the Department. Other ~~Specific~~ specific Standards and Criteria are:

- (A) Chapter 16, Standards and Criteria for Community Residential Mental Health Facilities;
- (B) Chapter 17, Standards and Criteria for Community Mental Health Centers;
- (C) Chapter 18, Standards and Criteria for Alcohol and Drug Treatment Programs;

- (D) Chapter 21, Certification of Alcohol and Drug Substance Abuse Courses (ADSAC), Organizations and Instructors;
- (E) Chapter 22, Certification of Alcohol and Drug Assessment and Evaluation Programs Related to Driver's License Revocation;
- (F) Chapter 23, Standards and Criteria for Community-based Structured Crisis Centers;
- (G) Chapter 50, Certification of Behavioral Health Case Managers;
- (H) Chapter 55, Standards and Criteria for Programs of Assertive Community Treatment.
- (I) Chapter 60, Standards and Criteria for Eating Disorder Treatment Programs;
- (J) Chapter 65, Standards and Criteria for Gambling Addiction Treatment Programs; and
- (K) Chapter 70, Standards and Criteria for Narcotic Treatment Programs.

(2) An applicant for certification must also comply with applicable statutory licensing provisions.

(b) A certified Community Mental Health Center that provides alcohol and drug treatment services in the course of its outpatient or inpatient services, but has no designated or specialized alcohol and drug abuse treatment program component, shall not be subject to additional certification under the Certified Services for Alcohol- and Drug-Dependent Standards and Criteria in OAC 450, Chapter 18.

(c) A certified Community Mental Health Center providing alcohol and drug abuse treatment services as a designated or specialized program component shall be subject to certification under the Certified Services for Alcohol- and Drug-Dependent Standards and Criteria in OAC 450, Chapter 18.

(d) Certified Services for the Alcohol- and Drug-dependent providing community mental health services shall be subject to certification as a community mental health center in OAC 450, Chapter 17.

[OAR Docket #09-1170; filed 6-11-09]

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

[OAR Docket #09-1171]

RULEMAKING ACTION:
PERMANENT final adoption

- 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]

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

- DATES:**
- Comment period:**
January 15, 2009 thru February 17, 2009
- Public hearing:**
February 17, 2009
- Adoption:**
March 13, 2009
- Submitted to Governor:**
March 23, 2009
- Submitted to House:**
March 23, 2009
- Submitted to Senate:**
March 23, 2009
- Gubernatorial approval:**
April 28, 2009
- Legislative approval:**
Failure of the Legislature to disapprove the rules resulted in approval on May 15, 2009
- Final adoption:**
May 15, 2009
- Effective:**
July 25, 2009

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

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.

CONTACT PERSON:

Stephanie Kennedy, Administrative Rules Liaison, Department of Mental Health and Substance Abuse Services, Post Office Box 53277, Oklahoma City, Oklahoma 73152-3277, (405) 522-3871.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN,
THE FOLLOWING RULES ARE CONSIDERED
FINALLY ADOPTED AS SET FORTH IN 75 O.S.,
SECTION 308.1(A), WITH AN EFFECTIVE DATE
OF JULY 25, 2009:**

SUBCHAPTER 1. GENERAL PROVISIONS

450:15-1-2. Definitions

The following words or terms, when used in this Chapter shall have the following meaning, unless the context clearly indicates otherwise:

"Abuse" means the causing or permitting of harm or threatened harm to the health, safety, or welfare of a consumer by staff responsible for the consumer's health, safety, or welfare, including but not limited to:

- (A) non-accidental physical injury or mental anguish;
- (B) sexual abuse;
- (C) sexual exploitation;
- (D) use of mechanical restraints without proper authority;
- (E) the intentional use of excessive or unauthorized force aimed at hurting or injuring the consumer; or
- (F) deprivation of food, clothing, shelter, or health-care by staff responsible for providing these services to a consumer.

Permanent Final Adoptions

"Advocate" means an employee of the Office of Consumer Advocacy, who provides assistance to consumers in exercising their rights, listens to their concerns, encourages them to speak for themselves, seeks to resolve problems, helps protect their rights, conducts investigations and seeks to improve the quality of the consumer's life and care.

"Advocate General" means the chief administrative officer of the ODMHSAS Office of Consumer Advocacy.

"Board" means Board of Mental Health and Substance Abuse Services.

"Community mental health center" or **"CMHC"** means a facility offering a comprehensive array of community-based mental health services, including but not limited to, inpatient treatment, outpatient treatment, partial hospitalization, emergency care, consultation and education; and, certain services at the option of the center, including, but not limited to, prescreening, rehabilitation services, pre-care and aftercare, training programs, and research and evaluation.

"Consumer" means an individual, adult or child, who has applied for, is receiving or has received mental health or substance abuse evaluation or treatment services from a facility operated or certified by ODMHSAS or with which ODMHSAS contacts.

"Consumer committee" or **"Consumer government"** means any established group within the facility comprised of consumers, led by consumers and which meets regularly to address consumer concerns to support the overall operations of the facility.

"Correctional institution" means any penal or correctional facility, jail, reformatory, detention center, work farm, halfway house or residential community program operated by, or under contract to, the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, for the confinement or rehabilitation of persons charged with or convicted of a criminal offense, or other persons held in lawful custody. Other persons held in lawful custody includes juvenile offenders adjudicated delinquent, aliens detained awaiting deportation, persons committed to mental institutions through the criminal justice system, witnesses, or others awaiting charges or trial.

"Crisis stabilization" means emergency, psychiatric, and substance abuse services for the resolution of crisis situations and may include placement of an individual in a protective environment, basic supportive care, and medical assessment, and, if needed, referral to an ODMHSAS certified facility having nursing and medical support available.

"Department" or **"ODMHSAS"** means the Oklahoma Department of Mental Health and Substance Abuse services.

"Designated record set" means health information, in any medium including paper, oral, video, electronic, film, audio and digital, maintained by or for facilities operated by ODMHSAS for the purpose, in whole or in part, for making decisions about a consumer, that is:

(A) The medical records about a consumer including but not limited to the intake, screenings, assessments, history and physical examination, psychosocial evaluation, consultation report(s), treatment and continuing care plan, medication record(s),

progress notes, psychometric/psychological testing results, discharge assessment, discharge plan, discharge summary, physician orders, immunization record(s), laboratory reports, ancillary therapy notes and reports, and case management records; or

(B) The eligibility, billing and payment information and minimum data sets maintained by or for the facility.

(C) Records that are sometimes filed with the medical records but are not part of the designated record set include:

(i) Administrative records including court commitment paperwork, critical incident reports or peer review documents; and

(ii) Information compiled in anticipation of litigation.

"Emergency detention" means the detention of a person who appears to be a person requiring treatment in a facility approved by the Commissioner of Mental Health and Substance Abuse Services as appropriate for such detention after the completion of an emergency examination and a determination that emergency detention is warranted for a period not to exceed seventy-two (72) hours, excluding weekends and holidays, except upon a court order authorizing detention beyond a seventy-two-hour period or pending the hearing on a petition requesting involuntary commitment or treatment as provided by 43A of the Oklahoma Statutes.

"Emergency examination" means the examination of a person who appears to be a mentally ill person, an alcohol-dependent person, or drug-dependent person and a person requiring treatment, and whose condition is such that it appears that emergency detention may be warranted, by a licensed mental health professional to determine if emergency detention of the person is warranted.

"Exploitation" or **"exploit"** means an unjust or improper use of the resources of a consumer for the profit or advantage, pecuniary or otherwise, of a person other than the consumer through the use of undue influence, coercion, harassment, duress, deception, false representation or false pretense.

"Facility" means a public or private agency, corporation, partnership, or other entity operated or certified by ODMHSAS or with which ODMHSAS contracts to provide the physical custody, detention or treatment of consumers.

"Guardian" means a person appointed by a court to ensure the essential requirements for the health and safety of an incapacitated or partially incapacitated person. As used in this subchapter, guardian includes a general or limited guardian of the person, a general or limited guardian of the estate, a special guardian, and a temporary guardian.

"Licensed mental health professional" or **"LMHP"** means:

(A) a psychiatrist who is a diplomate of the American Board of Psychiatry and Neurology;

(B) a physician licensed Doctor of Medicine or Doctor of Osteopathy pursuant to Section 480 et seq. or Section 620 et seq. of Title 59 of the Oklahoma Statutes who has received specific training for and is

experienced in performing mental health therapeutic, diagnostic, or counseling functions;

(C) a ~~licensed~~ clinical psychologist who is duly licensed to practice by the State Board of Examiners of Psychologists;

(D) a ~~licensed~~ professional counselor licensed pursuant to as defined in Section 1906 1901 et seq. of Title 59 of the Oklahoma Statutes;

(E) a person licensed as a clinical social worker pursuant to the provisions of ~~Section 1250 et seq. of Title 59 of the Oklahoma Statutes~~ the Social Worker's Licensing Act;

(F) a licensed marital and family therapist as defined in Section ~~1925.2~~ 1925.1 et seq. of Title 59 of the Oklahoma Statutes;

(G) a licensed behavioral practitioner as defined in Section ~~1934~~ 1930 et seq. of Title 59 of the Oklahoma Statutes; ~~or~~

(H) an advanced practice nurse as defined in Section ~~567.3a~~ 567.1 et seq. of Title 59 of the Oklahoma Statutes specializing in mental health; ~~or~~

(I) 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.

"**Maltreatment**" is used collectively in this Subchapter to refer to abuse, neglect, exploitation, mistreatment, sexual abuse or exploitation, and rights violation.

"**Minor**" means any person under the age of 18 years except any person convicted of a crime specified in Section 7306-1.1 of Title 10 of the Oklahoma Statutes or any person who has been certified as an adult pursuant to Section 7303-4.3 of Title 10 and convicted of a felony.

"**Mistreatment**" means an act or omission that results in or creates an unreasonable risk of harm to a consumer and that also:

(A) violates a statute, regulation, written rule, procedure, directive, or accepted professional standards and practices; ~~or~~

(B) ~~results in or creates the risk of injury to a consumer; or~~

~~(C) unintentional excessive or unauthorized use of force.~~

"**Money**" means any legal tender, note, draft, certificate of deposit, stock, bond, check or credit card.

"**Neglect**" means:

(A) the failure of staff to provide adequate food, clothing, shelter, medical care or supervision which includes, but is not limited to, lack of appropriate supervision that results in harm to a consumer;

(B) the failure of staff to provide special care made necessary by the physical or mental condition of the consumer;

(C) the knowing failure of staff to provide protection for a consumer who is unable to protect his or her own interest; or

(D) staff knowingly causing or permitting harm or threatened harm through action or inaction that has resulted or may result in physical or mental injury.

"**Oklahoma Administrative Code**" or "**OAC**" means the publication authorized by 75 O.S. §256 known as The Oklahoma Administrative Code, or, prior to its publication, the compilation of codified rules authorized by 75 O.S. §256(A)(1)(a) and maintained in the Office of Administrative Rules.

"**ODMHSAS**" means the Oklahoma Department of Mental Health and Substance Abuse Services.

"**Program of Assertive Community Treatment**" or "**PACT**" is a clinical program that provides continuous treatment, rehabilitation, and support services to persons with mental illness in settings that are natural to the consumer.

"**Privacy Officer**" means the employee of ODMHSAS designated to provide guidance on state and federal privacy laws.

"**Program**" means a structured set of activities designed and structured to achieve specific objectives relative to the needs of the clients.

"**Resident**" means a person residing in a residential care facility certified by ODMHSAS.

"**Resident committee**" or "**Resident government**" means any established group within the facility comprised of residents, led by residents and which meets regularly to address resident concerns to support the overall operations of the facility.

"**Residential care facility**" or "**RCF**" means any house, home, establishment or institution licensed pursuant to the provisions of the Oklahoma Residential Care Home Act 63 O.S., §§1-819 through 1-840, other than a hotel, fraternity or sorority house, or college or university dormitory, which is certified pursuant to 43 O.S. §3-315 as a Community Residential Mental Health Facility and offers or provides residential accommodations, food service and supportive assistance to its residents or houses any resident requiring supportive assistance that are ambulatory, essentially capable of managing their own affairs and not routinely requiring nursing care or intermediate care.

"**Restraint**" refers to manual, mechanical and chemical methods that are intended to restrict the movement or normal functioning of a portion of an individual's body.

"**Seclusion**" means the placement of an individual or individuals alone in a room or other area from which egress is prevented by a physical barrier.

"**Sexual abuse**" includes:

(A) rape, incest, or lewd and indecent acts or proposals, as defined by state law, by staff;

(B) oral, anal or vaginal penetration of a consumer by staff;

(C) the anal or vaginal penetration of a consumer by staff with any other object; or

(D) for the purpose of sexual gratification, the touch, feeling or observation of the body or private parts of a consumer by staff; or

(E) indecent exposure by staff providing services to the consumer.

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"**Sexual exploitation**" by staff with regard to a consumer includes:

- (A) staff allowing, permitting or encouraging a consumer to engage in sexual acts with others or prostitution, as defined by state law, which results in harm to a consumer; or
- (B) staff allowing, permitting, encouraging, or engaging in the lewd, obscene or pornographic photographing, filming or depicting of a consumer in those acts as defined by state law.

"**Staff**" means an agent or employee of a public or private institution or facility responsible for the care of a client or consumer and providing services to the client or consumer.

"**Treatment Advocate**" is a family member or other concerned individual designated by a consumer to participate in treatment and discharge planning, and acts in the best interest of and serves as an advocate for the consumer.

"**Verbal Abuse**" means the use of words, sounds, or other communication including, but not limited to, gestures, actions or behaviors by staff that are likely to cause a reasonable person to experience humiliation, intimidation, fear, shame or degradation.

SUBCHAPTER 7. OFFICE OF CONSUMER ADVOCACY

PART 2. INVESTIGATIONS

450:15-7-6. Reporting suspected maltreatment

(a) **Reporting Requirements.** ODMHSAS employees who have reason to believe that maltreatment of a consumer has occurred shall report such information to the Office of Consumer Advocacy. This reporting requirement also extends to employees of facilities which contract with or are certified by ODMHSAS. Persons unsure of what to report are directed to call the Office of Consumer Advocacy at 1-888-699-6605.

(b) **Method of Reporting.** Any person obligated to report an allegation of suspected abuse, neglect, mistreatment, or exploitation of consumers shall contact the Office of Consumer Advocacy in Norman, Oklahoma by telephone (1-405-573-6605 or 1-888-699-6605) twenty-four (24) hours a day, seven (7) days a week between 8:00 a.m. and 5:00 p.m. on normal business days. Reports may also be made by faxing a critical incident report to 1-405-573-6647.

450:15-7-9. Investigation procedures

(a) The Office of Consumer Advocacy shall conduct a prompt investigation of the allegation and shall be subject to the ODMHSAS Investigations policy. The Advocate shall contact the applicable facility executive director to arrange for document production, site visits and interviews.

(b) The applicable facility executive director shall arrange for the Advocate to have immediate and direct access to the alleged victim(s) in the report who is still a consumer of the facility. During an investigation, the facility shall provide the Advocate access to all employees, consumers or clients,

facilities, files and records of any nature that may pertain to the investigation. Denial of access may be grounds for termination of a contract between ODMHSAS and a contractor or revocation, non-renewal or suspension of certification or both.

- (c) Interference includes, but is not limited to:
- (1) Intimidating, harassing or threatening a party to the investigation;
 - (2) Retaliation against a consumer or employee for reporting an allegations; or
 - (3) Denial of Advocate access to clients, employees, facilities, witnesses, records or other relevant information.

450:15-7-15. Investigative report and findings

(a) After completing the information-gathering portion of the investigative process, the Advocate shall prepare a written investigative report minimally containing:

- (1) The allegation(s) made to the Office of Consumer Advocacy, the location of the alleged incident(s), and the assigned Office of Consumer Advocacy case number;
- (2) A statement of any injuries sustained by the alleged victim(s);
- (3) The applicable definition(s) of the type of maltreatment at issue such as abuse, neglect, exploitation, or mistreatment;
- (4) The finding(s) in accordance with subsection (b) of this Section;
- (5) A list of the involved parties, their titles and role in the matter, if they were interviewed and, if so, when and if interviewed face to face or by telephone;
- (6) The name, address, and telephone numbers of any interpreter used during the investigation;
- (7) An explanation of the basis for the finding(s);
- (8) Any areas of concern relating to the referral identified during the investigation regarding that facility, that provider, or practices or procedures which have implications for the safety, health, or welfare of clients;
- (9) A list of relevant documents and records reviewed during the investigation; and
- (10) A list of attachments to the report.

(b) The investigative finding options are:

- (1) "**Supported**" which means the available information establishes that it is more likely than not that the alleged ~~maltreatment~~ abuse, neglect, or mistreatment occurred;
- (2) "**Unsupported**" which means the available information established that it is unlikely that the alleged abuse, neglect, or mistreatment ~~maltreatment~~ occurred; or
- (3) "**Unable to support**" which means the available information was not sufficient to establish whether or not the alleged abuse, neglect, or mistreatment ~~maltreatment~~ occurred.

(c) Except as otherwise specifically provided in this section and as otherwise provided by state or federal laws, the information, records, materials and reports related to investigations by the Office of Consumer Advocacy are confidential and contain privileged information. Accordingly, such records, materials and reports shall not be open to public inspection nor their contents disclosed nor shall a subpoena or subpoena duces

tecum purporting to compel disclosure of such information be valid pursuant to 43A O.S. §1-109(C).

(d) An order of the court authorizing the inspection, release or disclosure of information, records, material and reports related to investigations by the Office of Consumer Advocacy shall be entered by a court only after a review of the records and a determination, with due regard for confidentiality of the information and records and the privilege of the persons identified in the records that a compelling reason exists, any applicable privilege has been waived and such inspection, release or disclosure is necessary for the protection of a legitimate public or private interest.

(e) The Office of Consumer Advocacy shall provide results of investigations as follows:

(1) A copy of the final Office of Consumer Advocacy investigation report shall be sent to the executive director of a ODMHSAS operated facility.

(2) A summary of the allegation and finding shall be sent to the executive director of a state certified or contract facility.

(3) When an executive director is named as an individual accused of maltreatment of a consumer in the allegation, the Office of Consumer Advocacy shall forward a summary of the investigative report to the chair of the board of directors of the facility.

(4) A copy of all Office of Consumer Advocacy reports shall be sent to the Legal Division of the ODMHSAS.

(5) A summary of the allegations and finding shall be provided to the Board and a copy of the report shall be provided upon request of the Board.

(6) The Department or the Office of Consumer Advocacy may summarize the outcome of an investigation, stating the allegation and the finding. The summary may be provided to the person suspected of the abuse, neglect or improper treatment, the person subject to alleged abuse, neglect or improper treatment, the person who reported an allegation and the executive director of a facility certified by or under contract with the Department at which the alleged abuse, neglect, or improper treatment occurred.

(f) The Office of Consumer Advocacy shall maintain the original report, supporting documents, and pertinent recorded tapes in locked file cabinets in accordance with the applicable ODMHSAS records management and disposition plan.

[OAR Docket #09-1171; filed 6-11-09]

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

[OAR Docket #09-1172]

RULEMAKING ACTION:
PERMANENT final adoption

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
- 450:17-3-82. 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]

AUTHORITY:

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

DATES:

Comment period:

January 15, 2009 thru February 17, 2009

Public hearing:

February 17, 2009

Adoption:

March 13, 2009

Submitted to Governor:

March 23, 2009

Submitted to House:

March 23, 2009

Submitted to Senate:

March 23, 2009

Gubernatorial approval:

April 28, 2009

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Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 15, 2009

Final adoption:

May 15, 2009

Effective:

July 25, 2009

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

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.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 25, 2009:

SUBCHAPTER 1. GENERAL PROVISIONS

450:17-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Abuse" means the causing or permitting of harm or threatened harm to the health, safety, or welfare of a resident by a staff responsible for the resident's health, safety, or welfare, including but not limited to: non-accidental physical injury or mental anguish; sexual abuse; sexual exploitation; use of mechanical restraints without proper authority; the intentional use of excessive or unauthorized force aimed at hurting or injuring the resident; or deprivation of food, clothing, shelter, or healthcare by a staff responsible for providing these services to a resident.

"Adults who have a serious mental illness" are persons eighteen (18) years of age or older who meet the following criteria:

(A) Currently or at any time during the past year have had a diagnosable mental, behavioral or emotional disorder of sufficient duration to meet criteria specified within DSM-IV with the exception of "V" codes, substance abuse disorders, and developmental disorders, unless they co-occur with another diagnosable serious mental illness; and

(B) Based on a client assessment scale, has moderate impairment in at least four, severe impairment in two or extreme impairment in one of the following areas:

- (i) Feeling, mood and affect;
- (ii) Thinking;
- (iii) Family relationships;
- (iv) Interpersonal skills;

- (v) Role performance;
 - (vi) Socio-legal; or
 - (vii) Self care and basic needs; or
- (C) Has duration of illness of at least one year and at least moderate impairment in two, or severe impairment in one of the following areas:
- (i) Feeling, mood and affect;
 - (ii) Thinking;
 - (iii) Family relationships;
 - (iv) Interpersonal skills;
 - (v) Role performance;
 - (vi) Socio-legal; or
 - (vii) Self care and basic needs.

"AOA" means American Osteopathic Accreditation

"Case management services" means planned linkage, advocacy and referral assistance provided in partnership with a consumer to support that consumer in self sufficiency and community tenure and take place in the individual's home, in the community, or in the facility, in accordance with a treatment plan developed with and approved by the consumer and qualified staff. ~~"Children who have a serious emotional disturbance" are persons under eighteen (18) years of age who meet the following criteria:~~

(A) Possess a diagnosable, serious disorder under DSM-IV such as pervasive developmental disorder, childhood schizophrenia, schizophrenia of adult type manifesting in adolescence, conduct disorder, affective disorder, other disruptive behaviors, or other disorders with serious medical implications such as eating disorders, or persistent involvement with alcohol or drugs; and

(B) ~~Based on a client assessment scale, has moderate impairment in at least four, severe impairment in two, or extreme impairment in one in the following areas:~~

- (i) Feeling, mood and affect;
- (ii) Thinking;
- (iii) Substance use;
- (iv) Family relationships;
- (v) Interpersonal skills;
- (vi) Role performance;
- (vii) Socio-legal;
- (viii) Self care and basic needs; or
- (ix) Caregiver resources; or

(C) ~~Has duration of illness for at least one year and has a functioning level of moderate impairment in at least two, or severe impairment in one of the following areas:~~

- (i) Feeling, mood and affect;
- (ii) Thinking;
- (iii) Family relationships;
- (iv) Interpersonal skills;
- (v) Role performance;
- (vi) Socio-legal; or
- (vii) Self care and basic needs.

"CARF" means Commission on Accreditation of Rehabilitation Facilities

"Chronic Homelessness" refers to an individual with a disabling condition who has either: (a) been continuously homeless for a year or more, or (b) has had at least 4 episodes of homelessness in the past 3 years. For this condition, the individual must have been on the streets or in an emergency shelter (i.e. not transitional housing) during these episodes. Chronic homelessness only includes single individuals, not families. A disabling condition is a diagnosable substance abuse disorder, serious mental illness, or developmental disability, including the co-occurrence of two or more of these conditions.

"Clinical privileging" means an organized method for treatment facilities to authorize an individual permission to provide specific care and treatment services to consumers within well-defined limits, based on the evaluation of the individual's license, education, training, experience, competence, judgment, and other credentials.

"Clubhouse" means a psychiatric rehabilitation program currently certified as a Clubhouse through the International Center for Clubhouse Development (ICCD).

"Community living programs" means either transitional or permanent supported housing for persons not in crisis who need assistance with obtaining and maintaining an independent living situation.

"Community-based Structured Crisis Center" or "CBSCC" means a program of non-hospital emergency services for mental health and substance abuse crisis stabilization as authorized by 43A O.S. §3-317, including, but not limited to, observation, evaluation, emergency treatment and referral, when necessary, for inpatient psychiatric or substance abuse services. This service is limited to CMHC's who are certified by the Department of Mental Health and Substance Abuse Services or facilities operated by the Department of Mental Health and Substance Abuse Services.

"Community mental health center" or "CMHC" means a facility offering a comprehensive array of community-based mental health services, including but not limited to, inpatient treatment, outpatient treatment, partial hospitalization, emergency care, consultation and education; and, certain services at the option of the center, including, but not limited to, prescreening, rehabilitation services, pre-care and aftercare, training programs, and research and evaluation.

"Consumer" means an individual, adult or child, who has applied for, is receiving or has received evaluation or treatment services from a facility operated or certified by ODMHSAS or with which ODMHSAS contracts and includes all persons referred to in OAC Title 450 as client(s) or patient(s) or resident(s) or a combination thereof.

"Consumer advocacy" includes all activities on behalf of the consumer to assist with or facilitate resolution of problems in the acquisition of resources or services needed by the consumer.

"Consumer committee" or "consumer government" means any established group within the facility comprised of consumers, led by consumers and meets regularly to address consumer concerns to support the overall operations of the facility.

"Co-occurring disorder" means any combination of mental health and substance abuse symptoms or diagnoses in a consumer.

"Co-occurring disorder capability" means the organized capacity within any type of program to routinely screen, identify, assess, and provide properly matched interventions to individuals with co-occurring disorders.

"Co-occurring disorder enhanced" means that the program (or subunit of the program) provides a specialized service designed for individuals with co-occurring disorders, usually with a higher level of available service capacity or intensity for the co-occurring substance use disorder than would be the case in a comparable co-occurring disorder capable program.

"Creating A Positive Environment" or "CAPE" means a specific curriculum designed by ODMHSAS to train staff in verbal and non-verbal communication techniques in the management of selected and potentially problematic behaviors and to foster attitudes that promote the consumer's dignity and self-esteem in facility treatment settings.

"Crisis Diversion" means an unanticipated, unscheduled situation requiring supportive assistance, face-to-face or telephone, to resolve immediate problems before they become overwhelming and severely impair the individual's ability to function or maintain in the community.

"Crisis Intervention" means an immediately available service to meet the psychological, physiological and environmental needs of individuals who are mentally ill.

"Crisis stabilization" means emergency, psychiatric, and substance abuse services for the resolution of crisis situations and may include placement of an individual in a protective environment, basic supportive care, and medical assessment, and, if needed, referral to an ODMHSAS certified facility having nursing and medical support available.

"Critical incident" means an occurrence or set of events inconsistent with the routine operation of the facility, or the routine care of a consumer. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to consumers, staff and visitors; medication errors; residential consumers that are absent without leave (AWOL); neglect or abuse of a consumer; fire; unauthorized disclosure of information; damage to or theft of property belonging to a consumers or the facility; other unexpected occurrences; or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

"Cultural competency" means the ability to recognize, respect, and address the unique needs, worth, thoughts, communications, actions, customs, beliefs and values that reflect an individual's racial, ethnic, religious, sexual orientation, and/or social group.

"DSM" means the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

"Emergency detention" means the detention of a person who appears to be a person requiring treatment in a facility approved by the Commissioner of Mental Health and Substance Abuse Services as appropriate for such detention after the completion of an emergency examination and a determination that

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emergency detention is warranted for a period not to exceed seventy-two (72) hours, excluding weekends and holidays, except upon a court order authorizing detention beyond a seventy-two-hour period or pending the hearing on a petition requesting involuntary commitment or treatment as provided by 43A of the Oklahoma Statutes.

"Emergency examination" means the examination of a person who appears to be a mentally ill person, an alcohol-dependent person, or drug-dependent person and a person requiring treatment, and whose condition is such that it appears that emergency detention may be warranted, by a licensed mental health professional to determine if emergency detention of the person is warranted.

"Facility" means community mental health center.

"General psychiatric rehabilitation" or **"PSR"** means a type of psychiatric rehabilitation program which focuses on long term recovery and maximization of self-sufficiency, role function and independence. General psychiatric rehabilitation programs may be organized within a variety of structures which seek to optimize the participants' potential for occupational achievement, goal setting, skill development and increased quality of life.

"Hard of hearing" is any degree of hearing loss which interferes with the individual's ability to communicate without some form of specialized accommodation which may include, but not be limited to: hearing aids, sign language interpreters, assistive listening devices, or communication through speech reading. The hearing loss of those individuals needing special services may range from mild, 25 to 45 decibels in the better functioning ear, to profound, 90 decibels or more.

"Historical timeline" means a method by which a specialized form is used to gather, organize and evaluate information about significant events in a consumer's life, experience with mental illness, and treatment history.

"Homebased services to children and adolescents" means intensive therapeutic services provided in the home to children for the purpose of reduction of psychiatric impairment and preventing removal of the child to a more restrictive setting for care. Services include a planned combination of procedures developed by a team of qualified mental health professionals, including a physician.

"Homeless" refers to a person who is sleeping in an emergency shelter; sleeping in places not meant for human habitation, such as cars, parks, sidewalks, or abandoned or condemned buildings; spending a short time (30 consecutive days or less) in a hospital or other institution, but ordinarily sleeping in the types of places mentioned above; living in transitional/supportive housing but having come from streets or emergency shelters; being evicted within a week from a private dwelling unit and having no subsequent residence identified and lacking the resources and support networks needed to obtain access to housing; being discharged from an institution and having no subsequent residence identified and lacking the resources and support networks needed to obtain access to housing; or is fleeing a domestic violence situation and no subsequent residence has been identified and the person lacks the resources and support networks needed to obtain housing.

"ICCD" means the International Center for Clubhouse Development.

"Independent living skills, assistance in development of" means all activities directed at assisting individuals in the development of skills necessary to live and function within the community, e.g., cooking, budgeting, meal planning, house-cleaning, problem-solving, communication and vocational skills.

"Integrated Client Information System" or **"ICIS"** is a comprehensive management information system based on national standards for mental health and substance abuse databases. It is a repository of diverse data elements that provide information about organizational concepts, staffing patterns, consumer profiles, program or treatment focus, and many other topics of interest to clinicians, administrators and consumers. It includes unique identifiers for agencies, staff and consumers that provide the ability to monitor the course of consumer services throughout the statewide DMHSAS network. ICIS collects data from hospitals, community mental health centers, substance abuse agencies, domestic violence service providers, residential care facilities, prevention programs, and centers for the homeless which are operated or funded in part by DMHSAS.

"JCAHO" means the Joint Commission on the Accreditation of Healthcare Organizations.

"Licensed mental health professional" or **"LMHP"** means:

- (A) a psychiatrist who is a diplomate of the American Board of Psychiatry and Neurology;
- (B) a physician licensed Doctor of Medicine or Doctor of Osteopathy pursuant to Section 480 et seq. or Section 620 et seq. of Title 59 of the Oklahoma Statutes who has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or counseling functions;
- (C) a ~~licensed~~ clinical psychologist who is duly licensed to practice by the State Board of Examiners of Psychologists;
- (D) a ~~licensed~~ professional counselor licensed to as defined in Section 1906 1901 et seq. of Title 59 of the Oklahoma Statutes;
- (E) a person licensed as a clinical social worker pursuant to the provisions of ~~Section 1250 et seq. of Title 59 of the Oklahoma Statutes~~ the Social Worker's Licensing Act;
- (F) a licensed marital and family therapist as defined in Section ~~1925.2 1925.1 et seq. of Title 59 of the Oklahoma Statutes;~~
- (G) a licensed behavioral practitioner as defined in Section ~~1931 1930 et seq. of Title 59 of the Oklahoma Statutes;~~ or
- (H) an advanced practice nurse as defined in Section ~~567.3a 567.1 et seq. of Title 59 of the Oklahoma Statutes~~ specializing in mental health; or
- (I) 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.

"Linkage" refers to the communication and coordination with other service providers to assure timely appropriate referrals between the CMHC and other providers.

"Medical resident" means a physician who is a graduate of a school of medicine or osteopathy and who is receiving specialized training in a teaching hospital under physicians who are certified in that specialty.

"Medication error" means an error in prescribing, dispensing or administration of medication, regardless if the error reached the consumer, e.g., omission of prescribed drugs, giving drugs not prescribed, prescribing inappropriate drugs, prescribing or administering incorrect dosages, incorrectly filling or labeling prescriptions, incorrectly transcribing medication orders.

"ODMHSAS" means the Oklahoma Department of Mental Health and Substance Abuse Services.

"Oklahoma Administrative Code" or **"OAC"** means the publication authorized by 75 O.S. § 256 known as The Oklahoma Administrative Code, or, prior to its publication, the compilation of codified rules authorized by 75 O.S. § 256(A) (1) (a) and maintained in the Office of Administrative Rules.

"Peer Recovery Support Specialist" or **"PRSS"** means an individual who has completed the ODMHSAS PRSS training and has passed the ODMHSAS PRSS exam.

"Performance Improvement" or **"PI"** means an approach to the continuous study and improvement of the processes of providing health care services to meet the needs of consumers and others. Synonyms, and near synonyms include continuous quality improvement, continuous improvement, organization-wide quality improvement and total quality management.

"Permanent supported housing" means a type of Community Living Program, either permanent scattered site housing or permanent congregate housing, where consumers are assisted with locating housing of their choice and are offered on-going support services based on need and choice to ensure successful independent living.

"Program of Assertive Community Treatment" or **"PACT"** is a clinical program that provides continuous treatment, rehabilitation, and support services to persons with mental illness in settings that are natural to the consumer.

"Progress notes" mean a chronological written description of services provided to a consumer and documentation of the consumer's response related to the intervention plan.

"Psychological-Social evaluations" are in-person interviews conducted by professionally trained personnel designed to elicit historical and current information regarding the behavior and experiences of an individual, and are designed to provide sufficient information for problem formulation and intervention.

"Resident" means a person residing in a community living program certified by ODMHSAS.

"Residential treatment" means a structured, 24-hour supervised treatment program for individuals who are mentally ill with a minimum of twenty-one (21) hours of therapeutic services provided per week with the emphasis on stabilization and rehabilitation for transfer to a less restrictive environment. Stay in the program is time limited.

"Restraint" refers to manual, mechanical, and chemical methods that are intended to restrict the movement or normal functioning of a portion of an individual's body.

"Screening" means the process to determine whether the person seeking assistance needs further comprehensive assessment.

"Sentinel event" is a type of critical incident that is an unexpected occurrence involving the death or serious physical or psychological injury to a consumer, or risk thereof. Serious injury specifically includes loss of limb or function. The phrase "or risk thereof" includes a variation in approved processes which could carry a significant chance of a serious adverse outcome to a consumer. These events signal the need for immediate investigation and response. Sentinel events include, but are not limited to: suicide, homicide, criminal activity, assault and other forms of violence, including domestic violence or sexual assault, and adverse drug events resulting in serious injury or death.

"Serious Emotional Disturbance" or **"SED"** means a child from birth to eighteen years of age who does not have a primary diagnosis of a developmental disorder(s) and meets the following criteria:

(A) possesses a diagnosable, serious disorder under DSM-IV such as pervasive developmental disorder, childhood schizophrenia, schizophrenia of adult-type manifesting in adolescence, conduct disorder, affective disorder, other disruptive behaviors, or other disorders with serious medical implications such as eating disorders, or persistent involvement with alcohol or drugs; and

(B) has a functioning level which includes: a moderate impairment in at least four; severe impairment in two; or extreme impairment in one of the following areas; OR has an illness with a duration of at least one year and has a functioning level of moderate impairment in at least two; or a severe impairment in one of the following areas:

(i) Feeling, mood and affect include: an uncontrolled emotion that is clearly disruptive in its effects on other aspects of a child's life; frustration, anger, loneliness and boredom persist beyond the precipitating situation; and symptoms of distress are pervasive and do not respond to encouragement or reassurance;

(ii) Thinking processes include: daily life is disrupted due to impaired thoughts and thinking process; an inability to distinguish between fantasy and reality exists; and unusual thoughts or attachments to objects are present;

(iii) Substance use includes: frequent difficulties due to substance use and repeated use of substances causing difficulty at home or in school;

(iv) Family situation includes: disruption of family relationships or family does not function as a unit and experiences frequent turbulence; relationships that exist are psychologically devastating; the child does not have family support and is abused or neglected;

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(v) Interpersonally the child will: have a severe inability to establish or maintain a personal social support system; lacks close friends or group affiliations; is socially isolated; and lacks age appropriate social skills;

(vi) Role performance consists of: frequent disruption of role performance and the individual is unable to meet usual expectations; has persistent behavior problems; and has failure, or been suspended or expelled from school;

(vii) Socio-legal issues include: inability to maintain conduct within the limits prescribed by law, rules and strong mores; shows little concern for consequences of actions; and delinquent acts or frequent contact with law enforcement exists;

(viii) Self care and basic needs are such that the ability to care for self is considerably below expectation; or

(ix) Caregiver resources are: the caregiver has difficulties in providing for the child's basic needs; or the developmental needs are such that there is a negative impact on the child's level of functioning.

"Service area" means a geographic area established by the Department of Mental Health and Substance Abuse Services for support of mental health and substance abuse services [43A O.S. §3-302(1)].

"Socialization" means all activities, which encourage interaction and the development of communication, interpersonal, social and recreational skills and can include consumer education.

~~**"Special need, persons with"** means any persons with a condition which is considered a disability or impairment under the "American with Disabilities Act of 1990" including, but not limited to the deaf or hard of hearing, visually impaired, physically disabled, developmentally disabled, persons with disabling illness, persons with mental illness. See "Americans with Disabilities Handbook," published by U.S. Equal Employment Opportunity Commission and U.S. Department of Justice.~~

"Supportive services" refers to assistance with the development of problem-solving and decision-making skills to maintain or achieve optimal functioning within the community and can include consumer education.

"Transitional housing program" means a type of Community Living Program in which the consumer's stay in the residence is considered temporary and time-limited in nature. The actual program model may include a range of approaches, including but not limited to supervised transitional living programs and supervised transitional housing programs.

"Trauma informed" means the capacity for a facility and all its programs to recognize and respond accordingly to the presence of the effects of past and current traumatic experiences in the lives of its consumers.

"Vocational assessment services" means a process utilized to determine the individual's functional work-related abilities and vocational preferences for the purpose of the identification of the skills and environmental supports needed by the individual in order to function more independently in

an employment setting, and to determine the nature and intensity of services which may be necessary to obtain and retain employment.

"Vocational placement services" means a process of developing or creating an appropriate employment situation matched to the functional abilities and choices of the individual for the purpose of vocational placement. Services may include, but are not limited to, the identification of employment positions, conducting job analysis, matching individuals to specific jobs, and the provision of advocacy with potential employers based on the choice of the individual served.

"Vocational preparation services" means services that focus on development of general work behavior for the purpose of vocational preparation such as the utilization of individual or group work-related activities to assist individuals in understanding the meaning, value and demands of work; to modify or develop positive work attitudes, personal characteristics and work behaviors; to develop functional capacities; and to obtain optimum levels of vocational development.

"Volunteer" means any person who is not on the program's payroll, but provides direct services and fulfills a defined role within the program and includes interns and practicum students.

"Wellness" means the condition of good physical, mental and emotional health, especially when maintained by an appropriate diet, exercise, and other lifestyle modifications.

450:17-1-6. Services

~~All facilities providing services shall have a group of services herein designated as core services. CMHCs may have specific additional services herein designated as optional services. Optional services may be an ODMHSAS contractual requirement(s). Both core services and optional services are required to demonstrate progress toward becoming co-occurring disorder capable.~~

~~(1) Core services are:~~

- ~~(A) Screening, intake, assessment and referral;~~
- ~~(B) Emergency services, which include crisis intervention, emergency examinations, and emergency detention if the CMHC is also certified as a community based structured crisis center or provides acute inpatient services;~~
- ~~(C) Medication clinic services;~~
- ~~(D) Case management (adult and juvenile);~~
- ~~(E) Adult psychiatric rehabilitation programs;~~
- ~~(F) Outpatient counseling; and~~
- ~~(G) Services to homeless individuals.~~

~~(2) Optional services are:~~

- ~~(A) Homebased services to children and adolescents;~~
- ~~(B) Day treatment services to children and adolescents;~~
- ~~(C) Vocational employment services;~~
- ~~(D) Community living programs;~~
- ~~(E) Crisis stabilization;~~
- ~~(F) Inpatient services within the CMHC setting;~~
- ~~(G) Program of Assertive Community Treatment; and~~

(H) Behavioral health aide services to children, adolescents and families.

All facilities providing services shall have a group of services herein designated as required core services in accordance with 450:17-3-2. CMHC's may have specific additional services some of which are designated as optional services in accordance with 450:17-5-1. All required core services and all optional services must demonstrate progress toward becoming co-occurring disorder capable.

SUBCHAPTER 3. REQUIRED SERVICES

PART 1. REQUIRED SERVICES

450:17-3-2. Core community mental health services

- (a) Each CMHC shall provide the following services: (1) Screening intake and referral services; (2) Emergency services; (3) Outpatient counseling; (4) Case management services; (5) Adult psychiatric rehabilitation programs; (6) Medication clinic services; and (7) Service to homeless individuals; (8) Peer Support Services, and (9) Wellness Activities and Support. (b) Compliance with 450:17-3-2 shall be determined by a review of the following: (1) On-site observation; (2) Staff interviews; (3) Written materials; (4) Program policies; (5) Evaluations; (6) ICIS data; and (7) Clinical records.

450:17-3-3. Availability of services

- (a) The core services shall be available to individuals regardless of their work or school schedule. (1) All services provided on an outpatient basis shall be routinely available at least forty (40) hours per week, and will include at least one evening evenings or weekend weekends day per week. (2) CMHC policy shall provide an arrangement for hours in addition to 8:00 AM - 5:00 PM according to the needs of consumers. This applies to the main CMHC location and full time satellite offices with two (2) or more full time employed clinical staff. (3) For CMHCs not providing 24 hour on-site services, hours of operation shall be conspicuously posted. (b) Compliance with 450:17-3-3 shall be determined by a review of the following: schedules; posting of hours; policy and procedures; and consumer needs assessment.

PART 3. SCREENING, INTAKE, ASSESSMENT AND REFERRAL

450:17-3-21. Integrated screening, intake, and assessment services

- (a) CMHC policy and procedure shall require that a screening of each consumer's service needs is completed in a timely manner. An integrated screening should be welcoming and culturally appropriate, as well as maximize recognition of the prevalence of co-occurring disorders among those who typically present for services at a Community Mental Health Center. (b) Upon determination of appropriate admission, consumer intake, and assessment information shall contain include, but not be limited to, the following: (1) Behavioral, including substance use, abuse, and dependence; (2) Emotional, including issues related to past or current trauma; (3) Physical; (4) Social and recreational; and (5) Vocational. (c) The consumer and family as appropriate shall be an active participant(s) in the screening, intake and assessment process. (d) The CMHC shall have policy and procedures specific to each program service which dictate timeframes by when assessments must be completed and documented. In the event the consumer is not admitted and as a result the assessment is not included in the clinical record, the policy shall specify how screening and assessment information is maintained and stored. (e) Compliance with 450:17-3-21 shall be determined by a review of clinical records, and policy and procedures.

PART 5. EMERGENCY SERVICES

450:17-3-41. Emergency services

- (a) CMHCs shall provide, on a twenty-four (24) hour basis, accessible co-occurring disorder capable services for substance abuse and/or psychiatric emergencies. (b) This service shall include the following: (1) 24-hour assessment and evaluation, including emergency examinations, characterized by welcoming engagement of all individuals and families; (2) Availability of 24-hour inpatient referral; (A) CMHC staff shall be actively involved in the emergency services and referral process to state-operated psychiatric inpatient units. (B) Referral to state-operated psychiatric inpatient units by the CMHC shall occur only after all other community resources are explored with the individual and family if family is available and the consumer gives written consent for release. (C) Prior notification to the state-operated psychiatric inpatient unit of all referrals from CMHCs is required. (3) Availability of assessment and evaluation in external settings, unless immediate safety is a concern. This

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shall include but not be limited to schools, jails, and hospitals;

(4) Referral services, which shall include actively working with local sheriffs and courts regarding the appropriate referral process and appropriate court orders (43A O.S. §§ 5-201 through 5-407);

(5) CMHCs serving multiple counties shall provide or arrange for on-site assessment of persons taken into protective custody [43A O.S. ~~§§ 5-06(5) 5-206 et seq.~~] in each county;

(6) The CMHC's emergency telephone response time shall be less than fifteen (15) minutes from initial contact, unless there are extenuating circumstances;

(7) Face-to-face strength based assessment, unless there are extenuating circumstances, addressing both mental health and substance abuse issues which include a description of the client's strengths in managing mental health and/or substance abuse issues and disorders during a recent period of stability prior to the crisis;

(8) Intervention and resolution; and

(9) No arbitrary barriers to access an evaluation based on active substance use or designated substance levels.

(c) Compliance with 450:17-3-41 shall be determined by a review of policy and procedures, and clinical records.

PART 7. OUTPATIENT COUNSELING SERVICES

450:17-3-61. Outpatient counseling services

(a) ~~Facilities that provide outpatient~~ Outpatient services shall ~~offer~~ include a range of co-occurring disorder capable services to consumers based on their needs regarding emotional, social and behavioral problems. These outpatient counseling services shall be provided or arranged for, and shall include, but not be limited to the following:

(1) Individual counseling;

(2) Group counseling;

(3) ~~Marital or family~~ Family counseling;

(4) Psychological/psychometric evaluations or testing; and

(5) Psychiatric assessments.

(b) Compliance with 450:17-3-61 shall be determined by a review of written policy and procedures; clinical records; and ICIS data reported by facilities.

450:17-3-62. Outpatient counseling services, substance abuse, co-occurring

(a) Facilities shall provide co-occurring disorder capable outpatient substance abuse counseling services.

(b) These services shall include the provision of Human Immunodeficiency Virus (HIV) education, training, and counseling services for drug dependent persons (43A O.S. §3-425.1), and every facility shall:

(1) Provide educational sessions regarding HIV to such persons, and also make the sessions available to spouses or other sexual partners of the drug dependent person; and

(2) Refer all drug dependent persons for HIV infection testing and counseling.

(c) The HIV testing and counseling may be provided by the facility, or through a public or private organization for the testing or counseling services. All test results shall be maintained in the confidential manner prescribed by applicable state or federal statutes or regulations.

(d) Compliance with 450:17-3-62 shall be determined by a review of the following: written policy and procedures; ~~substance abuse~~ consumer records; and other supporting facility records and documentation.

PART 9. MEDICATION CLINIC SERVICES

450:17-3-82. Medication clinic, medication monitoring

(a) Medication administration, storage and control, and consumer reactions shall be regularly monitored.

(b) Facilities shall assure proper storage and control of medications, immediate response if incorrect or overdoses occur, and have appropriate emergency supplies available if needed.

(1) Written procedures for medication administration shall be available and accessible in all medication storage areas, and available to all staff authorized to administer medications.

(2) All medications shall be kept in locked, non-consumer accessible areas. Conditions which shall be considered in medication storage are light, moisture, sanitation, temperature, ventilation, and the segregation and safe storage of poisons, external medications, and internal medications.

(3) Telephone numbers of the state poison centers shall be immediately available in all locations where medications are prescribed, or administered, or stored.

(4) A qualified physician shall supervise the preparation and stock of an emergency kit which is readily available, but accessible only to physician, nursing and pharmacy staff.

(c) Compliance with 450:17-3-82 shall be determined by on-site observation and a review of the following: written policy and procedures, clinical records, and PI records.

450:17-3-84. Availability of medications in a CMHC's community living setting

(a) This standard applies to a CMHC's residential program(s) not having on-site medical staff.

(b) The CMHC shall have policy and procedures governing consumer access to medications and shall include, at least, the following items:

(1) Non-medical staff and volunteers shall not dispense or administer medication; and

(2) Medication shall be not withheld from consumers for whom it is prescribed, for non-medical reasons. There shall be policies governing the provision of medication to clients who are actively using substances at the time of their dosage, which document how to determine which medications should continue to be provided, and which medications should be withheld or postponed;

~~(3) Prescribed medication shall be stored in a non-resident area that shall be kept locked, except those medications which may be needed by the consumer on an emergency basis; and~~

~~(4) Only medication and medical supplies shall be stored in a non-resident area apart from the medication storage area.~~

(c) Compliance with 450:17-3-84 shall be determined by on-site observation; and a review of the following: clinical records, medication logs, and policy and procedures.

PART 11. CASE MANAGEMENT

450:17-3-101. Case management services, ~~adult~~

(a) Case management efforts shall empower consumers to access and use needed services and meet self-determined goals. These services include resource skills development and consumer advocacy provided in various settings based on consumer need.

(b) Case management services shall be offered co-occurring disorder capable and made available to all adults who have a serious mental illness; and, to each child (or their parent/guardian) with serious Emotional Disturbance. shall provide the following:

~~(1) Screening to determine their need for case management services, which shall include evidence the following were evaluated:~~

- ~~(A) Consumer's level of functioning within the community;~~
- ~~(B) Consumer's job skills and potential;~~
- ~~(C) Client strengths and resources;~~
- ~~(D) Consumer's present living situation and support system;~~
- ~~(E) Consumer's use of substances and orientation to changes related to substance use;~~
- ~~(F) Consumer's medical and health status;~~
- ~~(G) Consumer's needs or problems which interfere with the ability to successfully function in the community; and~~
- ~~(H) Consumer's goals, hopes and dreams.~~

~~(2) Emergency services and emergency assistance.~~

(c) Case management shall be co-occurring disorder capable and shall provide the following:

(1) Screening to determine their need for case management services, which shall include evidence the following were evaluated:

- (A) Consumer's level of functioning within the community;
- (B) Consumer's job skills and potential; and/or educational needs
- (C) Consumer strengths and resources;
- (D) Consumer's present living situation and support system;
- (E) Consumer's use of substances and orientation to changes related to substance use;

(F) Consumer's medical and health status;

(G) Consumer's needs or problems which interfere with the ability to successfully function in the community; and

(H) Consumer's goals, hopes and dreams.

(2) Emergency services and emergency assistance.

(d) Case management services shall be planned linkage, advocacy and referral assistance provided in partnership with a client to support that client in self sufficiency and community tenure. Activities include:

(1) Completion of strengths based assessment,

(2) Linkage with appropriate components of the service system;

(3) Support to maintain community living skills;

(4) Contacts with other individuals and organizations that influence the recipient's relationship with the community, i.e., family members, law enforcement personnel, landlords, etc.; and

(5) Activities can include follow-up contact with the consumer if they miss any scheduled appointments (including physician/medication, counseling, rehabilitation, or other supportive service appointments as delineated on the service plan).

(e) Compliance with 450:17-3-101 shall be determined by on-site observation and a review of the following: clinical records, and written policy and procedures.

450:17-3-101.1. Case management services, child, adolescent and family [REVOKED]

~~(a) Case management services shall be co-occurring disorder capable and offered to children and their families to assure access to needed services. This includes referral, linkage and advocacy. These services may be offered to any child or family who presents for service at a community mental health center but must be offered to a child identified as Seriously Emotionally Disturbed. Services should be offered in a manner that engages families in intervention strategies which promote healthy decisions regarding substance use, in order to promote healthy support for the presenting child.~~

~~(b) The case manager shall know the local available services, the procedures and criteria for assessing local services. The case manager shall act as an advocate for the child and family in obtaining needed community resources, including coordination of efforts with the child's school.~~

~~(c) The case manager shall develop a case management service plan based on the needs of the child and family.~~

~~(d) The case management services shall be specified in the child's case management service plan. The inability to make face to face contact shall be documented in the child's case record.~~

~~(e) Compliance with 450:17-3-101.1 shall be determined by review of case records of consumers, and their families, receiving juvenile case management services.~~

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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

~~(a) Case managers shall maintain contact with hospitalized consumers and consumers in any level of substance abuse treatment. Individuals in an inpatient psychiatric unit setting shall be provided face to face case management assessment upon discharge. This shall occur as soon as possible, but shall not exceed one (1) week post discharge.~~

~~(b) Case managers from the CMHC to which the consumer will be discharged shall assist the consumer and psychiatric inpatient unit and/or substance abuse treatment facility with discharge planning for consumers returning to the community.~~

~~(c) Each CMHC shall assign at least one (1) staff member who is responsible for linkage between psychiatric inpatient unit and/or the substance abuse treatment facility and the CMHC. Linkage shall include, but not be limited to, the following activities, pursuant to appropriately signed releases and adherence to applicable privacy provisions:~~

~~(1) Regular visits or communication with the psychiatric inpatient unit and/or substance abuse treatment facility to monitor progress of those consumers hospitalized and/or in facility based substance abuse treatment from the CMHC's service area.~~

~~(2) Attendance at meetings established for the purpose of improving communication and coordination between the inpatient unit and/or substance abuse treatment facility and the CMHC.~~

~~(3) Provide knowledge and communication to other CMHC staff regarding psychiatric inpatient unit admission and/or substance abuse treatment facility and discharge procedures.~~

~~(d) Compliance with 450:17-3-103 shall be determined by a review of the following: clinical records; staff interviews; information from ODMHSAS operated psychiatric inpatient unit; substance abuse treatment facilities; meetings minutes (CMHC or state operated psychiatric inpatient unit); and a review of a minimum of ten (10) clinical records of consumers hospitalized or receiving facility based substance abuse treatment within the past twelve (12) months.~~

~~(a) Case managers shall maintain contact with existing CMHC consumers, and establish contact with newly referred persons who are receiving services in inpatient psychiatric settings, Community Based Crisis Stabilization Centers, (CBCSC), or 24-hour settings providing substance abuse treatment.~~

~~(b) Each CMHC shall assign at least one (1) staff member who is responsible for linkage between psychiatric inpatient units, CBSCCs, and/or the substance abuse treatment facility and the CMHC. Linkage shall include, but not limited to, the following activities, pursuant to appropriately signed releases and adherence to applicable privacy provisions:~~

~~(1) Regular visits or communication with the psychiatric inpatient unit, CBCSC, and/or substance abuse treatment facility to monitor progress of those consumers hospitalized and/or in facility-based substance abuse treatment from the CMHC's service area.~~

~~(2) Provide knowledge and communication to other CMHC staff regarding psychiatric inpatient unit admission, CBCSC and/or substance abuse treatment facility and discharge procedures.~~

~~(c) Case managers from the CMHC to which the consumer will be discharged shall assist the consumer and psychiatric inpatient unit, CBCSC, and/or substance abuse treatment facility with discharge planning for consumers returning to the community.~~

~~(d) Individuals discharging from an inpatient psychiatric unit setting, CBCSC, and/or substance abuse treatment facility shall be offered case management and other supportive services. This shall occur as soon as possible, but shall be offered no later than one (1) week post-discharge.~~

~~(e) Compliance with 450:17-3-103 shall be determined by a review of the following: clinical records; staff interviews; information from ODMHSAS operated psychiatric inpatient unit; CBCSC facilities, substance abuse treatment facilities; meetings minutes (CMHC or state-operated psychiatric inpatient unit); and a review of a minimum of ten (10) clinical records of consumers who received services at an inpatient unit, CBSS, and/or 24-hour setting providing substance abuse treatment within the past twelve (12) months.~~

PART 15. ADULT RECOVERY AND REHABILITATION PROGRAMS

450:17-3-141. Psychiatric rehabilitation programs

(a) This section governs day programs for persons living with serious mental illness. These standards reflect two recovery focused programs: General psychiatric rehabilitation model (PSR) and Clubhouse model.

(b) The CMHC shall provide either, or both, the PSR model or Clubhouse model. CMHC policy and procedures shall reflect that these models incorporate the following core principles:

(1) Recovery is the ultimate goal of psychiatric rehabilitation. Interventions must facilitate the process of recovery.

(2) Psychiatric rehabilitation practices help people re-establish normal roles in the community and their integration into community life.

(3) Psychiatric rehabilitation practices facilitate the development of personal support networks.

(4) Psychiatric rehabilitation practices facilitate an enhanced quality of life for each person receiving services.

(5) People have the capacity to learn and grow.

(6) People receiving services have the right to direct their own affairs, including those that are related to their psychiatric disability.

(7) People are to be treated with respect and dignity.

- (8) Psychiatric rehabilitation practitioners make conscious and consistent efforts to eliminate labeling and discrimination, particularly discrimination based upon a disabling condition.
 - (9) Culture and ethnicity play an important role in recovery. They are sources of strength and enrichment for the person and the services.
 - (10) Psychiatric rehabilitation interventions build on the strength of each person.
 - (11) Psychiatric rehabilitation services are to be coordinated, accessible, and available as long as needed.
 - (12) Services are to be designed to address the unique needs of each individual, consistent with the individual's cultural values and norms.
 - (13) Psychiatric rehabilitation practices actively encourage and support the involvement of persons in normal community activities, such as school and work, throughout the rehabilitation process.
 - (14) The involvement and partnership of persons receiving services and family members is an essential ingredient of the process of rehabilitation and recovery.
 - (15) Psychiatric rehabilitation practitioners should constantly strive to improve the services they provide.
- (c) Psychiatric rehabilitation programs recognize that co-occurring substance abuse disorders will be common place among many of the participants in these programs. As such, the program shall be co-occurring disorder capable and facilitate processes for dual recovery for these individuals.
- (d) Psychiatric rehabilitation programs are required to maintain minimum staff ratios to assure participants have choices in activities and staff with whom they work. The following staffing ratios shall be maintained for each location at which a psychiatric rehabilitation program is in operation.
- (1) ~~Ten (10)~~ Fourteen (14) or fewer participants in attendance; at least one staff member present provided arrangements for emergency back up staff coverage are in place and described in the program's policy and procedures;
 - (2) ~~Eleven (11)~~ Fifteen (15) to twenty eight (28) participants in attendance; at least two staff members present; or,
 - (3) Programs with twenty nine (29) or more participants shall maintain a 14:1 participant-to-staff ratio.
- (e) Compliance with 450:17-3-141 shall be determined by on-site observation; interviews with participants; interviews with staff; a review of policy and procedures; and a review of clinical records; or proof of compliance with 450:17-3-146.

PART 21. PEER SUPPORT SERVICES

450:17-3-191. Peer support services

- (a) Peer support services are provided as a program integrated within the overall structure of Community Mental Health Center services and must be offered to adults age 18 and older with serious mental illnesses, including co-occurring disorders.
- (b) Peer support services may be offered to other consumers of the community mental health center and their families.

- (c) These services shall
 - (1) Be based on an individualized, recovery-focused service philosophy that allows individuals the opportunity to learn to manage their own recovery and advocacy process;
 - (2) Recognize the unique value of services being provided by persons with lived experience who are able to demonstrate their own hopefulness and recovery;
 - (3) Enhance the development of natural supports, coping skills, and other skills necessary to function as independently as possible in the community, including, but not limited to assisting re-entry into the community after a hospitalization or other institutional settings;
 - (4) Have written policies specific to these services; and,
 - (5) Be provided by Peer Recovery Support Specialist(s) as defined by 450:17-3-192.
- (d) Each CMHC shall have in place provisions for direct supervision and other supports for staff providing this service.
- (e) Compliance with 450:17-3-191 shall be determined by a review of the following: documentation of linkage activities and agreements; clinical records; ICIS reporting data; and, CMHC policy and procedures.

450:17-3-192. Peer Recovery Support Specialists staff requirements

- (a) Recovery Support Services shall be provided only by staff who have completed the ODMHSAS PRSS training and have passed the ODMHSAS PRSS exam.
- (b) Each CMHC shall document and maintain records to verify current credentialing of each provider of this service.
- (c) Compliance for 450:17-3-192 shall be determined by a review of the facility personnel records and ODMHSAS credentialing files.

450:17-3-193. Peer Recovery Support services: Locale and frequency

- (a) Peer Recovery Support services can be provided in any location. The majority of contacts should be face-to-face, however, services may be provided over the telephone as necessary to help the consumer achieve his/her goals.
- (b) Compliance for 450:17-3-193 shall be determined by a review of the agency policy and procedures, ICIS, consumer records, consumer interviews, and observation.

PART 23. WELLNESS SERVICES AND RELATED ACTIVITIES

450:17-3-201. Wellness Services and Related Activities

- (a) Wellness Services and Related Activities are consumer-driven services and supports that promote healthy lifestyles and behaviors which may include and not be limited to smoking cessation activities, exercise, stress management, and education on nutrition.
- (b) These services shall:

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- (1) Be based on an individualized, recovery-focused service philosophy that allows individuals the opportunity to learn to manage their own wellness; and,
- (2) Have written policies specific to this services.
- (c) Compliance for 450:17-3-201 shall be determined by a review of the following: documentation of activities and agreements; clinical records; ICIS reporting data; and, CMHC policy and procedures.

SUBCHAPTER 5. OPTIONAL SERVICES

PART 15. INPATIENT SERVICES

450:17-5-95. Inpatient services within the community mental health setting

- (a) Any community mental health center providing inpatient services must demonstrate current compliance with applicable accreditation requirements for inpatient psychiatric or behavioral health services as stipulated by any of the following: the JCAHO, CARF, AOA, and also demonstrate current licenses as required by the Oklahoma State Department of Health. Inpatient services are intended to meet the needs of consumers through evaluation, treatment, and stabilization.
- (b) Compliance with 17-5-95(a) will be determined by a review of current documentation related to applicable accreditation and licensure. Inpatient services shall be co-occurring disorders capable and include:

- (1) Evaluation and diagnostic studies for both mental health and substance abuse disorders;
- (2) Intensive care and treatment, including detoxification when required, during acute periods of emotional disturbance or profound crisis;
- (3) Initiation and stabilization of psychotropic medication regimen, if indicated;
- (4) Other services as defined by needs of individual consumers; and
- (5) A multidisciplinary co-occurring disorder competent treatment team, including twenty four (24) hour psychiatric nursing, and a medical staff, shall be employed to meet the broad clinical needs of consumers.

- (c) Compliance with 450:17-5-95 shall be determined by a review of the following: CMHC policy and procedures; clinical records; and staffing patterns and clinical privileging.

450:17-5-96. Inpatient services within the community mental health setting, service issues [REVOKED]

- (a) Policy and procedures for inpatient services shall be established and maintained, addressing service issues within the inpatient unit.
- (b) The written policy and procedures shall define and direct:
 - (1) Admissions including admission and exclusion criteria. (Note: There should be no arbitrary barriers to admission based on substance levels or substance history);
 - (2) Assessment;

- (3) Treatment planning;
- (4) Documentation of progress;
- (5) Discharge and aftercare planning and implementation;
- (6) Follow up;
- (7) Treatment modalities utilized and methods for implementation; and
- (8) The provision of services to persons with special needs.
- (e) Compliance with 450:17-5-96 shall be determined by a review of the following: written policy and procedures; and by staff interviews.

450:17-5-97. Inpatient services within the community mental health setting, clinical medical health issues [REVOKED]

- (a) Complete physical examinations and health assessments shall be conducted on each consumer.
- (b) The consumer shall receive the complete physical examination and health assessment by a qualified physician within twenty four (24) hours of admission.
- (c) A qualified physician must evaluate the health status of a consumer prior to ordering medication.
- (d) Compliance with 450:17-5-97 shall be determined by a review of the clinical records, inpatient services.

450:17-5-98. Inpatient services within the community mental health setting, activity services [REVOKED]

- (a) Activity services shall be provided for consumers of the inpatient services.
- (b) These activity services shall:
 - (1) Meet the social, recreational, physical, health maintenance, and integrated mental health and substance abuse rehabilitative needs of the consumer; and
 - (2) Be scheduled during day, evening, and weekend hours.
- (c) Compliance with 450:17-5-98 shall be determined by a review of the following:
 - (1) On-site observation;
 - (2) Personnel files;
 - (3) Job descriptions;
 - (4) Records and schedules of the activities provided;
 - (5) Daily activity schedules; and
 - (6) Policy and procedures.

450:17-5-99. Inpatient services within the community mental health setting, environment [REVOKED]

- (a) The environment of the inpatient setting shall be planned, developed, and maintained to respond to the range of needs of consumers served. The environmental quality and type, and the rationales for the development of environment shall be defined by written policy and procedures. Attention to the needs of special populations shall be reflected in these written policy and procedures.

SUBCHAPTER 7. FACILITY CLINICAL RECORDS

~~(1) The plan for environment shall include the following, as indicated by the clinical status of consumers served:~~

- ~~(A) Use of outdoor areas;~~
- ~~(B) Safety, security, and sanitation needs;~~
- ~~(C) Areas to accommodate a range of social activities;~~
- ~~(D) Areas offering privacy to the individual to be alone or talk with staff, family, or others, and~~
- ~~(E) Facilities shall be appropriately furnished and supplied with materials and equipment suited to the age and physical status of consumers served.~~

~~(2) Dining and sleeping areas shall be comfortable and conducive to relaxation.~~

~~(3) Consumers shall be allowed to wear their own appropriate clothing.~~

~~(4) Consumers shall be allowed to display personal belongings and decorate their living and sleeping areas as appropriate to clinical status of consumers.~~

~~(5) Consumers shall be encouraged to assume responsibility for maintaining their living areas, as appropriate to their clinical status.~~

~~(b) Compliance with 450:17-5-99 shall be determined by a review of the written policy and procedures; and observation of facility environment.~~

450:17-5-100. Mechanical restraints [REVOKED]

~~(a) Mechanical restraints may only be utilized in hospitals, crisis stabilization units and inpatient services which are an integral part of a CMHC and shall never be used unless it is determined by a licensed physician of the facility to be required by the immediate needs of a consumer for the safety and protection of the consumer or other persons.~~

~~(b) The facility shall have a written protocol for the use of mechanical restraints which include, but is not limited to:~~

- ~~(1) Criteria to be met prior to authorization of the use of mechanical restraints;~~
- ~~(2) Signature of the person authorizing use is required;~~
- ~~(3) Time limit of said authorizations;~~
- ~~(4) Circumstances which automatically terminate an authorization;~~
- ~~(5) Setting a time period, not to exceed every fifteen (15) minutes, an individual in mechanical restraints shall be observed and checked by a registered nurse;~~
- ~~(6) Requiring in every use of mechanical restraints the specific reason for such use, the actual start and stop times of use, authorizing signature and record of times the consumer was observed and checked. All the items listed in 450:18-5-3(b)(6) shall be made a part of the consumer record;~~
- ~~(7) Maintenance in the facility of a chronological log which includes the name of every consumer placed in mechanical restraints, and the date upon which this event occurred. This is the responsibility of the facility director; and~~
- ~~(8) A process of peer review to evaluate use of mechanical restraints.~~

450:17-7-8. Integrated Service plan

(a) The service plan is performed with the active participation of the consumer and a support person or advocate if requested by the consumer. In the case of children under the age of 18, it is performed with the participation of the parent or guardian and the child as age and developmentally appropriate. The service plan shall provide the formation of measurable service objectives and reflect ongoing changes in goals and objectives based upon consumer's progress or preference or the identification of new needs, challenges and problems.

(b) The integrated service plan is developed after and based on information obtained in the mental health assessment and includes the evaluation of the assessment information by the clinician and the consumer.

(c) For adults, the service plan must be focused on recovery and achieving maximum community interaction and involvement including goals for employment, independent living, volunteer work, or training. For children, the service plan must address school and educational concerns and assisting the family in caring for the child in the least restrictive level of care.

(d) Comprehensive integrated service plans must be completed within five (5) treatment sessions for each program service to which a consumer is admitted.

(e) Comprehensive integrated service plan contents shall address the following:

- (1) Consumer strengths, needs, abilities, and preferences;
- (2) Identified presenting challenges, needs and diagnosis;
- (3) Goals for treatment with specific, measurable, attainable, realistic and time limited objectives;
- (4) Description of the consumer's involvement in and responses to the treatment plan and his/her signature and date;
- (5) Date each objective is initiated and target date for completion;
- (6) Type and frequency of services estimated to be provided;
- (7) The practitioner(s) who will be providing and responsible for each service;
- (8) Any needed referrals for services; and
- (9) Specific discharge criteria.

(f) Service plan updates shall address the following:

- (1) Progress on previous service plan goals and/or objectives;
- (2) A statement documenting a review of the current service plan and an explanation if no changes are to be made to the service plan;
- (3) Change in goals and/or objectives (including target dates) based upon consumer's progress or identification of new need, challenges and problems;
- (4) Change in frequency and/or type of services provided;

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- (5) Change in practitioner(s) who will be responsible for providing services on the plan;
- (6) Additional referrals for needed services; and
- (7) Change in discharge criteria.
- (g) Integrated Service Plan updates should occur at a minimum of every 6 months during which services are provided.
- (h) Service plans, both comprehensive and update, must include dated signatures for the consumer (if over age 14), the parent/guardian (if under age 18 or otherwise applicable), and the primary service practitioner.
- (i) Compliance with 450:17-7-8 shall be determined by a review of the clinical records.

450:17-7-9. Medication record

- (a) A medication record shall be maintained on all consumers who receive medications or prescriptions through the outpatient clinic services and shall be a concise and accurate record of the medications the consumer is receiving or prescribed.
- (b) The consumer record shall contain a medication record with the following information on all medications ordered or prescribed by physician staff:
 - (1) The record of medication administered, dispensed and prescribed shall include all of the following:
 - (A) Name of medication,
 - (B) Dosage,
 - (C) Frequency of administration or prescribed change, and
 - (D) ~~Route of administration, and~~
 - (~~E~~) Staff member who administered or dispensed each dose, ~~or~~ and prescribing physician; and
 - (2) A record of pertinent information regarding adverse reactions to drugs, drug allergies, or sensitivities during intake, updated when required by virtue of new information, and kept in a highly visible location in or on the record.
- (c) Compliance with 450:17-7-9 shall be determined by a review of medication records and clinical records.

[OAR Docket #09-1172; filed 6-11-09]

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

[OAR Docket #09-1173]

RULEMAKING ACTION:
PERMANENT final adoption

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]

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.

DATES:

Comment period:

January 15, 2009 thru February 17, 2009

Public hearing:

February 17, 2009

Adoption:

March 13, 2009

Submitted to Governor:

March 23, 2009

Submitted to House:

March 23, 2009

Submitted to Senate:

March 23, 2009

Gubernatorial approval:

April 28, 2009

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 15, 2009

Final adoption:

May 15, 2009

Effective:

July 25, 2009

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

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.

CONTACT PERSON:

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**PURSUANT TO THE ACTIONS DESCRIBED HEREIN,
THE FOLLOWING RULES ARE CONSIDERED
FINALLY ADOPTED AS SET FORTH IN 75 O.S.,
SECTION 308.1(A), WITH AN EFFECTIVE DATE
OF JULY 25, 2009:**

SUBCHAPTER 15. FORENSIC REVIEW BOARD [REVOKED]

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

(a) ~~This Subchapter is applicable to the ODMHSAS operated Oklahoma Forensic Center and other facilities within the Department housing individuals committed to the Department pursuant to Title 22 O.S. § 1161 and implements the provisions of 22 O.S. § 1161.F.2.a and 43A O.S. § 2-202.17.~~

(b) ~~Each person ordered to the custody of the ODMHSAS through a "not guilty by reason of insanity" verdict shall receive an annual review of his or her case and clinical status by a Forensic Review Board comprised of licensed clinicians selected by the ODMHSAS Commissioner.~~

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

The following words or terms, when used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise.

~~"Conditional release" is a court approved release for those adjudicated not guilty by reason of insanity who are not believed to be presently dangerous to the public peace or safety, from the physical custody of ODMHSAS.~~

~~"Forensic Review Board" or "Review Board" is the three member board appointed by the ODMHSAS Commissioner to review the cases of persons ordered to the custody of the Department through a "not guilty by reason of insanity" verdict.~~

~~"ODMHSAS" means the Oklahoma Department of Mental Health and Substance Abuse Services.~~

~~"Therapeutic visits" mean any ODMHSAS supervised time spent off the campus of the Oklahoma Forensic Center or any other ODMHSAS operated facility to which the individual may be committed and includes the following types of off campus time:~~

- ~~(A) Day passes mean off grounds passes for a period of time not to exceed 12 hours between the hours of 8 am and 10 pm;~~
- ~~(B) Routine therapeutic visits mean monthly off grounds visits to a specific state operated enhanced residential care facility for a designated period of time not to exceed three months and~~
- ~~(C) Emergency therapeutic visits mean a situation that arises in the consumers family that may require them to leave the grounds of OFC under ODMHSAS staff supervision upon recommendation by the Board and with court approval.~~

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

~~(a) Board Membership. The Forensic Review Board shall be composed of three (3) members selected by the ODMHSAS Commissioner.~~

- ~~(1) Members shall be a licensed mental health professional whose training and experience enable him or her to form expert opinions regarding mental illness and dangerousness.~~
- ~~(2) One member shall be a licensed psychiatrist.~~
- ~~(3) One member shall be a licensed psychologist.~~
- ~~(4) Members shall be appointed to staggered terms not to exceed three (3) years. Members shall serve at the pleasure of the Commissioner.~~
- ~~(5) The Review Board shall select a chair who shall:~~
 - ~~(A) Preside over each meeting; and~~
 - ~~(B) Keep the members apprised of relevant information.~~

~~(b) Commissioner or designee. The Commissioner or the Commissioner's designee shall review each matter that comes before the Forensic Review Board and shall either approve or disapprove any recommendation made by the Board.~~

~~(c) Meetings. The Review Board shall meet at the Oklahoma Forensic Center at least quarterly.~~

- ~~(1) A quorum shall consist of two (2) members;~~

~~(2) In the event of a tie vote when only two members are conducting business, such results shall be forwarded to the Commissioner or designee for a determination;~~

~~(3) The agenda and materials for review shall be prepared and reviewed by the Board members in advance of the meeting. Review materials pertinent to each case may include, but are not limited to:~~

- ~~(A) Risk assessment;~~
- ~~(B) Recommendation and other relevant information from the consumer's treatment team;~~
- ~~(C) Progress Notes for the previous three months relevant to any critical incident report or any inappropriate behavior;~~
- ~~(D) Lab testing for medication compliance;~~
- ~~(E) Lab results for drug/alcohol screens upon return from previous visits, if any;~~
- ~~(F) Any critical incident forms involving the consumer during the previous twelve months;~~
- ~~(G) Input from family members or others involved in the plans for the Therapeutic Visit; and~~
- ~~(H) Other information the Review Board deems necessary.~~

~~(4) The person whose case is under review shall be given an opportunity to provide input via written documentation and in person. If the person chooses, he or she may have a representative accompany him or her to the Review Board meeting.~~

~~(5) These meetings shall not be considered opened to the public. Other than the Forensic Review Board members, the following individuals shall be permitted to attend the meetings and ask questions of the consumer whose case is being reviewed, the treatment team or any other person appearing before the Forensic Review Board:~~

- ~~(A) DMHSAS Commissioner or designee;~~
- ~~(B) DMHSAS Advocate General or designee;~~
- ~~(C) Oklahoma Forensic Center's Executive Director or designee;~~
- ~~(D) DMHSAS General Counsel or designee; and~~
- ~~(E) DMHSAS Deputy Commissioner for Mental Health Services or designee.~~
- ~~(F) Any other persons wishing to attend the meeting must first obtain approval by the Forensic Review Board's Chairperson or the DMHSAS Commissioner.~~

~~(d) Reviews. Following the review of the information submitted, the Review Board shall render a determination at the conclusion of each meeting. The determination for each case is limited to the following:~~

- ~~(1) Whether or not therapeutic visits will be recommended to the court by the Forensic Review Board;~~
- ~~(2) If a therapeutic visit is recommended, the location of the visit.~~
- ~~(3) The date and time the visit will begin and the duration of the visit.~~
- ~~(4) Any other parameters to be recommended to the court reviewing the Therapeutic Visit.~~
- ~~(5) If a conditional release will be recommended to the Oklahoma Forensic Center.~~

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- (6) If a conditional release will be recommended to the Oklahoma Forensic Center, the Forensic Review Board shall make recommendation regarding the plan for continued outpatient services and any other terms of the conditional release.
- (7) If a discharge from a conditional release will be recommended to the Oklahoma Forensic Center.
- (e) Before being eligible for consideration for a therapeutic visit the individual must have been successful in managing unsupervised ground freedom on campus for at least five (5) months. Successful management of ground freedom is defined as being compliant with treatment, including being accountable for his or her whereabouts.
- (f) The following risk assessment scores for each consumer will be reported to the FRB and will be considered in determining therapeutic visits, conditional release or discharge:
- (1) the PCL-R or
 - (2) the VRAG or
 - (3) the HCR20 for an outpatient setting.
- (g) All individuals returning from any therapeutic visit may be subject to drug testing and searched for contraband.
- (h) Any individual who is noncompliant with the parameters or conditions placed on a recommendation for a therapeutic visit may have his or her therapeutic visits suspended. His or her status will revert to on campus level until the next scheduled Review Board meeting, at which time the Board will determine whether the individual should be allowed further therapeutic visits.
- (i) The Board shall develop a process for reviewing requests for therapeutic visits for unforeseen purposes such as death or serious illness of an immediate family member.
- (j) The Review Board shall apprise the individual whose case was reviewed, the Oklahoma Forensic Center Executive Director, the ODMHSAS General Counsel and the Consumer Advocate General of each determination made.
- (k) The ODMHSAS Office of Consumer Advocacy and the Director of Psychology of the Oklahoma Forensic Center shall provide support services to the Review Board and its Chair.

[OAR Docket #09-1173; filed 6-11-09]

TITLE 455. MERIT PROTECTION COMMISSION CHAPTER 10. MERIT SYSTEM OF PERSONNEL ADMINISTRATION

[OAR Docket #09-1177]

RULEMAKING ACTION:

Permanent final adoption

RULES:

- Subchapter 1. General Provisions
- 455:10-1-2. Definitions [AMENDED]
- 455:10-1-5. Review of Commission records [AMENDED]
- 455:10-1-7. Organization [AMENDED]
- 455:10-1-10. Forms and instructions [AMENDED]
- Subchapter 3. Jurisdiction, Rights and Processes
- 455:10-3-1.1. Time [AMENDED]
- 455:10-3-2. Determining jurisdiction; "file" defined [AMENDED]
- 455:10-3-3.3. No jurisdiction over designation of worksite [NEW]

- 455:10-3-4.1. Notice of appeal [AMENDED]
- 455:10-3-6. Alleged violations of employee's freedom of expression [AMENDED]
- 455:10-3-15. Transcripts [AMENDED]
- 455:10-3-17. Continuances [AMENDED]
- Subchapter 7. Investigations
- 455:10-7-2. Directed investigation [AMENDED]
- 455:10-7-4. Investigative report [AMENDED]
- 455:10-7-6. Investigative file [AMENDED]
- Subchapter 9. Hearing Process
- 455:10-9-1. Prehearing conference [AMENDED]
- 455:10-9-2. Hearing [AMENDED]
- Subchapter 11. Discipline
- 455:10-11-1. General [AMENDED]
- 455:10-11-4. Progressive discipline [AMENDED]
- 455:10-11-14. Causes for discharge, suspension without pay or involuntary demotion [AMENDED]
- 455:10-11-17. Discharge [AMENDED]
- Subchapter 15. Attorney Fees and Costs
- 455:10-15-4. Request [AMENDED]
- Subchapter 19. Internal Agency Grievance Resolution Procedures
- Part 1. General Provisions
- 455:10-19-1. General [AMENDED]
- Part 5. Grievance Provisions
- 455:10-19-35. Grievance [AMENDED]

AUTHORITY:

The authority for these rules is Section 840-1.9 of Title 74 of the Oklahoma Statutes. The primary basis is the Oklahoma Personnel Act, Section 840-1.1 et seq. of Title 74 of the Oklahoma Statutes.

DATES:

Comment period:

February 4, 2009 through March 4, 2009

Public hearing:

March 5, 2009

Adoption:

March 26, 2009

Submitted to Governor:

March 30, 2009

Submitted to House:

March 30, 2009

Submitted to Senate:

March 30, 2009

Gubernatorial approval:

May 6, 2009

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 21, 2009

Final adoption:

May 21, 2009

Effective

July 25, 2009

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

- Subchapter 1. General Provisions
- 455:10-1-2. Definitions [AMENDED]
- 455:10-1-5. Review of Commission records [AMENDED]
- 455:10-1-7. Organization [AMENDED]
- 455:10-1-10. Forms and instructions [AMENDED]
- Subchapter 3. Jurisdiction, Rights and Processes
- 455:10-3-1.1. Time [AMENDED]
- 455:10-3-2. Determining jurisdiction; "file" defined [AMENDED]
- 455:10-3-3.3. No jurisdiction over designation of worksite [NEW]
- 455:10-3-4.1. Notice of appeal [AMENDED]
- 455:10-3-6. Alleged violations of employee's freedom of expression [AMENDED]
- 455:10-3-15. Transcripts [AMENDED]
- 455:10-3-17. Continuances [AMENDED]
- Subchapter 7. Investigations
- 455:10-7-2. Directed investigation [AMENDED]
- 455:10-7-4. Investigative report [AMENDED]
- 455:10-7-6. Investigative file [AMENDED]
- Subchapter 9. Hearing Process
- 455:10-9-1. Prehearing conference [AMENDED]
- 455:10-9-2. Hearing [AMENDED]

Subchapter 11. Discipline
455:10-11-1. General [AMENDED]
455:10-11-4. Progressive discipline [AMENDED]
455:10-11-14. Causes for discharge, suspension without pay or involuntary demotion [AMENDED]
455:10-11-17. Discharge [AMENDED]
Subchapter 15. Attorney Fees and Costs
455:10-15-4. Request [AMENDED]
Subchapter 19. Internal Agency Grievance Resolution Procedures
Part 1. General Provisions
455:10-19-1. General [AMENDED]
Part 5. Grievance Provisions
455:10-19-35. Grievance [AMENDED]

Gubernatorial approval:

March 1, 2008

Register publication:

26 Ok Reg 559

Docket number:

09-95

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS

The adopted rules serve to update the Merit Protection Commission's processes to reflect advances in technology and processes such as digital recording, email notification, and electronic filing. The adopted rules also update statutory citations and requirements that need to be addressed to reflect current framework and guidelines for the Merit Protection Commission's administrative processes.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 25, 2009:

SUBCHAPTER 1. GENERAL PROVISIONS

455:10-1-2. Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Addendum decision" or **"Addendum order"** means a decision or order to add to a previously issued decision or order.

"Administrative Law Judge" means a person appointed by the Executive Director and empowered to preside over prehearing conferences and hearings with power to administer oaths, take testimony, rule on questions of evidence and make final and addendum decisions.

"Adverse action appeal" means an appeal by a permanent classified employee appealing a discharge, suspension without pay or involuntary demotion.

"Affidavit" means a sworn statement, made voluntarily, and taken before a person with authority to administer an oath or affirmation.

"Affidavit of service" means a written statement certifying that a motion, request or other document has been provided to other persons.

"Allegation" means the claims of a party.

"Allege" means to state, assert or charge; to make an allegation.

"Alleged violation appeal" means an appeal in which an allegation is made that a violation of law or rules over which the Commission has jurisdiction has occurred.

"Appeal" means, as a verb, the filing of a petition for appeal, or as a noun, the procedure that takes place after a petition for appeal is filed.

"Appellant" means a party who files a petition for appeal.

"Appellee" means a party against whom an appeal is filed or who is otherwise named or joined as a party.

"Burden of proof" means the obligation of a party to establish alleged fact(s) by a preponderance of evidence.

"Caucus" means a private meeting between an Alternative Dispute Resolution Program facilitator and a party for the purpose of assisting in the resolution of a dispute.

"Commission" means the Oklahoma Merit Protection Commission.

"Commissioners" means the members appointed to the Oklahoma Merit Protection Commission.

"Consolidation" means the combining of appeals containing the same or similar issues but filed by 2 or more appellants into a single appeal.

"Continuance" means a postponement of a matter scheduled by the Commission to a date certain.

"Cross-examination" means the questioning of a witness by a party other than the party calling the witness.

"Deny" means to refuse to grant or accept.

"Deposition" means a method where the sworn testimony of a person is taken. The person who answers the questions is said to be deposed.

"Determination of the Executive Director" means a document which states the issues, findings of fact, conclusions of law and disposition of an appeal.

"Direct-examination" means the questioning of a witness by the party calling the witness.

"Discovery" means to obtain relevant facts and information about the appeal from another party or person.

"Dismiss" means to close without further consideration.

"Employee" or **"State employee"** means *an elected or appointed officer or employee of an agency unless otherwise indicated* [74:840-1.3(2)].

"Evidence" means relevant documents or testimony offered to prove or disprove the existence or non-existence of a fact.

"Ex-parte communication" means communications by anyone with a presiding official on the merits of an appeal which could affect its outcome.

"Executive Director" means the appointing authority of the Oklahoma Merit Protection Commission [Section 840-1.3 of Title 74 of the Oklahoma Statutes].

"Exhibit" means items offered as evidence.

"Expert" means a person knowledgeable in a specialized field, that knowledge being obtained from either education or personal experience.

"Filing" means the receipt of documents by the Commission.

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"Final decision" means a determination made by a presiding official after considering the merits, testimony and evidence of an appeal. Final decision also refers to a determination made by the Executive Director to dismiss an appeal.

"Grant" means to give or permit.

"Hearing" means an open, formal proceeding conducted by an Administrative Law Judge, Executive Director or Commissioners to decide an appeal. The proceeding is to provide each party with an opportunity to present evidence in support of their side of the case. The hearing is governed by the Oklahoma Administrative Procedures Act, Sections 309 through 316 of Title 75 of the Oklahoma Statutes.

"Interrogatories" means written questions given to a party or witness. The answers are made in writing under oath.

"Intervenor" means a person or agency permitted to voluntarily enter an appeal as a party.

"Investigative report" means a written account of an investigation to assist the Executive Director in determining whether or not a violation within the Commission's jurisdiction may have occurred.

"Issue" means a disputed point or question on which the parties to an appeal seek a resolution.

"Joinder" means the combining of 2 or more appeals of one appellant.

"Jurisdiction" means the authority of the Commission to complete its duties and responsibilities.

"Jurisdictional limitations" means the statutory restrictions on the scope, time limits, and type of appeals which may be considered by the Commission.

"Merit Rules" or **"Merit Rules for Employment"** means the merit system of personnel administration rules. The merit rules include both the rules in this chapter as adopted by the Merit Protection Commission and the rules in OAC 530 as adopted by the Administrator of the Office of Personnel Management.

"Moot" means no longer in dispute because issues have already been decided or when rendered, a decision could not have any practical effect on the existing dispute.

"Motion" means a request for a ruling to be made by a presiding official or the Commissioners.

"Not sustain" means to deny a request; to deny an appeal.

"Order" means a command or directive given by a presiding official, Executive Director or Commissioners.

"Party" means an Appellant, Appellee or Intervenor.

"Payroll claim protest" means a protest in which an employee challenges the decision that an overpayment or underpayment of salary has been made or a protest of the amount of the alleged overpayment or underpayment.

"Petition for Appeal" means the form adopted by the Commission for the filing of an appeal.

"Petition for Reconsideration, Rehearing or Reopening" means a document filed after the final decision on an appeal has been made requesting that the Commissioners rehear, reopen or reconsider the case based on specific grounds as outlined in Section 317 of Title 75 of the Oklahoma Statutes.

"Prehearing conference" means a proceeding conducted by an Administrative Law Judge or Executive Director with the parties to identify the issues, documents, witnesses and

motions which will guide the Administrative Law Judge or Executive Director in the conduct of the hearing.

"Preponderance of evidence" means information or evidence which is more convincing or believable than the information or evidence offered in opposition.

"Presiding official" means the Executive Director or a person appointed by the Executive Director to serve the Commission in the capacity of Administrative Law Judge, mediator or other Alternative Dispute Resolution Program arbitrator or facilitator.

"Prima facie case" means a case which on its face is presumed to be true and will prevail until contradicted and overcome by other evidence.

"Protective order" means a directive issued to protect a party or witness from annoyance, embarrassment, oppression or undue burden or expense.

"Quash" means to annul or make void.

"Relevant" means directly related to the issue or issues being examined.

"Remedy" means corrective action sought by or afforded to a party.

"Representative" means the designated agent of record, identified in the petition for appeal or through an entry of appearance or other written means, acting on behalf of a party.

"Stipulation" means a voluntary admission of fact.

"Subpoena" means an order to appear at a certain time and place to give testimony.

"Subpoena Duces Tecum" means an order requiring the production of books, papers and other documents.

"Summary judgement judgment" means a request or decision on issues where there is no dispute of material fact.

"Sustain" means to grant a request; to grant an appeal.

"Testimony" means statements given by a witness under oath or affirmation.

"Violation" means a breach of any law or rule over which the Commission has jurisdiction.

455:10-1-5. Review of Commission records

(a) **Generally.** The Commission supports the public's right to know and be informed about their government. This right must be balanced with the rights of individuals to have adequate protection from clearly unwarranted invasions of personal privacy and assaults on their integrity. Records maintained by the Commission may be inspected and copied during normal business hours in accordance with state and federal laws and the rules in this chapter. Any person wishing to inspect, copy or reproduce records under the control of the Commission shall complete the Commission's Request for Access to Records form. Sufficient advanced notice shall be given so the essential functions of the Commission shall not be severely disrupted. Appointments are preferred.

(b) **Confidential records.** Access to confidential records shall be limited to officers and employees of state or federal government acting in their official capacities. The extent of access may be limited as determined to be appropriate by the Executive Director.

(1) The following Commission records shall be confidential:

(A) records which relate to internal personnel investigations, including examination and selection for employment, hiring, appointment, promotion, demotion, discipline or resignation. [51:24A.7(A)(1)].

(B) records received from the federal government or records generated or gathered as a result of federal legislation may be kept confidential to the extent required by law.

(C) records specifically required by law to be kept confidential, including records not discoverable under state law, such as material prepared in anticipation of ~~law suit~~ lawsuit or trial, records protected by a state evidentiary privilege, [51:24A.5(1)(a)], records of what happened during executive session. [51:24A.5(1)(b)].

(D) other records which, if disclosed, would constitute a clearly unwarranted invasion of personal privacy, such as employee evaluations, payroll deductions or employment applications of persons not hired. [51:24A.7(A)(2)].

(E) state employee home addresses, home telephone numbers and social security numbers shall not be open to public inspection or disclosure [74:840-2.11].

(F) see OAC 455:10-7-6 for access to Commission investigative files.

(2) The Executive Director may keep records confidential that are specifically permitted by law to be kept confidential.

(c) **Public records.** All personnel records that are not confidential shall be available for public inspection and copying. Any employee of the state of Oklahoma shall have a right of access to his or her own records on file with the Commission unless a law prohibits it. Public records include, but are not limited to, records of:

(1) employment application of a person who becomes a state official or employee; [51:24A.7(B)(1)]

(2) gross receipts of public funds; [51:24A.7(B)(2)]

(3) dates of employment, title or position; [51:24A.7(B)(3)]

(4) final disciplinary action resulting in loss of pay, suspension, demotion or discharge. [51:24A.7(B)(4)].

(d) **Appeal records.** The records of an active appeal shall be open to inspection only by a party to the appeal or the party's designated representative. The records of an inactive appeal shall be open to inspection in accordance with the Oklahoma Open Records Act and these rules.

(e) **Fees.** ~~Access to The Commission shall charge a reasonable fee for copies of Commission records shall be subject to the Commission's fee schedule, including A a reasonable search fee may be charged~~ to recover the direct costs of document searches if the request is solely for commercial purposes [51:24A.5(3)(a)] or clearly would cause excessive disruption of the Commission's essential functions. [51:24A.5(3)(b)].

(1) ~~Fee for paper photocopies—\$0.25 per copy.~~

(2) ~~Fee for cassette tapes—\$1.00 per tape, plus cassette tape.~~

~~(3) Search fee shall be determined by multiplying the hours of the search by the Commission employee's hourly rate of pay.~~

455:10-1-7. Organization

(a) The Oklahoma Merit Protection Commission consists of nine members (Commissioners): two members appointed by the President Pro Tempore of the Senate; two members appointed by the Speaker of the House of Representatives; and five members appointed by the Governor. The appointing authority of the Commission is the Executive Director.

(b) The Commissioners and the Executive Director may take action to carry out the duties of the Commission and to accomplish the objectives of any program or activity within the Commission's jurisdiction and authority.

~~(c) The address and telephone number for making requests, Request submissions and other communications to the Commission is: Oklahoma Merit Protection Commission, 201 NE 38th Terrace, Suite 5, Oklahoma City, Oklahoma 73105, (405) 525-9144. The Commission's fax number is (405) 528-6245 can be accomplished by mail, email, fax, telephone, or personal visit, except where specified in rule or policy pertaining to the Commission's programs and processes.~~

(d) The normal business hours of the Commission are 8:00 a.m. to 5:00 p.m., Monday through Friday, except for legal holidays.

455:10-1-10. Forms and instructions

Other chapters in this Title contain references to ~~forms and filing~~ instructions that the Commission uses and requires. Persons may contact the Commission to request ~~blank~~ forms and general information about completing and submitting them.

SUBCHAPTER 3. JURISDICTION, RIGHTS AND PROCESSES

455:10-3-1.1. Time

Time is jurisdictional.

(1) **Alleged violation appeal.** Unless otherwise provided for by statute or the rules in this chapter, an alleged violation appeal shall be filed within 20 calendar days after the alleged violation occurs. The Executive Director may extend this time limit if the appellant demonstrates that he or she filed within 20 calendar days after becoming aware of, or with due diligence, should have become aware of the alleged violation, or for other good cause shown. For information on filing an appeal after a formal grievance see OAC 455:10-19-46.

(2) **Adverse action appeal.** An appeal of a permanent classified employee appealing a discharge, suspension without pay or involuntary demotion shall be filed within 20 calendar days after receipt of the written notice of the action imposed, by certified mail or personal service. This is a statutory time limit and may not be extended. [74:840-6.5(C)].

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455:10-3-2. Determining jurisdiction; "file" defined

(a) It is solely the authority of the Commissioners and Executive Director to determine whether or not matters being appealed are subject to the jurisdiction of the Commission. No request for appeal shall be accepted more than 12 months after the event causing the appeal, unless otherwise provided for by any statute. Unless otherwise defined in the rules in this chapter, "file" means receipt by the Commission.

(b) The file date of a document is the earliest date the Commission receives the document; ~~or the date it is postmarked not the date it is faxed, mailed or postmarked.~~ If the last day for filing is a Saturday, Sunday or legal holiday as proclaimed by the Governor, the file date shall be extended to the end of the next business day.

(c) The Executive Director is authorized to establish guidelines for the electronic filing of documents.

455:10-3-3.3. No jurisdiction over designation of worksite

A state agency shall have sole and final authority to designate the place or places where its employees shall perform their duties. The Oklahoma Merit Protection Commission shall not have the jurisdiction to accept an appeal of an employee resulting from the employing agency transfer of an employee from one county or locality to another, changing the assigned duties of an employee, or relieving the employee from the performance of duty at a particular place and reassigning to an employee duties to be performed at another place, unless an employee asserts that:

- (1) The action resulted in a change in job classification or reduction of the base salary of the
- (2) A violation of the provisions of Section 840-2.5 or 840-2.9 of [Title 74] may have occurred; or
- (3) The action was taken clearly for disciplinary reasons and to deny the employee the right of appeal [74:840-4.19].

455:10-3-4.1. Notice of appeal

Upon receipt of a petition for appeal, ~~it is the Commission's policy to shall~~ send a notice of appeal, ~~with attachments,~~ to the appointing authority or designated representative ~~and any other persons alleged to have violated a law or rule over which the Commission has jurisdiction.~~ The Executive Director may order a person or agency added as a party of record and that person or agency shall be sent a notice of appeal, ~~by certified mail or personal service, with attachments.~~

455:10-3-6. Alleged violations of employee's freedom of expression

(a) **General.** For purposes of this section agency means any office, department, commission or institution of the state government [74:840-2.5(A) (B)]. No officer or employee of any state agency shall prohibit or take disciplinary action against employees of such agency, whether subject to the provisions of the Merit System or in unclassified service, for:

(1) Disclosing public information to correct what the employee reasonably believes evidences a violation of the Oklahoma Constitution or law or a rule promulgated pursuant to law;

(2) Reporting any a violation of the Oklahoma Constitution, state or federal law, rule or policy; mismanagement; a gross waste of public funds; an abuse of authority; or a substantial and specific danger to public health or safety;

(3) ~~Reporting such information without giving prior notice to the employee's supervisor or anyone else in the employee's chain of command;~~

(4) ~~Discussing the operations and functions of the agency, either specifically or generally, with the Governor, members of the Legislature, or others the print or electronic media, or other persons in a position to investigate or initiate corrective action; [74:840-2.5(A)]. For purposes of this section only, "others" means persons with authority to take corrective action on the issues discussed.~~

(4) Taking any of the above actions without giving prior notice to the employee's supervisor or anyone else in the employee's chain of command. [74:840-2.5(B)].

(b) Appeal rights.

(1) Any employee or any former employee aggrieved pursuant to this section may file an appeal with the Commission within 60 calendar days of the alleged disciplinary action [74:840-2.5(F)(G)]. This is a statutory time limit and may not be extended.

(2) The appeal shall contain, as a minimum,:

(A) the name of the person(s) alleged to have violated this section;

(B) the disciplinary action taken and when such disciplinary action was taken;

(C) the public information disclosed, to whom it was disclosed, and when it was disclosed; or,

(D) the violation of the Oklahoma Constitution, state or federal law, rule or policy, mismanagement, gross waste of public funds, abuse of authority, or substantial and specific danger to public health or safety reported, to whom it was reported, and when it was reported; or,

(E) the operations and functions of the agency discussed, with whom such discussions were made, and when such discussions took place.

(3) Evidence or information shall be provided which causes the Executive Director to believe there is a causal connection between the alleged protected activity and the disciplinary action. For purposes of this section, causal connection means such evidence or information which shows that the disciplinary action was taken in relationship to the alleged protected activity.

(c) **Sanctions.** Section 840-2.5(F)(G) of Title 74 of the Oklahoma Statutes sets out corrective actions and sanctions which may be taken for violation of this section.

(d) **Freedom of expression posting.** Each state agency, department, institution, board and commission in all branches of state government shall prominently post or publish a copy of Section 840-2.5 of Title 74 of the Oklahoma Statutes in

locations where it can reasonably be expected to come to the attention of all employees [74:840-2.5(C)(D)].

455:10-3-15. Transcripts

(a) ~~Hearings and designated Alternative Dispute Resolution Program procedures shall be recorded by audio tape digital recordings which shall constitute the official transcript. The Commission's recording will serve as the official recording for purposes of creating an official written transcript.~~ The Commission shall prepare a written transcript of the ~~audio tape~~ recording only upon written request and receipt of a deposit of cash or cashier's check in an amount determined to be appropriate to cover the costs associated with the transcription, except as prohibited by statute.

(b) Upon application, the Commission shall pay transcription costs on behalf of an indigent respondent, if the respondent establishes indigent condition through execution of an *in forma pauperis* affidavit upon a form approved by the Commission. Should the indigent respondent receive a financial recovery, the respondent shall reimburse the Commission from those proceeds. [74:840-1.21].

(c) Any party desiring to have a hearing or Alternative Dispute Resolution Program procedure recorded by a court reporter shall request approval of the presiding official before initiating such action. The party making the request shall bear the associated expenses and costs and shall provide a copy of the written transcript to the Commission at no cost.

455:10-3-17. Continuances

A request for continuance shall be filed in writing and shall include the cause for the request and a statement of agreement or disagreement by the other party(s). A prehearing conference, hearing or Alternative Dispute Resolution Program procedure may be continued or adjourned by the Executive Director or the presiding official for just cause at any time. A continuance shall be granted only in those instances where extraordinary circumstances exist and good cause has been shown. If granted, a continuance shall be made to a date certain.

(1) If granted on behalf of the Commission or an appellee, and the appellant is subsequently sustained in the appeal, back pay and other benefits shall be awarded for the entire ~~judgement~~ judgment as determined appropriate by the presiding official.

(2) If granted on behalf of the appellant and he or she is subsequently sustained in the appeal, back pay and other benefits shall be awarded only for the period of time that the appellant did not delay the appeal as determined appropriate by the presiding official.

SUBCHAPTER 7. INVESTIGATIONS

455:10-7-2. Directed investigation

(a) **General.** Upon receipt of a petition for appeal or on its own initiative, the Commissioners or Executive Director may direct that an investigation of any agency's employment

practices be conducted. The directed investigation is a method to assist in determining whether or not a violation within the Commission's jurisdiction may have occurred. In conducting investigations, the Commission may exercise any statutory authority and may use all powers not otherwise prohibited.

(b) **Extent.** The investigation shall be conducted to the extent necessary to determine whether or not there are reasonable grounds and evidence to believe whether or not the alleged violation(s) may have occurred.

(c) **Requests for information.** The Commission may request responses or information from any agency or person. Written responses and information may be required and may be obtained through written questions, interviews or any other methods determined appropriate. The time limit for submission of responses and information may be extended for good cause.

(1) Failure of an appointing authority, agency representative, or named person to appear, respond or provide requested information may be grounds to believe the alleged violation(s) may have occurred without further review.

(2) Failure of an appellant, or his or her designated representative, to appear, respond or provide requested information shall be grounds to dismiss the appeal without further review.

(d) **Interviews.** Parties and witnesses may be interviewed face-to-face or by telephone to obtain relevant facts and knowledge concerning the issues in dispute. Interviews may be conducted at the Commission office or any other location determined appropriate. A party or witness may have his or her representative in attendance at the interview to act in an advisory role only. The representative shall not have or take an active role in the investigation or interview process.

(1) The Commission may make a record of the interview session by ~~audio tape~~ digital recording. The person being interviewed may also tape record his or her interview session.

(2) Commission interview ~~tape~~ recordings ~~shall be maintained in the investigative file and~~ shall be confidential pursuant to Section 24A.7(A)(1) of Title 51 of the Oklahoma Statutes. The person interviewed may request a copy of the ~~audio-tape~~ recording of his or her interview in accordance with OAC 455:10-1-5.

455:10-7-4. Investigative report

An investigative report of the preliminary investigation, directed investigation or fact finding conference shall be issued and include a summary of the appeal, issues of the appeal, findings of fact and a recommendation for the disposition of the appeal. The report shall also include a reference to persons interviewed and documents used in making the findings of fact. The purpose of the report shall be to assist the Executive Director in determining whether or not a violation within the Commission's jurisdiction may have occurred. ~~An investigative report shall not be a part of the appeal record.~~

(1) A copy of the investigative report shall be issued to each party and within 10 calendar days after the issue date of the report, any party may file a response and include any

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additional relevant information to be considered. The time limit for response may be extended for good cause.

(2) Any party filing a response or providing additional information should provide a copy to all other parties.

455:10-7-6. Investigative file

Documents obtained during the course of a directed investigation or fact finding conference shall be maintained in an investigative file. The investigative file shall be confidential pursuant to Section 24A.7(A)(1) of Title 51 of the Oklahoma Statutes and the rules in this chapter. A party to the appeal or his or her designated representative may review the documents in the investigative file and listen to ~~audio-tape~~ a recording of his or her interview. This review shall be limited to the time between the issue date of the investigative report up to 10 calendar days after the issue date of the Determination of the Executive Director. ~~Thereafter, the investigative file shall be destroyed.~~ See OAC 455:10-1-5 for information on access to Commission records.

SUBCHAPTER 9. HEARING PROCESS

455:10-9-1. Prehearing conference

(a) **Purpose.** The Executive Director may schedule a prehearing conference on any appeal set for hearing. The conference provides an opportunity for the parties to clarify, isolate and dispose of procedural matters prior to the hearing.

(b) **Party responsibility.** Each party shall be present, on time and prepared. Failure to do so may result in dismissal of the appeal or other sanctions unless good cause is shown. Prior to the prehearing conference each party shall file with the Commission and provide to each other party and the Administrative Law Judge a copy of:

- (1) a brief statement of his or her respective case, to include a list of stipulations and requested remedy;
- (2) a list of any witnesses who have direct knowledge of the facts surrounding the issues of the appeal and who are expected to be called at the hearing. The list shall include a brief statement of the testimony each witness will offer. The list may be amended, with the approval of the Administrative Law Judge, before the hearing date;
- (3) a list of any documents and exhibits and the original or a copy of each document or exhibit to be offered into evidence at the hearing. The list may be amended, with the approval of the Administrative Law Judge, before the hearing date;
- (4) a list of any witnesses for whom a subpoena is required. The list shall include each witness's name, address and a brief statement of the testimony to be offered by each witness. Subpoenas shall not be issued by the Commission without this information. The list may be amended, with the approval of the Administrative Law Judge, up to 10 calendar days before the hearing date; and
- (5) any requirements or requests for discovery. Discovery shall be requested and completed in accordance with OAC 455:10-13-1.

(c) **Representation.** Each party to the appeal may have a representative to speak and act on his or her behalf.

(d) **Administrative Law Judge responsibility.** The Administrative Law Judge shall:

- (1) consider, facilitate and rule on settlement;
- (2) consider any matters which will aid in the fair and prompt resolution and disposition of the appeal;
- (3) hear and rule on pending requests or motions;
- (4) rule on whether or not witnesses have knowledge of the facts at issue;
- (5) rule on whether or not documents and exhibits are relevant;
- (6) rule on whether or not discovery requests and other motions and requests are relevant;
- (7) strike or deny witnesses, documents, exhibits, discovery requests and other requests or motions which are cumulative, not relevant or not material; used as a means of harassment; unduly burdensome or not timely filed.

(e) **Conference.** The conference shall be informal, structured by the Administrative Law Judge and not open to the public. The Administrative Law Judge shall record the conference by ~~audio-tape~~ digital recording.

(1) **Notice.** Each party shall be notified of the date, time and location at least 7 calendar days prior to the scheduled conference.

(2) **Location.** The conference shall be conducted at the Commission offices or any other location determined appropriate.

(3) **Witnesses.** Witnesses shall not appear or present evidence at the conference.

(4) **Continuance.** A request for continuance shall be filed in accordance with OAC 455:10-3-7 normally no less than 3 calendar days prior to the scheduled conference. A lesser period of time may be permitted for good cause shown. The Administrative Law Judge, or in his or her absence, the Executive Director, shall rule on the request and in no case shall a combination of continuances of the prehearing conference exceed a total of 30 calendar days except for good cause shown.

(f) **Conclusion.** The Administrative Law Judge shall end the conference when preparation for the hearing is complete, unless sooner terminated as a result of settlement or for other just cause.

455:10-9-2. Hearing

(a) **Purpose.** The hearing provides each party the opportunity to present witnesses and evidence in support of his or her respective case for decision by an Administrative Law Judge. Hearings shall be conducted in accordance with the Oklahoma Personnel Act, the Administrative Procedures Act and the rules in this chapter.

(b) **Party responsibility.** Each party shall be present, on time and prepared. Failure to do so may result in dismissal of the appeal or other sanctions unless good cause is shown.

(c) **Representation.** Each party to the appeal may have a representative to speak and act on his or her behalf.

(d) **Administrative Law Judge responsibility.** The Administrative Law Judge shall rule on questions of admissibility

of evidence, competency of witnesses and any other matters or questions of law.

(e) **Process.** The hearing shall be formal, structured by the Administrative Law Judge and open to the public. Parts of a hearing may be ordered closed when evidence of a confidential nature is to be introduced or where to do so would be in the best interests of a party, witness, the public or other affected persons. The Administrative Law Judge shall record the hearing by ~~audio tape~~ digital recording and such recording shall constitute the ~~transcript~~ official recording of the hearing.

(1) **Notice.** Each party shall be notified of the date, time and location at least 7 calendar days prior to the scheduled hearing.

(2) **Location.** The hearing shall be held at the Commission offices or any other location determined appropriate. At the prehearing conference any party may request the hearing be changed to a more convenient location. The Administrative Law Judge shall rule on the request and may change the location when to do so is in the best interests of the Commission and parties. The Administrative Law Judge shall be compensated for travel, per diem and other associated costs by the appointing authority if the location is changed at his or her request.

(3) **Witnesses.** Each party may call witnesses who have been approved by the Administrative Law Judge to offer testimony and evidence. The Administrative Law Judge shall administer an oath or affirmation to the witness and may question the witness at any stage of the hearing.

(4) **Continuance.** A request for continuance shall be filed in accordance with OAC 455:10-3-7 normally no less than 3 calendar days prior to the scheduled hearing. A lesser period of time may be permitted for good cause shown. The Administrative Law Judge shall rule on the request and in no case shall a combination of continuances of the hearing exceed a total of 30 calendar days except for good cause shown.

(f) **Burden of proof.** The following burdens of proof shall also apply to appeals heard through the Alternative Dispute Resolution Program as well as the hearing process.

(1) **Adverse action appeal.** The burden of proof shall be upon the appointing authority who must prove his or her case by a preponderance of the evidence.

(A) Upon a finding that just cause existed for the adverse action and the discipline imposed was just, a presiding official shall affirm the decision of the appointing authority.

(B) Upon a finding that just cause did not exist for the adverse action, a presiding official may order the reinstatement of the employee, with or without back pay and other benefits. A presiding official may also order that documentation of the adverse action be expunged from any and all of the employee's personnel records.

(C) Upon a finding that just cause existed for the adverse action, but did not justify the severity of the discipline imposed, a presiding official may order reduction of the discipline or other corrective action. A presiding official shall, as a minimum, consider the

following circumstances in ordering the reduction of discipline: the seriousness of the conduct as it relates to the employee's duties and responsibilities; the consistency of action taken with respect to similar conduct by other employees of the agency; the previous employment and disciplinary records of the employee; and mitigating circumstances.

(D) A presiding official who orders reinstatement with back pay and other benefits under (B) or (C) above, may consider the deduction of any income the employee may have received for the period of time the employee was not performing his or her duties.

(2) **Alleged violation appeal.** The burden of proof shall be upon the appellant who must prove his or her case by a preponderance of the evidence. Upon a finding that a violation within the Commission's jurisdiction did occur, a presiding official may order the appointing authority to take the necessary corrective action or report the findings to any other appropriate authorities for further action. Corrective action shall be limited to issues submitted for decision, shall be consistent with applicable statutes and rules and shall be limited to action which makes the person harmed by the violation whole as if the violation had not occurred.

(3) **Payroll claim protest.** In payroll claim protests of overpayment, the burden of proof shall be upon the appointing authority who must prove his or her case by a preponderance of the evidence. In payroll claim protests of underpayment, the burden of proof shall be upon the appellant who must prove his or her case by a preponderance of the evidence. The presiding official may determine the amounts paid or not paid in error; determine dates of overpayments or underpayments; determine options available for repayment; affirm the protest of the appellant; affirm the decision of the appointing authority and order corrective action.

(g) **Order of procedure.** The party with the burden of proof shall present his or her case first and the opposing party may respond. A presiding official shall have the authority to alter the order of procedure. This order of procedure also applies to appeals heard through the Alternative Dispute Resolution Program.

(h) **Summary judgement judgment.** The Administrative Law Judge may decide appeals based on summary ~~judgement~~ judgment when there is no dispute as to either material fact or inferences to be drawn from undisputed facts, or if only question of law is involved.

SUBCHAPTER 11. DISCIPLINE

455:10-11-1. General

Each appointing authority shall establish written policies and procedures for progressive discipline of employees according to the rules established by the Oklahoma Merit Protection Commission [74:840-6.3(A)]. Each appointing authority is responsible for developing and maintaining a safe and productive work environment. Each appointing authority and

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each supervisor is responsible for promptly applying discipline when necessary that is equitable and suitable for the offense considering the circumstances.

455:10-11-4. Progressive discipline

(a) *Progressive discipline is a system designed to ensure not only the consistency, impartiality and predictability of discipline, but also the flexibility to vary penalties if justified by aggravating or mitigating conditions. Typically, penalties range from verbal warning to discharge, with intermediate levels of a written warning, suspension or demotion. Absent mitigating circumstances, repetition of an offense is accompanied by a generally automatic progression to the next higher level of discipline* [74:840-6.3(B)].

(b) Based on relevant circumstances, a single incident may justify a higher step of discipline without proceeding through lower steps of discipline.

455:10-11-14. Causes for discharge, suspension without pay or involuntary demotion

Any employee in the classified service may be discharged, suspended without pay for not to exceed sixty (60) calendar days, or demoted by the agency, department, institution, or officer by whom employed, for misconduct, insubordination, inefficiency, habitual drunkenness, inability to perform the duties of the position in which employed, willful violation of the Oklahoma Personnel Act or of the rules prescribed by the Office of Personnel Management or by the Oklahoma Merit Protection Commission, conduct unbecoming a public employee, conviction of a crime involving moral turpitude, or any other just cause [74:840-6.5(C)].

455:10-11-17. Discharge

(a) **General.** A permanent classified employee may be discharged for any of the reasons set forth in OAC 455:10-11-14.

(b) **Pretermination hearing.** Before any permanent classified employee may be terminated, the employee shall be afforded a pretermination hearing to be held before the appointing authority or his or her designee. A pretermination hearing shall not be required if the employee is being terminated as part of a reduction-in-force as provided for in Title 74 O.S., Section 840-2.27C.

(1) **Purpose.** The purpose of a pretermination hearing is to provide the appointing authority or his or her designee with information from which a determination may be made as to whether or not reasonable grounds exist to believe that the charges against the employee are true and whether or not the grounds support the proposed termination.

(2) **Notice.** Notice of the pretermination hearing shall be provided to the employee by personal service or certified or registered mail at least seven calendar days before the scheduled pretermination hearing. Pending completion of this notice and the pre-termination hearing, an employee may be suspended with pay in accordance with rules adopted by the Administrator of the Office of

Personnel Management. The notice shall include, as a minimum:

(A) the statute, rule, policy, practice or procedure of work performance or behavior which was violated and cause for the proposed action;

(B) all grounds for the proposed action;

(C) a summary of evidence or physical evidence to support each of the stated grounds for the proposed action;

(D) a statement of the employee's right to be represented, by an attorney or other person of his or her choice, at the pre-termination hearing; and

(E) date, time and location of the pre-termination hearing.

(3) **Disciplinary certificate.** *The appointing authority shall file in the employee's official personnel file at least seventy-two (72) hours before each pretermination hearing, a certificate to be included in the record stating what disciplinary actions have been taken to comply with progressive discipline prior to the pretermination hearing and proposed termination and further certifying that all mandatory progressive discipline actions as required by statute or rule have been taken before pretermination hearing; provided, said certificate shall not be required where grounds for proposed termination are for commission of a criminal offense and/or acts involving moral turpitude* [74:840-6.4(B)(3)].

(4) **Hearing.** The pretermination hearing need not be a full evidentiary hearing and formal rules of evidence shall not apply. The pretermination hearing shall be recorded ~~by audio tape~~ in its entirety. The employee shall be provided a copy of the ~~tape recording~~, at no cost, if the employee appeals to the Commission and requests a copy. A copy of the ~~tape~~ shall be provided as soon as possible but no later than 14 calendar days after the request is made.

(5) **Legal review.** *Following the pretermination hearing, if recommendation for termination is made, recordings of the pretermination hearing and all evidence in support thereof, shall be reviewed for legal sufficiency by the appointing agency director or his or her designee before termination is final* [74:840-6.4(B)(7)].

(c) **Final action.** Within ten working days after the pretermination hearing the employee shall be provided written notice of the final action, by personal service or certified or registered mail. If the decision is made to proceed with the termination, the notice shall include, as a minimum:

(1) the statute, rule, policy, practice or procedure regarding work performance or behavior which was violated and cause for the termination;

(2) all grounds for the termination;

(3) a citation of the law or rule under which the termination is being taken;

(4) effective date of the termination;

(5) a citation of any other informal or formal discipline which was used in the decision to administer the termination; and

(6) a statement of the employee's right to file an appeal with the Commission, the 20 calendar day time limit for

the Commission's receipt of the appeal and the address of the Commission; and
(7) a copy of the Commission's petition for appeal form.

SUBCHAPTER 15. ATTORNEY FEES AND COSTS

455:10-15-4. Request

A request for the award of attorney fees or costs shall be filed with the Commission within 10 calendar days after the issue date of the final decision and shall include an affidavit of service to all other parties. This time limit is statutory and may not be extended [74:840-6.8(B)].

- (1) **Grounds.** The request shall specifically state why an award of attorney fees or costs should be made and shall be supported by evidence to substantiate the request and evidence to determine whether or not the amount claimed is reasonable.
- (2) **Evidence.** Evidence submitted with the request shall include, as a minimum:
 - (A) adequate time records so the reasonableness of the claimed fee can be ascertained;
 - (B) a copy of any fee agreement between the attorney and the client or any fee agreement between the attorney and any organization, union or association representing the client;
 - (C) the attorney's customary billing rate for similar work, provided the attorney has a billing practice to report;
 - (D) evidence of the prevailing community rate sufficient to establish a market value for the services rendered;
 - (E) specific evidence of the prevailing rate for similar work of attorneys of comparable experience and reputation; and
 - (F) specific detailed documentation identifying the actual costs associated with the request.
- (3) **Response.** Any party may file a response in opposition to the request within 10 calendar days after the date the request is filed with the Commission. The response shall include an affidavit of service to all other parties. This time limit is statutory and may not be extended [74:840-6.8(B)].
- (4) **Rejection.** Requests and responses which are not timely filed or do not meet the requirements of this section shall be rejected by the Commission.

SUBCHAPTER 19. INTERNAL AGENCY GRIEVANCE RESOLUTION PROCEDURE

PART 1. GENERAL PROVISIONS

455:10-19-1. General

The Oklahoma Merit Protection Commission shall establish standard internal agency grievance resolution procedures for classified state employees [74:840-6.2(A)]. It is the Commission's policy to seek resolution of disputes at the lowest level possible. The Commission will not normally intervene when the issues in dispute are being addressed through the internal agency grievance resolution procedure.

PART 5. GRIEVANCE PROVISIONS

455:10-19-35. Grievance

- (a) **General.** The resolution of disputes is advocated within the agency before appeals are filed with the Commission.
- (b) **Promotion.** Any employee who feels that he or she has not been treated fairly with regard to a promotional action has the right to file a formal grievance. The Commission will accept an appeal regarding a promotional issue only after such complaint has been reviewed in the formal grievance procedure [74:840-4.15(C)].
- (c) **Classification.** *An employee has the right and responsibility to file a classification grievance, as provided by law and rule, when duties performed on a regular and consistent basis do not conform to the class specification [74:840-4.3(B)].*
 - (1) *Employees shall be classified in accordance with the work they are assigned on a regular and consistent basis as an integral part of their normal work assignment and class specification [74:840-4.3(B)]. Any employee who believes he or she is not classified in accordance with the work assigned on a regular and consistent basis as an integral part of his or her work assignment and job family descriptor, has the right to file a formal grievance.*
 - (2) *An employee is entitled to the compensation assigned to the job family descriptor for which duties were performed on a regular and consistent basis as determined by the Office of Personnel Management [74:840-4.3(B)]. Any employee who believes he or she is entitled to compensation for having performed duties on a regular and consistent basis which do not conform to the job family descriptor for the position he or she occupies or occupied, has the right to file a formal grievance.*
 - (3) *The appointing authority and employee shall attempt to resolve these disputes through the formal grievance procedure.*
 - (4) *If the dispute can not be resolved, the resolution decision by the appointing authority shall be to advise the employee to complete an Office of Personnel Management (OPM) Classification or Allocation Dispute Review Request form (OPM-70) pursuant to rules adopted by the Administrator of the Office of Personnel Management.*
 - (5) *Agency classification and reclassification decisions shall not be subject to appeal to the Oklahoma Merit Protection Commission. However, the involuntary removal of a permanent employee in permanent status in a job family level to a lower level in the same job family or to another job family level assigned a lower pay band shall be considered a demotion. Such action may be appealed by the*

employee to the Oklahoma Merit Protection Commission [74:840-4.3(B)]. An employee may allege a violation of law or rule over which the Commission has jurisdiction in the classification and reclassification process pursuant to OAC 455:10-3-3.

(d) **Discipline.** Any employee who has reason to believe that discipline imposed was not uniform, appropriate or in compliance with the agency progressive discipline policy, has the right to file a formal grievance. The Commission will accept an appeal regarding a discipline issue (except suspension without pay, involuntary demotion or discharge) only after such complaint has been reviewed in the formal grievance procedure.

(e) **Leave.** Any employee who feels that he or she has not been treated fairly with regard to annual, sick or any other leave accrual, accumulation, use or eligibility (including leave without pay and leave sharing), has the right to file a formal grievance. The Commission will accept an appeal regarding leave issues only after such complaint has been reviewed in the formal grievance procedure.

(f) **Employee service rating system.** Any employee who disagrees with his or her individual service rating has the right to file a formal grievance.

(1) The Commission will accept, for alternative dispute resolution only, a complaint involving disagreement with the individual service rating only after such complaint has been reviewed in the formal grievance procedure.

(2) The Commission will accept an appeal of alleged violation of the Oklahoma Personnel Act or Merit Rules in regard to the employee service rating system only after such complaint has been reviewed in the formal grievance procedure.

(3) Alleged violations of Title 74 O.S., Section 840-2.5 and Section 840-2.9 in regard to the employee service rating system may be appealed directly to the Commission.

(g) **Discrimination.** Complaints of illegal discrimination, including sexual harassment, are subject to the internal agency grievance resolution procedure. The appointing authority may adopt special procedures for addressing and resolving discrimination complaints. Any such procedures shall comply with federal laws and rules, the Oklahoma Personnel Act and the rules in this subchapter.

(h) **Pay movement mechanisms and other compensation issues.** Any employee who feels that a violation of law, rule, policy or practice has occurred with regard to pay movement mechanisms or other compensation issues, has the right to file a formal grievance. The Commission will accept an appeal regarding pay movement mechanisms and other compensation issues only after such complaint has been reviewed in the formal grievance procedure.

[OAR Docket #09-1177; filed 6-18-09]

TITLE 490. OKLAHOMA STATE BOARD OF EXAMINERS FOR LONG TERM CARE ADMINISTRATORS CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #09-1174]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

490:1-1-1. Purpose [AMENDED]

490:1-1-2. Definitions [AMENDED]

Subchapter 3. Oklahoma State Board of Examiners for Long Term Care Administrators

490:1-3-1. Organization [AMENDED]

490:1-3-2. Officers and committees [AMENDED]

490:1-3-3. Meeting of the Board [AMENDED]

490:1-3-8. Executive Director [AMENDED]

Subchapter 5. Investigative Procedures

490:1-5-2. Receipt of complaints [AMENDED]

490:1-5-2.1. Receipt of referrals or reports [AMENDED]

490:1-5-3. ~~Investigation of complaints~~ Complaints: investigations and investigative reports [AMENDED]

490:1-5-4. Preparation of investigative report [REVOKED]

490:1-5-5. Board decision [REVOKED]

490:1-5-6. Notice [REVOKED]

490:1-5-7. Hearing [AMENDED]

490:1-5-7.1. Administrative fines [AMENDED]

490:1-5-8. Reporting [AMENDED]

Subchapter 6. Administrator Registry

490:1-6-1. General provisions [AMENDED]

Subchapter 7. Fees and Deposits

490:1-7-1. Fees and deposits [AMENDED]

490:1-7-2. Schedule of fees [AMENDED]

Subchapter 9. Continuing Education

490:1-9-1. General provisions for continuing education programs [AMENDED]

490:1-9-3. Approval of continuing education programs [AMENDED]

490:1-9-4. Continuing education requirements [AMENDED]

490:1-9-5. Auditing of continuing education ~~Hours~~ hours [AMENDED]

AUTHORITY:

Oklahoma State Board of Examiners for Long Term Care Administrators; 63 O.S., §§ 330.51 et seq.

DATES:

Comment period:

February 17, 2009, through March 19, 2009

Public hearing:

March 25, 2009

Adoption:

March 25, 2009

Submitted to the Governor:

March 30, 2009

Submitted to House:

March 30, 2009

Submitted to Senate:

March 30, 2009

Gubernatorial approval:

May 6, 2009

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 21, 2009

Final adoption:

May 21, 2009

Effective:

July 25, 2009

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

Subchapter 5. Investigative procedures

Part 3. Investigation of complaints

490:1-5-3. [AMENDED]

Gubernatorial approval:

June 5, 2008

Register publication:

25 Ok Reg 2616

Docket number:

08-1153

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The purpose of the rule changes is to update the requirements for long term care administrators in Oklahoma. The proposed changes: add and reference the acronym (OSBELTCA) for the Board; add, delete and clarify definitions used in this Chapter; add/delete language in order to implement the Statutory changes into the Rules that took effect on November 1, 2008, as related to referrals or reports, complaints, investigations, investigative reports and hearings; add language clarifying the time in which fines or fees assessed by the Board must be paid in full; clarify language with respect to reporting of complaints that the Board has determined had merit; clarify the Board's actions with respect to inclusion of complaints in the registry and publication on the Board's website; modify, add or delete administrative fees charged by the Board; clarify various components and aspects of continuing education requirements for licensed administrators; and modify the language pertaining to auditing of continuing education hours.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 25, 2009:

SUBCHAPTER 1. GENERAL PROVISIONS

490:1-1-1. Purpose

This Chapter has been adopted for the purpose of complying with the provisions of the Administrative Procedures Act, 75 O.S. Sections 301 et seq. This Board, known as the Oklahoma State Board of Examiners for Long Term Care Administrators ("OSBELTCA"), carries out statutory authority for developing, imposing and enforcing standards that must be met by individuals in order for them to receive, maintain, or renew a long term care administrator's license. These rules are written to execute the aforementioned statutory responsibilities for licensing administrators serving in the following facility types:

- (1) Nursing facilities and specialized facilities licensed pursuant to 63 O.S. Section 1-1901 et seq., including but not limited to specialized facilities for persons with mental retardation, developmental disabilities or Alzheimer's disease; and
- (2) The nursing care service of a continuum of care facility licensed pursuant to 63 O.S. Section 1-890.1 et seq.

490:1-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Accredited college or university" means a college or university that is domiciled within the United States and that is accredited by: the North Central Association of Colleges and Secondary Schools, The Higher Learning Commission; the Southwest Southern Association of Colleges and Schools, Commission on Colleges; the Western Association of Schools and Colleges, Accrediting Commission for Senior Colleges and Universities; the New England Association of Schools and Colleges, Commission on Institutions of Higher Education; the Middle States Association of Colleges and Schools, Middle States Commission on Higher Education; or the Northwest Commission on Colleges and Universities.—the Council on Higher Education Accreditation or an accrediting body approved by the Board.

"Administrator-In-Training" or "AIT" means: a an person individual serving a Board-approved internship within a nursing facility or specialized facility under the supervision of a Board-approved preceptor 'certified' by the Board. Individuals serving an AIT internship may also be referred to herein as 'intern/trainee'.

"Administrator, ~~Administrator of Record, or Long Term Care Administrator~~" means an any individual duly licensed by the Board who manages, supervises, and who is formally listed as being in charge of a long term care facility, whether or not his/her functions are delegated to other licensed or unlicensed individuals regardless of the role or function he/she performs.

"Adverse action" means revocation or suspension of a license, reprimand, censure or probation; any other loss of or restriction placed upon the license, including, but not limited to, or the right to apply for, or renew a license; voluntary surrender in lieu of discipline, non-renewal (excluding nonrenewal due to non-payment of fees, retirement, or change to inactive status); administrative fines and any other negative action or finding by the Board.

"Assistant Administrator, Licensed" means an individual who holds a current, valid, unrestricted license granted by this Board and who serves in such a capacity with a licensed facility.

"Assistant Administrator, Unlicensed" as used herein means an individual who has been 'certified' by the Board as having met the minimum qualifications established by the Board to be able to serve as a full-time, Assistant Administrator in a licensed long term care facility, for employment established by the Board and who acts under the direction, supervision and license of a licensed administrator who is the "Administrator-of-Record" at two-or-more licensed facilities located within a 50-mile radius of each other and wherein the total occupied bed count does not exceed 120 beds pursuant to the provisions of S.B. 738 (2007).

"Assisted Living Center" shall have the same meaning as such term is defined in the Continuum of Care and Assisted Living Act, Title 63 O.S. Section 1-890.1 et seq.

"Board" means the Oklahoma State Board of Examiners for Long Term Care Administrators (OSBELTCA).

"Coercion/Coerce" means to compelling compel, pressuring pressure or otherwise improperly influencing influence the free will decisions made or that may be made by a consumer or

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a potential consumer of a long term care facility ~~served~~ services by a licensed long term care administrator or representative or affiliate.

"Complaint" means an allegation that an individual licensed as a ~~nursing long term care facility~~ administrator has ~~failed to comply with one or more of the established requirements for licensure as a long term care facility administrator. violated applicable statutes and/or rules.~~

"Continuum of Care Facility" shall have the same meaning as such term is defined in the Continuum of Care and Assisted Living Act, Title 63 O.S. Section 1-890.1 et seq.

"Degree equivalency evaluation" means an equivalency evaluation of a degree that was earned from a college or university not domiciled in the United States against a degree earned from an 'accredited college or university' (see definition earlier herein) that is performed by one of the following:

- (A) Educational Credential Evaluators (ECE)
- (B) Educational Records Evaluation Service (ERES)
- (C) International Education Research Foundation Credentials Evaluation Service (IERFCES)
- (D) World Education Services (WES)

"Inactive license" means the licensee has voluntarily relinquished his/her privilege to function in the capacity as a long term care administrator. The licensee retains his/her license, but must meet the conditions for reinstatement and the Board must formally reinstate the license prior to him/her resuming practice as a long term care administrator.

"Intermediate Care ~~Facilities~~ Facility for the Mentally Retarded (ICF/MR)" means a facility whose primary purpose is to provide health and rehabilitative services for persons with mental retardation or a related condition, ~~using a plan of care that includes professionally developed and supervised activities, experiences, or therapies. The objective of the services offered is to maintain the optimal physical, intellectual, social, and/or vocational level at which the individual is presently or potentially capable of functioning and otherwise meets the Conditions Of Participation (COPs) found at 42 CFR §483.400 et seq.~~

"Intermediate Care ~~Facilities~~ Facility for the Mentally Retarded, 16 Beds and Less (ICF/MR-16)" means ~~a small facilities~~ facility with sixteen (16) or fewer licensed resident beds that ~~serving~~ serves persons with mental retardation or with related conditions and that otherwise meets the Conditions Of Participation (COPs) found at 42 CFR §483.400 et seq ~~which provide residential accommodations and transitional living training to aid residents in adapting to live in the general society. Resident accommodations are limited to not more than 16 residents, plus any required "live in" staff.~~

"Lapsed License or Expired License" means a license that is no longer valid because the licensee failed to timely renew his/her license by the renewal deadline, causing the license to lapse or expire.

"License" means the written authorization of the Board granting a person the privilege of serving as a long term care administrator for a specific period of time, and further, a legal instrument obligating that person to adhere to the rules, regulations and statutes that govern the license.

"Licensing Year" shall mean the specific period of time a license issued by the Board is valid. For purposes of these Rules, the term "licensing year" shall have the same meaning as "calendar year", the time period beginning at 12:01 a.m., January 1, and ending as of 12:00 midnight, the ensuing December 31.

"National Association of Long Term Care Administrator ~~Boards of Examiners of Long Term Care Administrators~~" or "(NAB)" ("NAB") is composed of state boards or agencies responsible for licensing long term care administrators. The basic objective of the ~~Association~~ NAB is to assist these boards and agencies in carrying out their statutory and regulatory responsibilities in the licensure, ~~and~~ re-licensure and regulation of long term care administrators. One of NAB's functions is the development and administration of the national ~~nursing home~~ long term care administrator examination.

"Nursing Home, Nursing Facility, ~~Rest Home, Long Term Care Facility, Specialized Home, and Specialized Facility"~~ shall have the same meanings as the term "Nursing Facility" as such term is defined in the Nursing Home Care Act, Title 63 O.S. Section 1-1901 et seq. and/or as defined at 42CFR §483.1 et seq.

"Preceptor" means ~~a person~~ an individual qualified by training ~~and approved by the Board who~~ and experience, who is currently licensed as a long term care administrator in Oklahoma, is 'certified' by the Board as a qualified preceptor and is charged with coordinating the training of an AIT intern/trainee who is enrolled in an Board-approved Administrator-in-Training (AIT) internship program.

"Provisional license" means the temporary authority to serve as a long term care administrator as granted by the Board to an individual of good character who meets appropriate conditions and requirements prescribed by the Board.

"Referral or Report" means an issue or concern regarding a long term care administrator that has been reduced to writing, duly signed, does not include a specific allegation(s) against the administrator, and is forwarded to the Board for a determination as to whether a violation of the Board's Rules has occurred.

"Residential Care Home" shall have the same meaning as such term is defined in the Residential Care Act, Title 63 O.S. Section 1-819 et seq.

"Revocation or Revoked License" is a sanction imposed upon a licensee by the Board that results in a complete loss of license and all privileges attendant thereto and requires licensee to surrender his/her "Certificate of License", the annual license renewal card and all other license-related documents to the Board.

"Specialized facility" shall have the same meaning as such term is defined in the Nursing Home Care Act, Title 63 O.S. Section 1-1901 et seq.

"Suspension or Suspended License" is a sanction imposed upon a licensee by the Board. The licensee retains his/her ~~license~~ "Certificate of License" and his/her annual renewal card, yet he/she shall not function in the capacity as a long term care administrator until the Board determines that conditions responsible for the suspension no longer exist, ~~and~~

any/all other restoration requirements imposed by the Board for restoration have been met, and the Board has restored licensee's license.

"Uninvited Solicitation" means to attempt to coercion or harass harassment of a client residing in a resident of a long term care facility, a member of the resident's family or the resident's guardian for the purpose of attempting to persuade the client resident to change long term care facilities.

SUBCHAPTER 3. OKLAHOMA STATE BOARD OF EXAMINERS FOR LONG TERM CARE ADMINISTRATORS

490:1-3-1. Organization

The members of the Board shall elect from their membership a ~~chair~~Chair, ~~vice chair~~Vice-Chair and ~~secretary treasurer~~Secretary-Treasurer to serve one- (1-) year terms beginning July 1 of each year.

- (1) Nominations may be made by any member of the Board or a committee named by the ~~chair~~Chair.
- (2) Each member of the Board may cast one (1) vote for each office for which an election is held.
- (3) Election shall be by majority vote of a quorum.
- (4) Board officer vacancies shall be filled in the same manner.
- (5) ~~Eight (8) members of the Board shall constitute a~~ A simple majority of the filled seats of the current Board shall constitute a quorum of the Board.

490:1-3-2. Officers and committees

- (a) The ~~chair~~Chair shall be the Chief Executive Officer of the Board. The ~~chair~~Chair shall call and preside at all meetings and shall be a member ex-officio of all committees. The ~~chair~~Chair may act for the Board in such other matters as it may authorize.
- (b) The ~~vice chair~~Vice-Chair, in the absence of the ~~chair~~Chair, shall assume all of the ~~chair's~~Chair's duties and have all of the ~~chair's~~Chair's authority. The ~~vice chair~~Vice-Chair shall also perform such duties as may be assigned by the ~~chair~~Chair.
- (c) The ~~secretary treasurer~~Secretary-Treasurer shall keep accurate and complete minutes of all meetings (including minutes of executive sessions), attend to all correspondence, call meetings on order of the ~~chair~~Chair, and maintain accurate and complete records of all other business transactions and funds of the Board.
- (d) The Board may appoint a recording secretary to assist in fulfilling the responsibilities of the ~~secretary treasurer~~Secretary-Treasurer. The recording secretary may be an employee of the Board.
- (e) The elected officers shall constitute the Executive-Committee of the Board and may provide counsel to the chair Chair in situations requiring immediate attention and action.
- (f) Standing and special committees may be instituted and their members appointed by the ~~chair~~Chair, and shall serve until their purpose is accomplished or until the date of the

meeting at which the officers of the Board are elected. Such committees ~~shall maintain a permanent record of all activities and shall, report at each regular meeting of the Board, report on committee activities occurring since the last regular meeting of the Board.~~

490:1-3-3. Meeting of the Board

- (a) All proceedings of the Board shall be held and conducted in compliance with the Oklahoma Open Meeting Act.
- (b) Regularly scheduled meetings shall be held at a time and place designated by the ~~chair~~Chair.
- (c) The ~~secretary~~Secretary-Treasurer shall notify the membership of the time and place of all regularly- scheduled meetings at least five (5) working days prior to the date of said meeting.
- (d) Special meetings may be called at any time by the ~~chair~~Chair and shall be called ~~at their request~~requested ~~of by~~ a majority of the members of the Executive Committee or at the request of a majority of the membership of the Board. The ~~secretary~~Secretary-Treasurer shall notify the Board of the time, place and business to be transacted at least forty-eight (48) hours in advance of the time set for the special meeting.

490:1-3-8. Executive Director

The Board's Executive Director, as the chief administrative officer for the Board, shall carry out the administrative functions of the Board, including, but not limited to signing orders entered by the Board, ~~including, but not limited to, issuing subpoenas and signing orders entered by the Board.~~

SUBCHAPTER 5. INVESTIGATIVE PROCEDURES

490:1-5-2. Receipt of complaints

- (a) Any person or any person on behalf of a recognized legal entity may submit file a written complaint to with the Board by submitting the same via U.S. Mail, via electronic mail, via the Board's web-based electronic complaint form or by delivering the same in writing, by phone, or in person to the Board's office.
- (b) Anonymous complaints shall not be accepted.
- (c) A complaint shall be generated by the Board or Board staff when information obtained from the media, law enforcement, any regulatory agency, or any other source indicates a violation may have occurred.
- (d) The Board shall reduce to writing a verbal complaint received by phone or in person.
- (e) If the complainant is a facility resident, the resident's personal or legal representative, or a current employee of the facility, the Board shall keep the complainant's identity confidential.
- (f) 'Paper' complaints received by Board staff shall be receipted with a 'date stamp' as to the date the same were received in the Board's office, or, as applicable, by the electronic 'date stamp' created when the electronic version of the complaint was either created/sent by complainant or electronically received by Board staff.

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490:1-5-2.1. Receipt of referrals or reports

- (a) The ~~board~~Board shall review and may take appropriate action on any and all referrals or reports received.
- (b) A complaint ~~shall~~may be generated by the Board or Board staff when information obtained from the referral ~~or report~~ indicates a violation may have occurred.

490:1-5-3. ~~Investigation of complaints~~ **Complaints: investigations and investigative reports**

- (a) Each complaint shall be thoroughly investigated ~~and an investigative report prepared~~. Investigative reports are confidential.
 - (1) ~~by Board staff;~~
 - (2) ~~through contract with another state agency;~~
 - (3) ~~through contract with an individual who is a qualified professional; or~~
 - (4) ~~through contract with a firm that employs the services of one or more qualified professionals.~~
- (b) ~~A qualified professional is an individual who has received training and has documented hands-on experience in the conduct of investigations of similar healthcare professions or entities. The information contained in the investigative report shall not be deemed to be a record as that term is defined in the Oklahoma Open Records Act nor shall the information be subject to subpoena or discovery in any civil or criminal proceeding.~~

490:1-5-4. Preparation of investigative report [REVOKED]

- (a) A written investigative report shall be prepared for each complaint that includes, but is not limited to, the following:
 - (1) ~~The exact nature of the complaint(s);~~
 - (2) ~~The identity of the administrator;~~
 - (3) ~~A description of the investigation;~~
 - (4) ~~The identity of the investigator;~~
 - (5) ~~The identity of witnesses interviewed, unless the witness wishes to remain anonymous and is a current resident, a current staff member, or the personal or legal representative of a current resident;~~
 - (6) ~~A description of documents or other tangible items examined in the course of the investigation;~~
 - (7) ~~All evidence obtained that would directly or by reference establish the ultimate fact of the complained act or omission; and~~
 - (8) ~~All evidence that would either explain or mitigate the action or omission.~~
- (b) ~~Prior to the Board meeting at which a decision is scheduled to be made, each member of the Board shall be furnished a copy of the complaint, and the investigative report.~~
- (c) ~~The investigative report furnished to the Board shall be considered a confidential investigation document until a motion to vote on the complaint is made, at which time, the report shall be a public record.~~
- (d) ~~After the vote upon the complaint is made and recorded, the Board shall maintain as a public record a full and complete copy of the investigative report indexed by docket number or similar internal reference.~~

490:1-5-5. Board decision [REVOKED]

- (a) ~~Any decision by the Board pursuant to a complaint shall be voted upon by a quorum of the Board in an open meeting.~~
- (b) ~~Each complaint shall be acted upon pursuant to a motion after an opportunity for discussion by the Board. Following discussion of the evidence, any member of the Board may make a motion to continue the investigation in order to gather additional evidence or to make further inquiries.~~
- (c) ~~The investigation may be extended upon a finding of good cause pursuant to 63 O.S. Section 330.65.~~
- (d) ~~If the vote to extend the investigation fails, the Board shall vote upon the merits of the complaint.~~
- (e) ~~Each member of the Board shall vote based on the evidence presented in the report required pursuant to the provisions of this section.~~
- (f) ~~No recommendation on a complaint shall be made to the Board by a subcommittee or a staff member of the Board.~~

490:1-5-6. Notice [REVOKED]

- (a) ~~Notice of the Board's proposed action to an administrator who is the subject of a complaint shall be issued in accordance with the provisions of Article II of the Administrative Procedures Act governing individual proceedings.~~
- (b) ~~Any request for a hearing by an administrator regarding the proposed action of the Board shall be received by the Board within ten (10) days of the receipt of the notice of the Board decision.~~
- (c) ~~If no timely request for hearing is received by the Board, the Board decision shall become final.~~

490:1-5-7. Hearing

- (a) ~~If a request for hearing is received by the Board within 10 days of the administrator's receipt of notification, the Board will set a date, time and place for the hearing and will inform the aggrieved licensee by registered mail, addressed to the licensee's address contained in the records of the Board, of the scheduling of such hearing. The formal Complaint will be a part of the notice.~~
- (b) ~~Individual proceedings shall be conducted by the Board according to the provisions established in 63 O.S. Sections 330.64 and 330.65 and 75 O.S. Section 309 et seq.~~
 - (1) ~~All parties shall have an opportunity to respond and be represented by counsel at said hearings.~~
 - (2) ~~All parties shall have a full opportunity to present evidence and argue all issues involved and to cross examine as may be required for a full and true disclosure of the facts.~~
 - (3) ~~The respondent shall bring to the hearing twenty (20) copies of all documents that he/she intends to offer into evidence as well as twenty (20) copies of all motions that he/she intends to submit for Board consideration.~~
 - (4) ~~The decision of the Board shall be based exclusively on the evidence and matters noticed at the hearing.~~
 - (5) ~~An electronic recording of the proceeding shall be made by the Board, and a copy of the electronic recording shall be provided by the Board at the request of to a party to the proceeding at that party's request.~~

(63) The full proceedings of any hearing may be transcribed. The party requesting the services of a court reporter shall make the arrangements for the transcription with the court reporter to transcribe the proceedings and pay the reporter's fee. ~~That~~A party to the proceedings shall notify the Board in advance of the ~~meeting~~hearing of the expected presence of a court reporter.

~~(7) All final orders in any individual proceeding shall be in writing. A final order shall include findings of fact and conclusions of law, separately stated.~~

(e) Any party aggrieved by a decision of the Board following a hearing may appeal directly to ~~district~~District courtCourt pursuant to the provisions of Section 318 of Title 75 of the Oklahoma Statutes.

~~(d) The Board shall assess the costs of the hearing process, including attorney fees.~~

490:1-5-7.1. Administrative fines

(a) The Board may impose administrative fines, in an amount to be determined by the Board, against licensees who do not comply with the provisions of the Oklahoma statutes relating to Long Term Care Administrators or rules adopted by the Board.

(b) Administrative fines shall not exceed One Thousand Dollars (\$1,000.00) per violation.

(c) In assessing a fine, the Board shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the scope, severity and repetition of the violation and any additional factors deemed appropriate by the Board.

(d) Administrative fines assessed by the Board on-or-after August 1, 2009, must be paid, in full, within thirty (30) calendar days of the date assessed, unless other payment terms have been agreed to, in writing, by the Board. Administrative fines assessed by the Board before August 1, 2009, but for which an unpaid balance remains, and the Board has not agreed, in writing, to other payment terms for payment of such assed fine(s), must be paid, in full, on-or-before August 30, 2009.

(e) Failure to timely pay Administrative fines assessed by the Board may subject the individual to Board sanction(s), including license suspension or revocation.

490:1-5-8. Reporting

(a) The Board shall report final adverse actions to the Healthcare Integrity and Protection Data Bank (HIPDB) in accordance with requirements at Title 45, Code of Federal Regulations, Part 61.

(b) Disciplinary action taken against a licensee shall be reported on the registry as provided in ~~OAC 490:1-6-1-63~~O.S. §330.64.

(c) If the Board has knowledge that the licensee is licensed as ~~an~~ long term care administrator in any other ~~state~~(s) legal jurisdiction(s) and/or if the Board has knowledge that the licensee holds other professional license(s) or certification(s), the Board ~~shall~~ may report disciplinary action taken against the licensee to all appropriate state licensing authorities, federal regulatory authorities and professional certification organizations.

~~(d) Investigations shall be referred~~Referrals may be made to the proper law enforcement authorities, the ~~state~~State's Medicaid fraudFraud and abuseAbuse authorities, Adult Protective Services, the State's Ombudsman, or any other licensing board or regulatory entity, when deemed appropriate by the Board.

SUBCHAPTER 6. ADMINISTRATOR REGISTRY

490:1-6-1. General provisions

~~(a) A registry of administrators shall be created and maintained by the~~The Board shall create a registry of complaints or referrals made against licensed administrators pursuant to 63 O.S. §330.64. The registry may include information such as name, license number date first licensed, current facility of employment, history of facility employment, history of complaints registered against the individual, history of other referrals, status as a preceptor or AIT, status of license and any other information deemed necessary by the Board. The registry shall be created and maintained in both paper and electronic formats, and shall be available for public inspection.

~~(b) No Complaints~~complaints or referrals shall not be published included in the registry, nor shall any complaint or referral be published on the Board's website unless there is has been a finding by the Board that a complaint or referral has merit.

~~(a) Board decisions and other data required to keep the registry current shall be entered into the registry.~~

~~(a) The registry shall be organized in both chronological order by date of the complaint or referral and by the name of the licensed administrator.~~

~~(a) The registry shall contain the nature of the complaint or referral; action, if any, taken by the Board; and the number of complaints and referrals made against an individual administrator.~~

SUBCHAPTER 7. FEES AND DEPOSITS

490:1-7-1. Fees and deposits

(a) All fees, fines and costs collected by the Board under the provisions of 63 O.S. Sections 330.51 et seq. shall be deposited with the State Treasurer within twenty-four (24) hours of receipt, in a fund to be known as the Oklahoma State Board of Examiners for Long Term Care Administrators Revolving Fund. This fund may be used for the purposes of the Board as provided in the Statutes.

(b) Fees, fines and costs received by the Board for any purpose described herein shall become the exclusive property of the Board and shall not be refunded in whole or in part for any reason or purpose without Board approval.

(c) The following fees as listed within 490:1-7-2. are due and payable to the Board, in full, immediately upon assessment by the Board:

- (1) Returned Check Fees or Fees for Non-Sufficient Funds (NSF) related to Electronic Funds Transfers;
- (2) Late Fees; and/or

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~~(3)~~ Late Fees for Failure to Provide Current Contact information.

~~(d)~~ Unless otherwise agreed to in writing by the Board, all other fees charged by the Board are due and payable to the Board, in full, on-or-before the date the Board or Board staff is to take action on the item wherein a fee is specified.

~~(e)~~ Failure to timely pay Administrative fees assessed by the Board may subject the individual to Board sanction(s), including license suspension or revocation.

490:1-7-2. Schedule of fees

- (a) Initial Long Term Care Administrator License - \$200.00
- (b) Annual Renewal, Active License - \$200.00
- (c) Late Fee, ~~Renewal of License~~ - \$100.00 for each ~~thirty (30) days calendar week~~, or portion thereof, ~~the renewal is late, beginning as of 12:01 a.m. on the 1st day of the licensing year for which the renewal was to have been effective~~ a licensee fails to timely meet the requirements of a deadline or due date established or agreed to, in writing, by the Board.
- (d) ~~Application Fee Pre- Licensing File Origination and Maintenance fee~~ - \$100.00
- (e) Provisional License (per application) - \$200.00
- (f) Annual Renewal, Inactive License ~~(annual)~~ - \$200.00
- (g) Name Change on "Certificate of License" (per request) - \$25.00
- (h) Endorsement Licensure Questionnaire (per request) - \$50.00
- ~~(i) Replacement of Annual Card (per request) - \$25.00~~
- ~~(j) Duplicate Replacement License "Certificate of License" (due to loss or damage) (per request) - \$25.00~~
- ~~(k) State Standards Review (per person) - \$100.00~~
- ~~(l) State Standards Examination Packet - \$50.00~~
- ~~(m) State Standards Examination - the greater of \$100.00 per examinee or the fee determined and assessed by the Intermediary~~
- ~~(n) State Standards Examination, convenience fee, unscheduled examination - the greater of \$200.00 per examinee or \$500.00 for all examinees, assessed per examination procured, or the fee per examinee determined and assessed by the Intermediary.~~
- ~~(o) Board-Sponsored Educational Workshop (per day) - \$60.00 - \$160.00 up to \$1,000 per attendee~~
- ~~(p) Photocopies (per page) - \$0.25~~
- ~~(q) Rules and Regulations (per paper copy), per page - \$15.00, 25~~
- ~~(r) Administrator-In-Training (AIT) Program: Internship Permit (per person intern/trainee) - \$350.00~~
- ~~(s) Continuing Education Program Approval Fee (per credit hour) - \$55.00~~
- ~~(t) Mailing List on Plain Paper (per page) - \$0.50, 25~~
- ~~(u) Mailing List on Labels (per page) - \$1.00~~
- ~~(v) Electronic Mailing List - \$10.00~~
- ~~(w) Returned Check Fee or Fee related to Non-Sufficient Funds (NSF) to cover an Electronic Funds Transfer (EFT) - \$30.00~~
- ~~(x) Late Fee for Failure to Provide Current Contact Information - \$75.00~~

~~(y) Fee for Administrator University - Not to exceed \$200.00 per day~~

~~(z) Convenience Fee for Online Licensure Renewal - Determined by Intermediary~~

~~(aa) Review by Board in order to determine whether or not an individual applicant meets the minimum requirements to be able to serve as an "Assistant Administrator, Unlicensed" - \$200.00~~

~~(bb) Status change fee, license on 'inactive' status reinstated to 'active' status - \$100.00~~

~~(aa) Oklahoma Preceptor/Administrator-In-Training (AIT) training manual (per page) - \$0.25~~

~~(bb) License Application processing fee - \$100.00.~~

SUBCHAPTER 9. CONTINUING EDUCATION

490:1-9-1. General provisions for continuing education programs

- (a) In order to receive Board recognition and continuing education credit, continuing education programs shall be submitted to the Board for approval prior to presentation as indicated under this Chapter.
- (b) All continuing education programs submitted to the Board for ~~recognition and its evaluation and possible 'approval'~~ for purposes of granting Oklahoma continuing education credit hours will be submitted with a \$55.00 per credit hour, non-refundable fee. Approval will be granted only for specific programs for specific dates of presentation. The Board, in its sole discretion, may waive this fee for programs sponsored by other State or federal agencies. Recurring presentations also require Board approval, but may be considered and approved by the Board based upon a report of program changes from the previously-approved program.
- (c) The Board shall withdraw approval for continuing education credit should subsequent information come to its attention that program content differed from that approved.
- (d) Sponsors shall be responsible for obtaining satisfactory documentation of attendance.
- (e) All programs approved by the National Continuing Education Review Service (NCERS), National Association of Long Term Care Administrator Boards of Examiners of Long Term Care Administrators (NAB) that receive a NCERS/NAB approval number will be presumptively accepted ~~presumptively~~ by the Board for purposes of meeting Oklahoma's annual continuing education unit credits requirements.
- (f) The Board may approve, sponsor and/or conduct its own educational and training programs for continuing education credit if such programs meet the criteria established in this Chapter.
- (g) The Board reserves the right to monitor any and all approved programs.
- (h) Programs that deal specifically with internal affairs of an organization do not qualify for continuing education hours.
- (i) Programs from the Administrator University may qualify for continuing education hours if they meet the criteria outlined in this Chapter and have been approved by the Board.

490:1-9-3. Approval of continuing education Programs

- (a) In order to be approved, continuing education programs shall be appropriately designed for Long Term Care Administrators and shall meet the criteria outlined in this ~~chapter~~Chapter.
- (b) If a program is disapproved, the sponsor shall be notified in writing of the reasons for rejection within ten (10) working days of the Board's decision.
- (c) If a program is disapproved, the sponsor has 30 days to appeal in writing. The appeal must include a copy of the original application package and any additional information the sponsor feels is needed for further clarification
- (d) The Board may approve program content or a portion of the program content, even though the same content or a portion of the program content has been previously approved by the Board for the same calendar year. However, licensed administrators who have attended and received credit for such previously approved program content shall be denied credit for attending subsequent duplicate programs.

490:1-9-4. Continuing education requirements

- (a) Each licensee shall be responsible for identifying his/her own continuing education needs, taking the initiative in seeking continuing professional education activities to meet those needs, and integrating new knowledge and skills into their duties.
- (b) Individuals who are newly licensed ~~or who are requesting reinstatement will be~~are required to successfully complete continuing education hours equivalent to two (2) hours per month ~~for each month the license is active from, beginning with the month following the month the his/her license is issued, to the renewal month for each month he/she holds the license during the current licensing year.~~
- (c) ~~All Licensees holding an 'Active' license other licensees,~~ shall be required to successfully complete twenty-four (24) clock hours of continuing education during each ~~calendar~~ licensing year.
- (d) Licensees are responsible for maintaining their own continuing education records.
- (e) Carry-over of continuing education hours earned in one licensing year that were in excess of the hours required for that year to a subsequent licensing year ~~credit from one year to the next~~ is not permitted.
- (f) A licensee who cannot meet the continuing education requirement due to illness, emergency or hardship may ~~apply to~~petition the Board, in writing, requesting a waiver of the CEU requirement. Any such waiver request must be received and acted-upon by the Board prior to the end of the renewal period for a waiver licensing year in which the CEU requirement will not be met. The waiver request shall explain why compliance is not impossible possible, and include appropriate documentation. Waiver requests will be evaluated and acted upon by the Board on a case-by-case basis.
- (g) In the event a licensee fails to provide the Board with documentation that the continuing education requirements have been met, the licensee will be subject to ~~non-renewal~~

sanction by the Board, including suspension or revocation of his/her license.

- (h) A licensee whose license is suspended by the Board for disciplinary reasons is not exempt from the continuing education requirements, and must, therefore, successfully complete twenty-four (24) continuing education hours during any licensing year(s) in which his/her license is under suspension. Licensee shall, upon Board request, furnish documentation that the continuing education requirements have been met. Failure to provide such requested documentation shall subject licensee to sanction by the Board, including suspension or revocation of his/her license.
- (i) Continuing education hours are not required for a licensee whose license is on inactive status except as otherwise required at OAC 490:10-1-10.(b)2.
- (j) All CEU hours earned for programs approved by the NCERS/NAB or approved by the Board may be utilized by a licensee for purposes of meeting the annual CEU requirement in the licensing year in which the hours were earned.

490:1-9-5. Auditing of continuing education Hours

- (a) The Board ~~will~~may request ~~receive~~ continuing education information from sponsors for audit purposes only. ~~and~~
- (b) The Board will~~does not keep~~ retain an any individual record of continuing education hours for completed by individual administrators except as it may otherwise obtain in its performance of the annual CEU compliance audit.
- (~~b~~c) An annual audit of at least 5% of the total number of licensed administrators will be made to verify compliance with ~~statements made on renewal forms~~ the annual CEU requirement. This percentage may be increased at the Board's discretion.
- (~~e~~d) Failure of a licensee to provide verification of continuing education hours completed, as if requested by this audit by the Board, shall result in disciplinary action against the licensee as determined by the Board.

[OAR Docket #09-1174; filed 6-12-09]

**TITLE 490. OKLAHOMA STATE BOARD OF EXAMINERS FOR LONG TERM CARE ADMINISTRATORS
CHAPTER 10. LONG TERM CARE ADMINISTRATORS**

[OAR Docket #09-1175]

RULEMAKING ACTION:
PERMANENT final adoption

- RULES:**
- Subchapter 1. Licensing of Long Term Care Administrators
 - 490:10-1-2.1. General requirements that must be met by each applicant [AMENDED]
 - 490:10-1-3. QualificationsRequirements for initial licensure [AMENDED]
 - 490:10-1-4. QualificationsRequirements for licensure by reciprocity/licensure by interstate endorsement [AMENDED]

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490:10-1-5. ~~Qualifications~~Requirements for a provisional license [AMENDED]
490:10-1-9. Inactive license [AMENDED]
490:10-1-10. Requirements for reinstatement from inactive status [AMENDED]
Subchapter 3. Application for Licensure
490:10-3-1. Application for initial licensure, reciprocity, or provisional license [AMENDED]
490:10-3-1.1. Evidence requirements [AMENDED]
490:10-3-2. National ("NAB") examination [AMENDED]
490:10-3-3. State Standards examination [AMENDED]
490:10-3-4. Admission to ~~the state~~State Standards and national examinations [AMENDED]
490:10-3-5. Application for licensure renewal [AMENDED]
Subchapter 5. Discipline
490:10-5-3. Disciplinary action [AMENDED]
490:10-5-5. Summary suspension [AMENDED]
Subchapter 7. Administrator University
490:10-7-3. General provisions [AMENDED]
Subchapter 8. Administrator-In-Training (AIT) Internship Program [AMENDED]
490:10-8-2. Application [AMENDED]
490:10-8-3. Training permit [AMENDED]
490:10-8-4. Preceptor selection [AMENDED]
490:10-8-5. Preceptor qualifications ~~and agreements~~ [AMENDED]
490:10-8-5.1. Preceptor designation/assignment to an AIT intern/trainee [NEW]
490:10-8-6. Curriculum [AMENDED]
490:10-8-7. Module reports [AMENDED]
490:10-8-8. Preceptor's final report [AMENDED]
490:10-8-9. Preceptor's checklist [AMENDED]
490:10-8-10. Change of status and discontinuance [AMENDED]
490:10-8-11. Dismissal from program [AMENDED]
490:10-8-12. Compensation of AIT-AIT's Interns/Trainees [AMENDED]
490:10-8-13. AIT time on the job [AMENDED]
490:10-8-14. AIT Internship exempt status [AMENDED]
490:10-8-16. Refusal to approve or renew preceptor or intern assignment [AMENDED]
490:10-8-17. Supervision of AIT-AIT's interns/trainees [AMENDED]
Subchapter 13. Standards for administrators
490:10-13-1. Administrator Code of Ethics [AMENDED]
490:10-13-2. Administrator responsibilities [AMENDED]
490:10-13-3. Requirements for administrators who ~~are in charge~~ serve as the Administrator-of-Record of two (2) or more licensed long term care facilities comprising a total of one hundred twenty (120) or fewer occupied beds and located within a fifty (50) mile radius of each other, wherein the total number of occupied beds does not exceed one-hundred-twenty (120) beds and wherein one-or-more individuals is/are employed in ~~the capacity of~~ Assistant Administrator, Unlicensed capacities [AMENDED]

AUTHORITY:

Oklahoma State Board of Examiners for Long Term Care Administrators; 63 O.S., §§ 330.51 et seq.

DATES:

Comment period:

February 17, 2009, through March 19, 2009

Public hearing:

March 25, 2009

Adoption:

March 25, 2009

Submitted to the Governor:

March 30, 2009

Submitted to House:

March 30, 2009

Submitted to Senate:

March 30, 2009

Gubernatorial approval:

May 6, 2009

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 21, 2009

Final adoption:

May 21, 2009

Effective:

July 25, 2009

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The purpose of the rule changes is to update the requirements for long term care administrators in Oklahoma. The proposed changes: add a requirement for applicants for licensure that they have a working ability in the English language; clarified evidence requirements related to receipt of college/university degree; added requirement related to degree equivalency evaluation for degrees conferred by colleges/universities not domiciled within the United States; established time limitation for completion of all requirements for licensure; refined requirements for licensure by reciprocity/interstate endorsement; refined degree requirements as related to the awarding of a provisional license; established limits as to the number of times applicant could sit for , but fail to pass, the State Standards and NAB (national) examinations before applicant would have to petition Board to make another attempt; clarified requirements for license renewal; clarified the definition of 'suspended' licenses; refined the procedure for Board action related to individuals who failed to timely-renew his/her license; expanded the listing of administrator offenses for which Board disciplinary action would be warranted; clarified the requirements for 'certification' of a preceptor; and developed new requirements with respect to the assignment of preceptors to an AIT intern/trainee.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 25, 2009:

SUBCHAPTER 1. LICENSING OF LONG TERM CARE ADMINISTRATORS

490:10-1-2.1. General requirements that must be met by each applicant

- Applicants shall not be less than twenty-one (21) years of age at the time the license is issued.
- Each applicant shall be a United States citizen, or be a qualified alien under the Federal Immigration and Naturalization Act and lawfully residing in the United States.
- Each applicant must establish to the satisfaction of the Board that the applicant is of reputable and responsible character.
- Each applicant shall submit to a criminal background check. If the results of a criminal background check reveal that the applicant has been convicted of or pleaded guilty or nolo contendere to any felony or to any misdemeanor involving moral turpitude, the individual's application for licensure may be disapproved.
- Each applicant shall report to the Board any adverse action taken by any licensing or certification entity in any jurisdiction. The Board shall examine the reasons for the action(s) and may consider this information in granting or denying a license.

(f) Each applicant shall be in compliance with State income tax requirements pursuant to 68 O.S., 238.1.

(g) Each applicant shall remit any and all required fees associated with obtaining a license, including any outstanding fees or fines.

(h) Applicants must have a working ability in the English language sufficient to communicate, both orally and in writing, with residents, family members, employees, the general public, representatives of State and federal agencies and to engage in the practice of long term care administration.

(hi) Each applicant shall meet any other appropriate conditions and requirements as may be prescribed by the Board.

490:10-1-3. Requirements for initial licensure

(a) In addition to the general requirements found in this Chapter, each applicant for initial licensure shall meet the requirements in this Section.

(b) Each applicant shall provide, or shall cause to be provided, written evidence satisfactory to the Board of the following:

(1) "Official Proof" [see 490:10-3-1.1. (relating to evidence requirements)] of successful completion of a formal four (4) year program or program(s) of study, wherein and receipt applicant received, at a minimum, of a bachelor's degree:

(A) from an accredited college or university if the applicant's degree is from a school domiciled in the United States; or

(B) if the applicant received his/her degree from a college or university domiciled outside the United States [and, as such, the college/university does not fall under the accreditation purview of any of the six (6) regional accreditation organizations recognized by the U.S. Department of Education and by the Board], applicant shall, at applicant's expense, cause a degree equivalency evaluation of his/her degree to be performed and the results sent directly to the Board. The Board shall assess the results of this degree equivalency evaluation and, at its sole discretion, determine if applicant's education and/or degree are equivalent, at a minimum, to a bachelor's degree earned from an accredited college or university;

(2) Receipt of a passing score on the national "NAB" examination conducted by the National Association of Long Term Care Administrator Board Boards (NAB) of Examiners of Long Term Care Administrators;

(3) Receipt of a passing score on the current Oklahoma State Standards examination within the sixty (60) months preceding the month in which the Board would be taking action to license the applicant, and if applicant is not licensed during this 60-month time period, applicant would have to pay all required fees and re-take the examination prior to any future licensing attempts;

(4) Successful completion of Administrator University within the sixty (60) months preceding the month in which the Board would be taking action to license the applicant, and if applicant is not licensed during this 60-month time period, applicant would have to pay all required fees and

re-take Administrator University prior to any future licensing attempts;

(5) Successful completion of the Administrator-in-Training (AIT) program within the sixty (60) months preceding the month in which the Board would be taking action to license the individual, and if applicant is not licensed during this 60-month time period, applicant would have to pay all required fees and complete another AIT program prior to any future licensing attempts; and (6) payment of the required fee(s).

(c) The Board, at its sole discretion, may waive the ~~requirement for~~ Administrator University requirement and /or the Administrator-in-Training requirement if the applicant ~~has been~~ was previously licensed in Oklahoma as a long term care administrator, was in good standing with the Board while applicant was previously licensed in Oklahoma, and has been active in long term care for at least two (2) of the last five (5) years.

490:10-1-4. Requirements for licensure by reciprocity/licensure by interstate endorsement

(a) In addition to the general requirements found in this Chapter, each applicant for licensure by reciprocity/ licensure by interstate endorsement shall meet the requirements of this Section.

(b) The Board has entered into a licensure by reciprocity/licensure by endorsement agreement with the National Association of Long Term Care Administrator Board Boards ~~of Examiners of Long Term Care Administrators~~ that permits licensure for candidates from other jurisdictions who have met the following minimum requirements.

(1) Submission to the Board "Official Proof" ~~[see 490:10-3-1.1 (relating to evidence requirements)]~~, of successful completion of a four (4) year formal program program(s) of study and, at a minimum, receipt of a bachelor's degree from an accredited college or university that meets the requirements set forth in 490:10-1-3.;

(2) Submission to the Board of ~~proof~~ evidence of current licensure as a long term care/nursing home administrator, and submission of proof that applicant has:

(A) served full time as the administrator-of-record for the past two (2) consecutive years in a jurisdiction regulated by a licensing authority; or

(B) has been active in long term care for at least two (2) of the past five (5) consecutive years of initial licensure, including active NAB scores and proof that such license is in good standing;

(3) Receipt of a passing score on the current Oklahoma State Standards examination;

(4) Submission to the Board of ~~evidence proof of initial licensure as a nursing home/long term care/nursing home administrator, including active NAB scores, and proof that such license is in good standing with that licensing authority of record full time for the past two consecutive years in a jurisdiction regulated by a licensing authority, or submission to the Board of evidence of licensure as a nursing~~

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home administrator who has been active in long term care for at least two (2) of the last five (5) years; and

~~(54) Submission to the Board full disclosure of any/all pending disciplinary actions or current investigations against applicant as well as any sanctions imposed against applicant's long term care/nursing home administrator license or against any professional license he/she presently holds or has ever held in any other State or jurisdiction, including, but not limited to: revocation; suspension; 'voluntary surrender'; other licensure restriction(s) that limited applicant's practice under such license; or the assessment of monetary penalties or fines or the assessment of additional CEUs by the licensing entity as a result of disciplinary proceedings; Loss of a professional license due to nonrenewal or failure to obtain the required number of annual CEU hours are excepted from the full and complete disclosure otherwise required herein; of proof that any other administrator license granted to the candidate by all other states or jurisdictions has not been suspended, revoked or otherwise restricted for any reason (other than nonrenewal or the failure to obtain the required continuing education credits in any states where the applicant is currently licensed but not engaged in the practice of nursing home/long term care facility administration), nor subject to any discipline or current investigation;~~

~~(5) Documentation related to current or previous licensure shall be submitted directly to the Board by the state-appointed authority(ies) regulating the respective license(s); and~~

~~(6) payment of the required fee(s).~~

~~(A) The Board shall have discretion to assess the magnitude of any such discipline issued and determine the applicant's eligibility;~~

~~(B) The applicant shall report any professional license suspension or revocation in any jurisdiction. The Board shall examine the reasons for revocation and may consider this information in granting or denying a license; and~~

~~(C) Documentation shall be provided directly by the state appointed authority.~~

~~(c) The Board, in its sole discretion, shall assess the magnitude of any disciplinary action taken by other licensing authorities in its determination of applicant's eligibility for an Oklahoma license.~~

~~(d) Applicants otherwise determined eligible for Oklahoma licensure by reciprocity/interstate endorsement shall be required to sit for and receive a passing score on the Oklahoma State Standards examination and pay the required license fee before a license is granted by the Board.~~

490:10-1-5. Requirements for a provisional license

(a) To fill a position of long term care administrator that unexpectedly becomes vacant, the Board may grant one (1) provisional license for a single period not to exceed six (6) months. The Board shall not grant another provisional license to fill a vacancy at the same facility for a period of one year after the date the provisional license is granted.

(b) In addition to the general requirements found in this Chapter each applicant for a provisional license shall meet the requirements of this Section.

(c) A provisional license may be granted to a person who does not meet all of the licensing requirements established by the Board, but who:

(1) Has successfully completed a ~~four (4) year formal program~~ program(s) of study and, at a minimum, ~~received~~ received a bachelor's degree ~~from an accredited college or university; that meets the requirements set forth in 490:10-1-3.;~~

(2) Has obtained the services of a currently_ licensed Oklahoma long term care administrator to act as an on-site consultant to the provisional licensee;

(3) Has provided the Board with evidence indicating he/she has at least two (2) years of experience in a long term care facility; ~~and~~

(4) Has received a passing score on the current Oklahoma State Standards examination; and

(5) Has paid the required fee(s).

(d) The consultant administrator to a provisional licensee must have been employed in a comparable long term care facility in Oklahoma a minimum of two (2) years.

(e) The consultant administrator to a provisional licensee shall:

(1) Provide direct supervision of the provisional licensee for at least eight (8) hours per week with no more than 10 calendar days lapsing between consultant visits to the provisional licensee's facility; and

(2) Submit monthly evaluation reports on the provisional licensee to the Board no later than the tenth day of each month for the duration of the provisional license.

490:10-1-9. Inactive license

(a) A licensee may request, in writing, for the Board to place his/her license on inactive status, and, if the Board approves the requested change in license status from active to inactive, the licensee shall not function in the capacity as a long term care administrator in Oklahoma until the license is reinstated by the Board to active status. Such requests must be received by the Board no less than fourteen (14) calendar days prior to the date of the Board Meeting at which the Board is to consider the request.

(1) ~~For~~ Except as otherwise permitted in this Subchapter, requests by licensees to place his/her license on inactive status on-or-after after July 1, 2008, such request shall be denied by the Board if the licensee's license has been on inactive status for any longer than one (1) licensing year during the two (2) licensing years preceding the year for which inactive status is being requested.

(2) If, on-or-after July 1, 2008, a licensee submits a request for the Board to place his/her license on inactive status, and such request is granted by the Board, the change would be effective the earlier of either:

(A) The date his/her current license is due to be renewed; or

(B) The specific date during the current licensing year the licensee requested the change to be effective;

and further, either effective date shall be no earlier than the date of the Board Meeting at which the Board acts upon his/her request for the change in license status from active to inactive.

(b) A licensee whose license is on inactive status will remain on the Board's mailing list, and his/her license is eligible for reinstatement from inactive to active status as described in this Chapter.

(c) In order to place an active license on inactive status, the licensee must, in advance of the expiration date of the current license:

- (1) submit a written request to the Board to have his/her license placed on inactive status, and, if the Board grants the change in status,
- (2) submit the annual inactive license fee as prescribed by the Board at OAC 490:1-7-2.

(d) A licensee's license may remain on inactive status for a period not to exceed two (2) consecutive licensing years.

(1) For licensees whose license was placed on inactive status on-or-before June 30, 2007, the two (2) consecutive licensing years time period does not apply, rather such individuals' licenses may remain on inactive status for a period not to exceed five (5) consecutive licensing years, beginning with the date on which his/her license was placed on inactive status, and provided that the licensee appropriately requests his/her license remain on inactive status each time the license is due for renewal and such request has been granted by the Board.

(2) For licensees whose license was placed on inactive status on-or-after July 1, 2007, the two (2) consecutive licensing years time period shall end on the last day of the licensing year following the licensing year in which his/her license was placed on inactive status, provided that the licensee appropriately requests his/her license remain on inactive status when his/her license is due for renewal and such request has been granted by the Board.

(e) When applicable, a written request to continue a license on inactive status must be made each year during the annual license renewal period.

(f) The ~~annual~~ inactive license fee shall be charged annually each time inactive license status is requested.

490:10-1-10. Requirements for reinstatement from inactive status

(a) In addition to the general requirements found in this Chapter each licensee who requests that his/her license be reinstated by the Board from inactive status to active status shall meet the requirements in this Section.

(b) A licensee who has been granted inactive license status by the Board, and who otherwise meets the qualifications to be granted an active license, may apply to the Board, in writing, requesting that the Board reinstate his/her license from inactive status to active status. Such written request shall be received at the Board offices not later than fourteen (14) calendar days prior to the Board Meeting at which the Board would act on the request. Licensee shall supply or cause to be supplied with or in support of such written application for reinstatement written evidence satisfactory to the Board of the following:

(1) Receipt of a passing score on the current Oklahoma State Standards examination;

(2) Completion of twenty-four (24) clock hours of approved continuing education or completion of Administrator University during the licensing year preceding the licensing year for which licensee is requesting reinstatement;

(3) Payment of the current licensure fee and the status change fee as prescribed by the Board at OAC 490:1-7-2. (~~Schedule of fees~~) and any unpaid fees or fines owed to the Board; and

(4) For those licensees who wish to reinstate their license to active status prior to the next annual license renewal date, the date on which they would like to have their license reinstated by the Board.

(c) For those licensees who had not completed or cannot provide written evidence verifying completion of the required twenty-four (24) clock hours of Continuing Education Units (CEUs) or completion of Administrator University in the licensing year preceding the licensing year in which his/her license would be reinstated to active status, such individuals have not met the requirements for license reinstatement as established by the Board and his/her license will not be reinstated to active status.

(d) A licensee who has not reinstated an inactive license to active status within the maximum allowed two (2) consecutive licensing years time limit or within such other length of time, as otherwise delineated within this Chapter, is considered to have abandoned his/her license and the practice of long term care administration, and the Board shall take action to formally vacate his/her license. An individual shall, if he/she wishes to practice long term care administration after failure to reinstate his/her license from inactive to active status, re-apply to the Board and meet current requirements for initial licensure as a long term care administrator.

SUBCHAPTER 3. APPLICATION FOR LICENSURE

490:10-3-1. Application for initial licensure, licensure by Reciprocity/reciprocity/interstate endorsement, or provisional license

(a) Each applicant for licensure as a long term care administrator shall make a verified application on a form furnished by the Board and remit a non-refundable application fee as prescribed by the Board at OAC 490:1-7-2.

(b) An application for initial license, for licensure by reciprocity/interstate endorsement or for a provisional license is valid for one year after the date of receipt by the Board.

(c) An applicant shall be deemed to have abandoned the application if he/she does not fulfill all requirements for licensure within one year from the date of application.

(d) An application for licensure submitted subsequent to the abandonment of a former application shall be treated as a new application and the applicant must meet rules in force at the time of such new application shall apply current requirements for licensure as a long term care administrator.

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(e) ~~The Executive Director may, upon a showing of good cause, extend the application period for an additional six (6) months.~~

(fe) Upon receipt of an application for licensure, the Board shall request that a criminal history background check be performed on the individual requesting licensure. If the results of a criminal background check reveal that the applicant has been convicted of or pleaded guilty or nolo contendere to any felony or to any misdemeanor involving moral turpitude, the individual's application for licensure may be disapproved and no further action will be taken on the application.

(gf) An application shall be determined complete when:

(1) ~~the criminal background check is received by the Board~~ application fee prescribed by the Board at OAC 490:1-7-2. has been remitted and deposited to the Board's credit with the State Treasurer;

(2) ~~all documentation requested~~ required to be submitted along with or in support of ~~in~~ the application has been received by the Board;

(3) the applicant has met all other requirements for an initial license, for licensure by reciprocity/interstate endorsement or for a provisional license, as applicable, and

(4) ~~the application fee prescribed by the Board at OAC 490:1-7-2 has been remitted~~ results of the criminal background check have been received by the Board.

(hg) ~~Once an application is determined complete, the applicant must then meet the remaining requirements found in this Chapter for an initial license, licensure by reciprocity, or a provisional license, as appropriate.~~

(ih) Upon verification of compliance with all requirements, an applicant shall be eligible for consideration by the Board for purposes of licensure as a long term care administrator.

(jh) Applicants eligible for licensure shall pay a license fee as prescribed by the Board at OAC 490:1-7-2. The fee is due and payable on notice of eligibility for licensure. A license will not be issued until said fee is paid in full to the Board.

(ki) Upon payment of the license fee, the ~~applicant's application request for licensure~~ shall be presented to the Board for consideration at the next Board meeting. Applicants are encouraged to attend the Board meeting.

(lj) The certificate of license shall be mailed to the applicant within seven (7) working days of ~~Board~~ Board's formal grant of license to the applicant approval.

490:10-3-1.1. Evidence requirements

(a) To satisfy the Board's requirement for evidence verifying educational degree(s) conferred or hours of post-secondary education completed, the applicant shall cause an official transcript(s) to be sent directly to the Board office from the educational institution(s) that awarded the degree(s) and/or from the educational institution(s) at which the post-secondary education was completed. Transcripts issued to the student, or copies thereof, shall not be accepted.

(b) To satisfy the Board's requirement for evidence indicating experience, the applicant shall submit a declaration signed by a licensed long term care ~~facility~~ administrator, medical director, director of nurses, or registered nurse who can attest to the applicant's work experience.

490:10-3-2. National ("NAB") examination

(a) An individual applying for an initial license must receive a passing score on the national long term care administrator ("NAB") examination administered by the National Association of Long Term Care Administrator Boards of Examiners of Long Term Care Administrators. The Board may waive this requirement if the applicant provides evidence that he/she has successfully passed the national examination "NAB" examination at another a previous time.

(b) An individual applying for licensure by reciprocity/licensure by interstate endorsement or applying for reinstatement from of a license from inactive status to active status shall not be required to take sit for and receive a passing score on the national examination "NAB" examination if the applicant provides evidence that he/she has successfully passed it at another a previous time.

(c) An individual applying for a provisional license shall not be required to take the ~~national~~ "NAB" examination.

(d) An applicant who fails to pass the "NAB" examination may re-take the examination four (4) additional times, after which he/she would have to petition the Board, on each subsequent occasion, to allow him/her to sit for the examination. The Board, after reviewing the merits of each such petition, will either allow or deny the petition, and if the decision is to deny the petition, propose other remedies that may increase the potential for the individual to successfully pass this examination on a future attempt (i.e. continuing education, NAB examination study/refreshers course, etc.) prior to applicant re-petitioning the Board to allow applicant to re-take the NAB examination.

(e) Fees for the national examination shall be in an amount prescribed by and are due and payable to the NAB officials or its authorized designee.

490:10-3-3. State Standards examination

(a) An individual applying for an initial license, licensure by reciprocity, a provisional license, or reinstatement of a license from inactive status to active status must, prior to the issuance of ~~a~~ the respective license or prior to the reinstatement of an inactive license to active status, sit for and receive a passing score on the State Standards examination. First time applicants for initial licensure shall have received a passing score on the State Standards examination within the sixty (60) months preceding the month in which the Board would be taking action to license the applicant, and if applicant is not licensed during this 60-month time period, applicant would have to pay all required fees and re-take the examination prior to any future licensing attempts. Applicants for licensure by reciprocity/interstate endorsement, applicants for a provisional license, licensees seeking reinstatement of his/her license from inactive status to active status and applicants for initial licensure who have previously held an Oklahoma long term care administrator license must, prior to the issuance of the respective license or reinstatement of a license from inactive to active status, sit for and successfully pass the current State Standards examination.

~~(b) The Board will conduct at least two licensure examinations within the calendar year.~~

(eb) The application and supporting documents required by the Board for an individual to sit for the State Standards examination must be completed and on file with the Board at least thirty (30) calendar days prior to the announced examination date.

(ec) At least ten (10) calendar days prior to the scheduled examination, each applicant eligible to sit for the examination shall be notified of the time and place.

(ed) The Board shall determine a passing score for the State Standards examination, and shall apply such score uniformly to all persons taking the examination.

(ee) To meet the requirements of the State Standards examination, the applicant shall receive a passing score.

(ef) An applicant who fails to pass the State Standards examination may re-take the examination three (3) additional times. An applicant who fails each of his/her first four (4) attempts to pass this examination will be required to petition and personally appear before the Board before they may apply to re-take the examination. The Board, in its sole discretion, may require the applicant undergo additional training or education before permitting the applicant to sit for the examination a 5th (or any subsequent) time. Should the Board permit an applicant to sit for the examination a 5th time, and should applicant fail to pass the examination, applicant shall wait for a period of time of not less than one-hundred-eighty (180) calendar days before petitioning the Board to allow him/her to again sit for the examination. Applicant shall personally appear before the Board, and the Board, after its consideration of the merits of the petition, may allow applicant to re-take the examination or it may impose other remedies prior to further consideration of the petition.

(eg) Fees for the State Standards examination shall be in an amount prescribed by the Board at OAC 490:1-7-2.

490:10-3-4. Admission to the state State Standards and national examinations

(a) Upon successful completion of Administrator University and the Administrator in Training program, applicants for initial licensure are eligible to take both the state and national examination review of applicant qualifications by Board staff, applicants meeting Board requirements are notified of his/her eligibility to sit for the State Standards examination. Upon successful completion of Administrator University and a Board-approved AIT program, applicants for initial licensure become eligible to sit for the national (NAB) examination.

(b) Applicants for licensure by reciprocity/licensure by interstate endorsement, for a provisional license or for reinstatement of his/her Oklahoma license from inactive to active status are eligible to take sit for the State Standards state standards examination on the next scheduled testing date.

490:10-3-5. Application for licensure renewal

(a) Each applicant for a renewal of a license, whether the status of such license is 'active' or 'inactive', shall:

- (1) File an application, on the form and in the manner as prescribed by the Board, prior to the expiration date of the current license.

(2) Submit evidence, upon request, satisfactory to the Board that the applicant has successfully completed the required-hours of continuing education within the period of the current license as required for license renewal.

(3) Not have been reported to the Board pursuant to 68 O.S. Section 238.1 for non-compliance with State income tax requirements. If a licensee whose license is on 'active' status is found to be in non-compliance with these State income tax requirements:

- (A) such license shall not be renewed; and
- (B) licensee shall not have recourse against the Board for non-renewal of his/her license.

(4) Submit to a criminal background check. At the time of annual license renewal, the Board will randomly select not less than a five (5%) percent sample from all renewed licenses-being-renewed, including in the sample licenses on 'active' and 'inactive' status, against which sample the Board will perform criminal background checks. If the results of a criminal background check reveal that a licensee has been convicted of or pleaded guilty or nolo contendere to any felony or to any misdemeanor involving moral turpitude, the licensee's request for renewal may be-disapproved will be subject to Board sanction(s), including license suspension or revocation.

(5) Remit the Annual License Renewal fee as prescribed by the Board at OAC 490:1-7-2 and ensure all outstanding fees and fines owed to the Board have been paid. If a licensee has outstanding fees or fines owed to the Board, licensee shall not be permitted to renew his/her license until the same have been paid in full to the Board, provided that such payment is made prior to the expiration of the current license. If such payment is not made prior to the expiration date of the current license, licensee no longer holds a valid license and licensee is considered to have abandoned his/her license and the Board shall take action to formally vacate his/her license. If this occurs, and if he/she wishes to resume the practice of long term care administration, he/she must re-apply to the Board, fully satisfy any/all outstanding fees or fines owed to the Board, and meet current requirements for initial licensure as a long term care administrator.

(b) A suspended license is an 'active' license against which the Board has taken disciplinary action and suspended licensee's ability to engage in the practice of long term care administration. As such, a suspended license shall be subject to expiration and shall be renewed as provided in this Section. Renewal of a suspended license shall not entitle the licensee to engage in the practice of long term care administration until the suspension is removed by the Board and the privilege to practice long term care administration is restored by the Board.

(c) It is the personal responsibility of each licensee to renew his/her license prior to the expiration date of the current license and, further, to ensure that the information he/she provides for purposes of renewal is true and accurate.

(d) A late fee(s), as prescribed by the Board at OAC 490:1-7-2, shall be paid by applicants who do not file for renewal prior to the expiration date of the current license.

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~~(e) If the license is not renewed by the last day of the current licensing year, the license lapses, and the licensee is considered to have abandoned his/her license and does not hold a valid license as of 12:01 a.m. the first day of the ensuing licensing year and shall not hold a position or function in the capacity as a long term care administrator in Oklahoma.~~

~~(f) As soon as practicable after the last day of a given licensing year, the Board shall:~~

- ~~(1) establish a list of those administrators who failed to timely renew his/her license for the ensuing year;~~
- ~~(2) send each such administrator written notification of said non-renewal, asking the respective administrator whether or not he/she intended not to renew his/her license or if his/her non-renewal was in error, and include therein the date on which the Board will take formal action to vacate all non-renewed licenses.~~

~~(g) Administrators who failed to timely renew his/her license, but who wish to practice as long term care administrators, may petition the Board, in writing, to personally appear before the Board on the date when the Order(s) to vacate non-renewed licenses will be issued, requesting time prior to the issuance of such Order(s) in order to explain why his/her license renewal was not submitted within the time limits established by the Board. Any such petition shall be received in the Board offices no later than close of business on the Wednesday of the week preceding the Board Meeting at which the Order(s) to vacate are to be issued, and shall include a concise summary of the reason(s) why his/her license renewal was not submitted prior to the expiration of the previous year's license.~~

~~(h) All individuals who failed to timely renew his/her license by the renewal deadline:~~

- ~~(1) will be notified of the non-renewal, and such notification will include notification of the date, time and location of the Board meeting at which the Board will be taking formal action to vacate all non-renewed licenses; and~~
- ~~(2) will, at the Board meeting at which the Board will be taking formal action to vacate non-renewed licenses, be afforded the opportunity to petition the Board for its consideration of possible reinstatement of the individual's lapsed license, provided that the individual petitioner can provide evidence to the Board that he/she complied with all lawful requirements for the retention or renewal of the license.~~

~~(f) All non-renewed licenses shall be presented to the Board at a meeting of the Board. The Board shall take formal action at that meeting to vacate all non-renewed licenses.~~

~~(g) Following this Board meeting, a listing of all licenses vacated by the Board shall be submitted to the Oklahoma State Department of Health, Long Term Care Services Division.~~

~~An administrator who fails to timely renew his/her license and does not file a timely petition for reinstatement, as otherwise delineated within this Chapter, is assumed to have voluntarily abandoned the practice of long term care administration and his/her license shall be vacated by the Board.~~

~~(i) The Board shall notify all administrators who have timely filed his/her petition to appear before the Board to have his/her license reinstated pursuant to this Chapter as~~

~~to the time, date and location where the administrator is to personally appear before the Board. Subsequent failure by the administrator to appear before the Board, as stipulated by the Board in the aforementioned notice, shall be cause for the Board to immediately and permanently withdraw its grant of petition and proceed to vacate the license. Should this occur, and individual wishes to practice as a long term care administrator, he/she must re apply to the Board and meet current requirements for initial licensure as a long term care administrator.~~

~~(j) If the individual administrator for whom the Board has granted his/her petition to appear before the Board does, in fact, appear before the Board, he/she shall be provided the opportunity to present the facts and circumstances surrounding his/her failure to renew his/her license on time. After consideration of the individual's testimony and all supporting evidence provided by the administrator pursuant to his/her request for reinstatement, as well as consideration of any other information it has received that either supports or refutes the information provided by the administrator, the Board shall make its decision whether or not to reinstate the administrator's license.~~

~~(1) If the Board decides not to reinstate the administrator's license, and the administrator wishes to practice as a long term care administrator, he/she must re apply to the Board and meet current requirements for initial licensure as a long term care administrator.~~

~~(2) If the Board decides to reinstate the individual's license, the licensee shall be assessed and be obligated to pay a late fee(s) as described in Chapter 1, Subchapter 7 of this Title, and the Board may, at its sole discretion:~~

~~(A) impose other sanctions or conditions upon licensee that must be met prior to license reinstatement, or~~

~~(B) reinstate the individual's license, conditioned upon licensee subsequently complying with the imposed sanctions or conditions by a certain future date. If the Board so 'conditions' the reinstatement of an individual's license, and the licensee fails to timely meet the 'conditions' for reinstatement imposed by the Board, the Board may suspend, revoke or vacate the individual's license at the Meeting following the date established by the Board wherein licensee was to have been in full compliance with the sanctions or conditions imposed by the Board. Should this occur, and the individual wishes to practice as a long term care administrator, he/she must re apply to the Board and meet current requirements for initial licensure as a long term care administrator.~~

~~(kh) A licensee individual who practices after the expiration (lapse) of his/her license is practicing without a license and is subject to disciplinary action and/or sanctions as determined by the Board.~~

~~(l) A licensee who is denied a renewal license shall be notified of the same and may, within 10 calendar days of receipt of such notification, file a written request for a hearing before the Board.~~

~~(m) If the license was not renewed by the Board, a hearing before the Board shall not be granted if:~~

- (1) ~~licensee was non-compliant with state income tax requirements; or if~~
- (2) ~~licensee held an inactive license, and said inactive license could not be renewed for the ensuing year as an inactive license because of the two (2) consecutive licensing years time limit for an inactive license, and licensee did not meet the requirements for reinstatement of his/her active license for the ensuing year.~~

SUBCHAPTER 5. DISCIPLINE

490:10-5-3. Disciplinary action

(a) The Board may deny an initial application; deny a renewal application; suspend or revoke a long term care administrator license, a provisional license, a preceptor certification or an AIT internship training permit; warn; censure; reprimand; impose administrative fines or probation or use other remedies that may be considered to be less than suspension or revocation ~~and suspension~~ upon satisfactory proof evidence of any of the following:

- (1) ~~The obtaining~~ Obtaining or attempting to obtain a license by fraud, deceit, or misrepresentation.
- (2) Conviction of or a plea of guilty or nolo contendere to any felony or to any misdemeanor involving moral turpitude.
- (3) Use of legally-prescribed or illegal drugs (narcotics or other dangerous drugs) or alcohol or the ~~physical~~ dependence on legally-prescribed drugs or illegal drugs or alcohol, or gambling, if such use or dependence, or such gambling, or the behaviors related to or resulting from such use or dependence compromise the individual's ability or capacity to fulfill his/her duties or responsibilities in the long term care facility, or if the same constitute(s) a criminal offense.
- (4) Commitment to a mental institution or judicial determination of incompetence.
- (5) Gross negligence, or negligence that constitutes a danger to the health, welfare or safety of the residents or the public.
- (6) Physical or verbal abuse of a resident or misappropriation of a resident's funds or property; failure to report an allegation of physical or verbal abuse of a resident or misappropriation of a resident's funds or property to appropriate state authorities as required by law.
- (7) Fraudulent, deceptive or dishonest conduct in the management of a long term care facility, or other conduct unbecoming to a person licensed or subject to licensure under this law when, in the judgment of the Board, such conduct is detrimental to the best interest of the long term care profession and the public.
- (8) Except as otherwise permitted in this Chapter, concurrently serving or acting as the administrator of more than one nursing facility; or exceeding the conditions placed on administrators of ICFs/MR with 16 beds or less as stated in this Chapter.
- (9) Failure to comply with ~~state~~ State or federal requirements applicable to the facility.

- (10) Failure to comply with rules and requirements for administrators established by the Board, including the Administrator Code of Ethics and Administrator Responsibilities adopted by the Board.
- (11) Evidence that the administrator has paid, given, has caused to be paid or given or offered to pay or to give to any person a commission or other valuable consideration for the solicitation or procurement, either directly or indirectly, of nursing facility patronage.
- (12) Intentional retaliation or discrimination against any resident or employee for contacting or providing information to any ~~state~~ State official, licensing agency or regulatory agency.
- (13) Failure to provide verification of continuing education hours.
- (14) Sexual abuse, sexual harassment, or sexual exploitation of any resident, employee, trainee, volunteer, consultant, or visitor to the facility in which the licensee practices.
- (15) Falsification of any records relating to the operation of a long term care facility; falsification of records submitted to the Board or any other state or federal agency; falsification of a ~~patient's~~ resident's records, or causing a ~~patient's~~ resident's records to be falsified.
- (16) Use of the licensee's professional status, title, position, or relationship as a long term care facility administrator to coerce, improperly influence, or obtain money, property, or services from a resident, resident's family member, employee, visitor, or any person served by or doing business with the facility that employs the administrator.
- (17) ~~Improperly interfering~~ Interfering with, refusing to participate in, or impeding any investigation, inspection, or disciplinary proceeding authorized by ~~statute~~ Statute.
- (18) Violation of any disciplinary order, consent agreement, term of suspension, condition, stipulation, or any other limitation imposed on the licensee by the Board.
- (19) Unlicensed practice by an applicant for licensure; ~~or practice on a revoked, suspended, delinquent, lapsed, or inactive license; or practice on a provisional license without the use of an on-site consultant.~~
- (20) Failure to pay fees or fines established or imposed by the Board.
- (21) Knowingly aiding, assisting, or advising a person to unlawfully practice as an administrator without a required license.
- (22) Failure to adequately supervise an assistant administrator and/or failure to assure that the assistant administrator complies with state and federal requirements applicable to the facility.
- (23) Conduct that violates the security of any licensure examination materials.
- (24) Coercion or harassment, or the attempt to coerce or harass, or the use of any other form of uninvited solicitation directed toward a resident of a long term care facility or toward a member of the resident's family or the resident's guardian for the purpose of attempting to persuade the resident to change long term care facilities.

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(25) Failure to notify the Board of a change of name, business or personal mailing address(es), or change of employment within fifteen (15) calendar days of the occurrence.

(26) Coercion or harassment of, or the attempt to coerce or harass, a member of the Board, a Board employee or an authorized agent or representative of the Board as related to any matter or issue over which the Board has jurisdiction.

490:10-5-5. Summary suspension

(a) The Board may order a summary suspension of an administrator's license or an ~~intern/trainee administrator in training~~ Administrator-In-Training internship permit, if, in the course of an investigation, it is determined that a licensee or ~~AIT candidate for licensure~~ an AIT intern/trainee has engaged in conduct of a nature that is detrimental to the health, safety, or welfare of ~~one or more residents or of health, safety or welfare of the public, or detrimental to the profession of long term care administration~~, and which conduct necessitates immediate action to prevent further harm.

(b) The Board shall be charged with making the determination that an emergency ~~exists and that a summary~~ suspension is necessary, and shall incorporate in its Order that public health, safety or welfare requires emergency action.

(c) Proceedings for revocation or other appropriate action shall be promptly instituted and ~~determined~~ a determination promptly rendered by the Board.

SUBCHAPTER 7. ADMINISTRATOR UNIVERSITY

490:10-7-3. General provisions

(a) The Board is committed to providing learning opportunities to individuals interested in pursuing a career in ~~nursing home~~ long term care administration, and enhancing the development of licensed administrators.

To further this objective, the Board has established an Administrator University (AU) with curriculum designed specifically to provide individuals with knowledge and skills necessary to be a successful administrator.

(b) Effective August 1, 2006, individuals applying to become an administrator shall successfully complete Administrator University prior to being licensed.

(c) Administrators who are already licensed in the State of Oklahoma may enter Administrator University for enhanced training.

(d) At the Board's discretion, specific classes or the entire Administrator University curriculum may be imposed as a remedy for the violation of rules and/or standards established by the Board.

(e) A fee prescribed by the Board at OAC 490:1-7-2 shall be submitted with the application form prior to admission to Administrator University.

(f) Applicants for licensure who successfully complete Administrator University (AU) will not have to repeat Administrator University if he/she is successfully licensed in Oklahoma as a long term care administrator within sixty (60) months of the month he/she first began attending AU classes.

(g) If applicant fails to become licensed as an Oklahoma long term care administrator during this 60-month time frame, applicant would have to pay all applicable fees and repeat Administrator University prior to any future licensing attempts.

SUBCHAPTER 8. ADMINISTRATOR-IN-TRAINING (AIT) INTERNSHIP PROGRAM

490:10-8-2. Application

(a) The applicant shall submit to the Board an application, which shall contain such information as name, education, employment history, information pertaining to moral character, any other information the Board requires, and an affidavit stating that the applicant, if granted a license, will obey the laws of the ~~state~~ State and the rules of the Board, and will maintain the honor and dignity of the profession.

~~(b) The applicant will supply a certified copy of each college transcript indicating the courses completed, hours earned, (specifying whether semester or quarter hours), and degree(s) conferred. To satisfy the Board's requirement for evidence verifying educational degree(s) conferred or hours of post-secondary education completed, the applicant shall meet the requirements found at OAC 490:10-3-1.1.~~

(c) The applicant will be subjected to a criminal background check as described in this Chapter prior to beginning ~~the~~ an AIT internship program.

(d) A fee as prescribed by the Board at OAC 490:1-7-2 shall be submitted with the application.

(e) Applicants who successfully complete a Board-approved AIT internship will not have to repeat the internship if he/she is successfully licensed as a long term care administrator in Oklahoma within the sixty (60) months following the month in which he/she first began his/her internship, and if applicant fails to secure licensure within this 60-month time frame, applicant would have to pay all applicable fees and serve a new AIT internship prior to any future licensing attempts.

490:10-8-3. Training permit

(a) In order for a training permit to be issued, it is a requirement that the facility or facilities at which the AIT internship is to be served be:

(1) licensed by the Oklahoma State Department of Health as a long term care facility; and

(2) in substantial compliance with the rules and regulations governing licensure and operation of long term care facilities.

(b) After approval of the proposed AIT internship, the Board shall issue an ~~AIT~~ applicable AIT internship training permit to the applicant (the 'intern/trainee'), one that shall be valid for

a maximum one-year time period beginning on the date the permit is issued.

(bc) Should the intern/trainee not maintain acceptable standards and submit the required reports or cause the same to be submitted, the Board shall place the applicant intern/trainee on probation or may rescind the AIT training-internship training permit.

490:10-8-4. Preceptor selection

(a) From an ~~approved~~ list of preceptors 'certified' by the Board, the intern/trainee may indicate his/hers ~~preceptor~~ choice.

(b) It shall be the responsibility of the Board to contact a preceptor to determine if the preceptor will accept the AIT applicant.

(c) Once a preceptor accepts an AIT intern/trainee, any subsequent changes must be approved by the Board.

(d) The preceptor shall notify the Board of the date of acceptance and the date of any discontinuance of traineeship AIT internship.

490:10-8-5. Preceptor qualifications and agreements

(a) A licensed administrator wishing to be certified as a preceptor for the AIT program may apply to the Board by providing such information as the applicant's name, address, licensing history, education, experience, and other information which the Board deems necessary on the form and in the manner prescribed by the Board.

(b) To be certified as a preceptor, the applicant shall:

(1) exemplify the highest ethical and professional standards as an administrator for at least the preceding twenty-four (24) consecutive months; and

(2) be licensed and employed ~~be able to document employment~~ as an Oklahoma long term care administrator for at least twenty-four (24) consecutive months;

(3) ~~be the full time administrator or owner/administrator of a facility which is licensed by the Oklahoma State Department of Health as a long term care facility;~~

(4) ~~be an administrator or owner/administrator of a nursing facility which is currently in substantial compliance with the rules and regulations governing nursing homes;~~

(5) ~~successfully complete a preceptor training seminar/course under the direction of that meets the requirements established by the Board; and~~

(6) ~~have not been the subject of any action by any Board or licensing authority which resulted in formal reprimand, suspension or revocation of license, or in an administrative fine within the last preceding~~ twenty-four (24) consecutive months;

(7) ~~agree to give the intern an opportunity to observe and take part in the managerial tasks of the preceptor, acquaint the intern with the organization and operation of all the various departments of the facility by permitting his/her observation and/or participation in department activities subject to the training program approved by the Board;~~

(8) ~~hold an exit interview with the intern upon completion of an internship to point out noted strengths and weaknesses; and~~

(9) ~~upon satisfactory completion of the program, provide the Board a letter certifying the completion of the required hours of internship.~~

(e) ~~If the Board imposes a sanction against an administrator, such administrator may not be eligible to be certified as a preceptor for twenty four (24) months from the date of the sanction.~~

(d) ~~Preceptors shall be approved for a twenty four (24) month period and may be re approved at the discretion of the Board. There shall be an automatic extension of the certification period for any preceptor whose certificate expires while mentoring an AIT. The extension shall be granted to the end of the AIT's training period~~

(c) ~~If the Board imposes a sanction against an administrator, such administrator may not be eligible to be certified as a preceptor for twenty-four (24) months from the date of the sanction.~~

(d) Preceptors shall be certified for a period of twenty-four (24) months and may be re-certified at the discretion of the Board. There shall be an automatic extension of the certification period for any preceptor whose certification expires while overseeing an AIT intern/trainee, provided that the preceptor otherwise meets all other requirements for certification and those governing assignment of a preceptor to an AIT intern/trainee. The extension shall be granted to the end of the training period for the particular intern/trainee.

490:10-8-5.1. Preceptor designation/assignment to an AIT intern/trainee

In order to be designated/assigned as the preceptor for an AIT training program, a 'certified' preceptor must:

(1) be the full-time administrator-of-record of the facility at which the AIT intern/trainee would be completing his/her internship rotation;

(2) agree to give the intern/trainee an opportunity to observe and take part in the managerial tasks associated with the operation of the facility, acquaint the intern/trainee with the organization and operation of all the various departments of the facility by permitting his/her observation and/or participation in department activities subject to the training program approved by the Board;

(3) hold regular meetings and/or discussions with the intern/trainee to discuss progress to date, consider refinements to hours spent in each module/domain of practice, and interview him/her upon completion of the internship to mutually discuss noted strengths and weaknesses;

(4) upon satisfactory completion of the program, provide the Board a letter certifying the completion of the required internship hours.

490:10-8-6. Curriculum

(a) The preceptor, in conjunction with the AIT intern/trainee, will assess and evaluate the background, training and experience of the AIT intern/trainee to determine specific

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areas of concentration within the domains of practice and departmental rotations.

(b) The preceptor will submit to the Board, prior to or within the first week of an AIT internship, an individualized curriculum for the AIT intern/trainee, one ~~which~~ that meets the Board's ~~minimum~~ AIT internship requirements. The Board requires that the training be carried out in modules as ~~set out~~ delineated in ~~a training manual~~ the training materials.

490:10-8-7. Module reports

(a) At the conclusion of each module of training, the preceptor will submit to the Board an evaluation of progress on a form approved by the Board for that purpose.

(b) Module reports must be received in the Board's office within ten (10) working days of completion of the module.

490:10-8-8. Preceptor's final report

(a) At the end of the approved AIT ~~internship~~ program, the preceptor will submit a final report and an evaluation of the AIT intern/trainee on the ~~form~~ form(s) approved and in the manner as prescribed by the Board. The preceptor will sign the ~~form~~ form(s) will indicate whether or not the AIT-intern/trainee has satisfactorily completed the prescribed internship program.

(b) The reports will be filed in the AIT's-intern/trainee's file in the Board's office and will become a record in the individual's file.

490:10-8-9. Preceptor's checklist

(a) The preceptor will maintain a current program completion checklist in the facility on the AIT-intern/trainee on a form approved by the Board to be reviewed by the Board upon request.

(b) The program completion checklist shall be submitted to the Board along with the final report and evaluation.

490:10-8-10. Change of status and discontinuance

(a) If the AIT-intern/trainee ~~changes~~ wishes to change to another preceptors, or discontinues the training, the AIT-intern/trainee must notify the Board prior to making this change.

(b) The notification requires the name of the AIT-intern/trainee and preceptor, the change requested, the effective date, reasons for the change, and any other information that the Board may requests. Either the AIT-intern/trainee or the preceptor must sign the notification.

(c) If a substandard quality of care finding in a facility is upheld against an administrator who is a certified preceptor working with an AIT intern/trainee, the Board shall assist the AIT-intern/trainee in finding a new preceptor.

490:10-8-11. Dismissal from program

(a) The preceptor will inform the AIT-intern/trainee of his or her performance as the program progresses.

(b) If the AIT's intern's/trainee's performance is not acceptable, the preceptor will so inform him or her, and the AIT

intern/trainee will be given an opportunity to correct the deficiencies.

(c) If the AIT-intern/trainee does not correct the deficiencies, the preceptor will notify Board staff of the same, and a member of the Board Board's staff will notify the AIT-intern/trainee that he or she ~~can no longer participate~~ will be dismissed in from the program.

(d) If the intern/trainee violates any of the Board's rules or regulations, or if the intern/trainee violates any of the policies or procedures of the facility(ies) at which he/she is serving his/her AIT training, the preceptor or authorized representatives of the facility(ies) will notify the Board's staff of the same, and the Board staff will notify the intern/trainee that he/she can no longer participate in the program.

~~(e)~~ The intern/trainee may appeal dismissal from the program by petitioning the full Board for a formal hearing.

490:10-8-12. Compensation of AIT AIT's Interns/Trainees

The facility or facilities in which the AIT intern/trainee is training may compensate the AIT-intern/trainee, but is are not required to do so.

490:10-8-13. AIT time on the job

(a) The AIT-intern/trainee shall serve a 560 hour internship, unless in the opinion of the Board or preceptor, the AIT intern/trainee ~~needs~~ requires additional hours of training; or unless the hours required to complete the internship period ~~is~~ are otherwise reduced by formal action of the Board.

(b) An internship ~~which that~~ has been discontinued by due to a period of active duty military service of the intern/trainee shall be allowed to be completed within ~~a one (1) year after that~~ the intern/trainee has completed his/her military service obligation. If this time frame cannot be met by the intern/trainee, the previously-started internship shall be cancelled by the Board and he/she would have to reapply to the Board for a new internship and pay all applicable fees. If an internship has been discontinued due to active duty military service of the preceptor, the Board will work with the intern/trainee to secure another preceptor.

(c) An internship ~~which that~~ has been discontinued for any purpose other than military service, and such cannot be completed if the absence ~~discontinuance~~ exceeds one year from the date of the beginning of the discontinuance, that internship will be cancelled by the Board, and the AIT intern/trainee shall be required to reapply to the Board for a new internship and pay all applicable fees.

(d) Only one discontinuance is allowed.

(e) Internships shall be completed in not less than (14) consecutive weeks ~~or~~ nor more than twelve (12) consecutive months.

(f) This section shall be subject to the requirements of any other provisions of law.

(g) The AIT-intern/trainee must complete the internship in a facility or facilities that is (are) currently in substantial compliance with the rules and regulations governing nursing homes long term care facilities in Oklahoma.

490:10-8-14. AIT Internship exempt status

The Board, in its sole discretion, may waive the AIT internship program requirement entirely, or portions thereof, for those applicants who show evidence of the following:

- (1) Prior Successful successful completion of a ~~an~~ formal internship program which that meets or exceeds Board requirements.
- (2) A registered nurse (RN) or licensed practical nurse (LPN) with a minimum of two (2) years experience in supervision in a ~~nursing home~~ licensed nursing facility or other long term care facility may, at the sole discretion of the Board, be exempt from the nursing department module or portions thereof. Any such exemption granted by the Board shall not lessen the total number of hours that the intern/trainee must serve to complete the required number of hours for the internship.

490:10-8-16. Refusal to approve or renew preceptor or intern assignment

The Board may, for good cause at its sole discretion, refuse to approve or renew a preceptor designation certification or may refuse to approve an assignment of an intern/trainee to a preceptor.

490:10-8-17. Supervision of AIT AITs interns/trainees

A preceptor shall not concurrently supervise more than two (2) AIT AITs interns/trainees.

SUBCHAPTER 13. STANDARDS FOR ADMINISTRATORS

490:10-13-1. Administrator Code of Ethics

(a) The Board is committed to ethical professional conduct and therefore adopts the following standards to establish and maintain a high degree of integrity and dignity in the profession and to protect the public against unprofessional conduct on the part of long term care administrators.

(b) The American College of Health Care Administrators Code of Ethics is adopted as follows:

- (1) Preamble: The preservation of the highest standards of integrity and ethical principles is vital to the successful discharge of the professional responsibilities of all long-term health care administrators. This Code of Ethics has been promulgated by the American College of Health Care Administrators (ACHCA) in an effort to stress the fundamental rules considered essential to this basic purpose. It shall be the obligation of members to seek to avoid not only conduct specifically proscribed by the code, but also conduct that is inconsistent with its spirit and purpose. Failure to specify any particular responsibility or practice in this Code of Ethics should not be construed as denial of the existence of other responsibilities or practices. Recognizing that the ultimate responsibility for applying standards and ethics falls upon the individual, the ACHCA establishes the following Code of Ethics to make clear its expectation of the membership.

(2) Expectation I: Individuals shall hold paramount the welfare of persons for whom care is provided.

(A) Prescriptions: The Health Care Administrator shall:

- (i) Strive to provide to all those entrusted to his or her care the highest quality of appropriate services possible in light of resources or other constraints.
- (ii) Operate the facility consistent with laws, regulations, and standards of practice recognized in the field of health care administration.
- (iii) Consistent with law and professional standards, protect the confidentiality of information regarding individual recipients of care.
- (iv) Perform administrative duties with the personal integrity that will earn the confidence, trust, and respect of the general public.
- (v) Take appropriate steps to avoid discrimination on the basis ~~of~~ race, color, sex, religion, age, national origin, handicap, marital status, ancestry, or any other factor that is illegally discriminatory or not related to bona fide requirements of quality care.

(B) Proscription: The Health Care Administrator shall not:

- (i) Disclose professional or personal information regarding recipients of service to unauthorized personnel unless required by law or to protect the public welfare.

(3) Expectation II: Individuals shall maintain high standards of professional competence.

(A) Prescriptions: The Health Care Administrator shall:

- (i) Possess and maintain the competencies necessary to effectively perform his or her responsibilities.
- (ii) Practice administration in accordance with capabilities and proficiencies and, when appropriate, seek counsel from qualified others.
- (iii) Actively strive to enhance knowledge of and expertise in long-term care administration through continuing education and professional development.

(B) Proscriptions: The Health Care Administrator shall not:

- (i) Misrepresent qualifications, education, experience, or affiliations.
- (ii) Provide services other than those for which he or she is prepared and qualified to perform.

(4) Expectation III: Individuals shall strive, in all matters relating to their professional functions, to maintain a professional posture that places paramount the interests of the facility and its residents.

(A) Prescriptions: The Health Care Administrator shall:

- (i) Avoid partisanship and provide a forum for the fair resolution of any disputes which may arise in service delivery or facility management.

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- (ii) Disclose to the governing body or other authority as may be appropriate, any actual or potential circumstance concerning him or her that might reasonably be thought to create a conflict of interest or have a substantial adverse impact on the facility or its residents.
- (B) Proscriptions: The Health Care Administrator shall not:
- (i) Participate in activities that reasonably may be thought to create a conflict of interest or have the potential to have a substantial adverse impact on the facility or its residents.
- (5) Expectation IV: Individuals shall honor their responsibilities to the public, their profession, and their relationships with colleagues and members of related professions.
- (A) Prescriptions: The Health Care Administrator shall:
- (i) Foster increased knowledge within the profession of health care administration and support research efforts toward this end.
- (ii) Participate with others in the community to plan for and provide a full range of health care services.
- (iii) Share areas of expertise with colleagues, students, and the general public to increase awareness and promote understanding of health care in general and the profession in particular.
- (iv) Inform the ACHCA Standards and Ethics Committee of actual or potential violations of this Code of Ethics, and fully cooperate with the ACHCA's sanctioned inquiries into matters of professional conduct related to this Code of Ethics.
- (B) Proscription: The Health Care Administrator shall not:
- (i) Defend, support, or ignore unethical conduct perpetrated by colleagues, peers or students.
- (c) The Board adopts the following as an addition to the code of ethics: Administrators have a fiduciary duty to the facility and cannot serve as guardian of the person or of the estate, or hold a durable power of attorney or power of attorney for any resident of a facility of which they are an administrator.
- (d) Licensees shall place a copy of the Administrator Code of Ethics approved by the Board in a conspicuous location in a public area in the place of business requiring such license.
- 490:10-13-2. Administrator responsibilities**
- (a) It is the responsibility of the long term care administrator, as the managing officer of the facility, to plan, organize, direct, and control the day-to-day functions of a facility and to maintain the facility's compliance with applicable laws, rules, and regulations. The administrator shall be vested with adequate authority to comply with the laws, rules, and regulations relating to the management of the facility.
- (b) ~~Long Term Care Administrators~~ term care administrators licensed by the Board shall adhere to the Administrator Code of Ethics as adopted by the Board.
- (c) ~~Long Term Care Administrators~~ term care administrators licensed by the Board shall not concurrently serve as the administrator-of-record of more than one long term care facility except as otherwise permitted in this Chapter. A Long Term Care Administrator may serve as the administrator of more than one intermediate care facility for the mentally retarded with sixteen or fewer beds (ICF/MR-16), only if such facilities are located within a circle that has a radius of not more than fifteen (15) miles, and the total number of facilities and beds does not exceed the lesser of six (6) facilities or total licensed capacity of sixty-four (64) beds.
- (d) A long term care administrator licensed by the Board must devote at least one-half (1/2) of such person's working time to on-site, on-the-job supervision of a long-term care facility at which he/she is listed as being the Administrator-of-Record. As used herein, 'working time' is defined as being a full-time employee scheduled to work forty (40) hours per week. The administrator's working time on-site at the facility shall be distributed throughout each calendar week, with emphasis placed on weekdays, Monday through Friday, between the hours of 9:00 a.m. and 5:00 p.m. This requirement shall not apply to an administrator of an intermediate care facility for the mentally retarded with sixteen or fewer beds (ICF/MR-16) and shall not apply to administrators governed under OAC 490:10-13-3.(g).
- (e) Every person licensed as an administrator and designated the "Administrator-of-Record" shall display ~~such license~~ the "Certificate of License" in a conspicuous place in the facility or place of business requiring such license.
- (f) Each licensed administrator shall notify the Board, in writing, within fifteen (15) calendar days following the change of ~~either~~ his/her name, business and/or personal mailing address, ~~or~~ change in employment or change in employment status, on the form and in the manner as prescribed or as may be prescribed by the Board. The Board will assess a late fee as prescribed at OAC 490:1-7-2 if it is determined that the administrator failed to provide current contact information within this fifteen day period.
- (g) Upon receipt of satisfactory evidence that a ~~licensee's~~ licensee's "Certificate of License" has been lost, mutilated, or destroyed, the Board may issue a duplicate ~~or~~ replacement license upon payment of a fee as prescribed by the Board at OAC 490:1-7-2.
- (h) To change his/her name on a "Certificate of License" ~~license~~, the licensee must provide legal proof of the name change (e.g., copy of marriage certificate, divorce decree, etc.) before a replacement "Certificate of License" ~~license can~~ will be issued.
- (i) An administrator shall not knowingly initiate contact with an individual currently residing in a long term care facility, or knowingly initiate contact with the family or guardian of an individual currently residing in a long term care facility, for the purpose of attempting to persuade a change in that individual's residence to another long term care facility.
- (j) An administrator shall not knowingly solicit, or permit an employee to solicit clients for his/her long term care facility through coercion or harassment. If an administrator has knowledge of such actions by an employee, the administrator

shall take such steps as are reasonable and necessary to stop such conduct.

(k) An Administrator, or applicant for Administrator licensure, in connection with a license application or an investigation conducted by the Board or an investigation conducted by the Oklahoma State Department of Health, the Oklahoma Department of Human Services, the Oklahoma Health Care Authority, or any other agency of the ~~state~~ State or federal government having regulatory responsibility over or relating to the delivery of care to persons in a facility operated or managed by the Administrator, shall not:

- (1) knowingly make a false statement of material fact;
- (2) fail to disclose a fact necessary to correct a misrepresentation known by the Administrator or applicant for licensure to have arisen in the application or the matter under investigation; or
- (3) fail to respond to a demand for information made by the Board or such government agency or any designated representative thereof.

490:10-13-3. Requirements for administrators who ~~are in charge~~ serve as the Administrator-of-Record of two (2) or more licensed long term care facilities comprising a total of one hundred twenty (120) or fewer occupied beds and located within a fifty (50) mile radius of each other, wherein the total number of occupied beds does not exceed one-hundred-twenty (120) beds and wherein one-or-more individuals is/are employed in the capacity of "Assistant Administrator, Unlicensed" capacities

(a) The Administrator-of-Record is responsible for ensuring that all minimum requirements delineated herein relating to individuals who wish to serve in the capacity of "Assistant Administrator, ~~Unlicensed~~" are met prior to the delegation of duties and responsibilities to such individual.

(b) The Administrator-of-Record shall provide qualified individuals serving as an "Assistant Administrator, ~~Unlicensed~~" with adequate authority and responsibility to administer those aspects of the operations of the facility that are to be delegated to them, including the authority to act in an emergency.

(c) The Administrator-of-Record shall clearly, and in writing, develop a formal job description for the position of "Assistant Administrator, ~~Unlicensed~~", wherein the duties and responsibilities of the individual serving as an ~~assistant~~ Assistant Administrator are clearly delineated.

(d) The Administrator-of-Record shall provide supervision, training and direction to the "Assistant Administrator, ~~Unlicensed~~", and delegate only those duties and responsibilities that may safely be performed by the individual filling that role and that are not otherwise proscribed by law, rule or statute.

(e) The Administrator-of-Record, being licensed by the Board, is legally and ultimately responsible for the management and operation of the facility and, as such, shall maintain sufficient on-site presence in the facility to effectively supervise the "Assistant Administrator, ~~Unlicensed~~".

(f) The Administrator-of-Record shall ensure the "Assistant Administrator, ~~Unlicensed~~" does not concurrently serve as an "Assistant Administrator, ~~Unlicensed~~" of more than one (1) long term care facility.

(g) The Administrator-of-Record shall spend at least ten (10) hours per calendar week on-site in the facility, providing guidance and direction to the "Assistant Administrator, ~~Unlicensed~~", and further, such on-site supervisory visits shall not be more than ten (10) calendar days apart.

(h) The Administrator-of-Record shall establish a clearly-written policy delineating who the individual residents, residents' family members and/or guardians, and facility staff should contact when the Administrator-of-Record is absent from the facility as well as the procedure that is to be utilized that clearly indicates 'when' and 'how' such contact shall be made. The policy and procedure shall be provided to residents, residents' family and/or guardians, and facility staff and shall be posted in a conspicuous place in the facility.

(i) The Administrator-of-Record shall not delegate nor cause to be delegated to the Assistant Administrator, ~~Unlicensed~~, any duty or responsibility that has been specified in State or federal law, statute, rule or regulation as being a duty or responsibility that can only be performed by a duly licensed Administrator or any duty or responsibility that is otherwise prohibited by State or federal law, statute, rule or regulation. Such Administrator only duties or responsibilities include, but are not limited to, responsibilities regarding the review of incident reports and the Administrator's responsibility on the quality assurance committee.

(j) The Administrator-of-Record shall ensure that no individual serve as the "Assistant Administrator, ~~Unlicensed~~", if that individual holds a license granted by this Board, but which license is suspended, revoked or otherwise restricted, or if that individual has been sanctioned (formally excluded from participation in federally-funded health programs) by the U.S. Department of Health and Human Services (DHHS), Office of Inspector General (OIG).

(k) The facility Administrator shall ensure that no individual serves as an "Assistant Administrator, ~~Unlicensed~~", if the facility at which the "Assistant Administrator, ~~Unlicensed~~", is to serve is not one of two-or-more facilities at which the Administrator serves as the Administrator-of-Record, that have a total bed complement not to exceed one-hundred-twenty (120) occupied beds and that are located with a fifty (50) mile radius of each other.

[OAR Docket #09-1175; filed 6-12-09]

**TITLE 490. OKLAHOMA STATE BOARD OF EXAMINERS FOR LONG TERM CARE ADMINISTRATORS
CHAPTER 15. LONG TERM CARE CERTIFIED ASSISTANT ADMINISTRATORS**

[OAR Docket #09-1176]

RULEMAKING ACTION:
PERMANENT final adoption

Permanent Final Adoptions

RULES:

- Subchapter 1. Certification of Long Term Care "Assistant Administrators, ~~Unlicensed~~" [AMENDED]
490:15-1-1. Purpose [AMENDED]
490:15-1-3. Minimum qualifications for an individual applicant to meet certification requirements for an Assistant Administrator, ~~Unlicensed~~ [AMENDED]
490:15-1-3.1. Evidence requirements [NEW]
490:15-1-4. Conditions of employment for individuals 'certified' by the Board as having met the minimum qualifications required for them to serve as a "Assistant Administrator, ~~Unlicensed~~" [AMENDED]
Subchapter 3. Application for Certification and Requirements for Continued Eligibility
490:15-3-1. Application process [AMENDED]
490:15-3-2. Approval process [AMENDED]

AUTHORITY:

Oklahoma State Board of Examiners for Long Term Care Administrators; 63 O.S., §§ 330.51 et seq.

DATES:

Comment period:

February 17, 2009, through March 19, 2009

Public hearing:

March 25, 2009

Adoption:

March 25, 2009

Submitted to the Governor:

March 30, 2009

Submitted to House:

March 30, 2009

Submitted to Senate:

March 30, 2009

Gubernatorial approval:

May 6, 2009

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 21, 2009

Final adoption:

May 21, 2009

Effective:

July 25, 2009

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The purpose of the rule changes is to update the requirements for individuals serving as certified (unlicensed) assistant administrators in Oklahoma long term care facilities. The proposed changes: remove all reference to the term 'unlicensed' from the Rules governing assistant administrators; add evidence requirements related to documentation of required experience; and further clarify those situations wherein a certified assistant administrator cannot continue to work due to employment or licensing issues experienced by the licensed Administrator-of-Record.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 25, 2009:

SUBCHAPTER 1. CERTIFICATION OF LONG TERM CARE "ASSISTANT ADMINISTRATORS, ~~UNLICENSED~~"

490:15-1-1. Purpose

This Chapter implements the specific rules allowing the Board to 'certify' that individuals have met certain minimum requirements established by the Board, enabling such individuals to serve as a long term care "Assistant Administrator, ~~Unlicensed~~" in those situations wherein the Administrator-of-Record at the facility in which they are to serve also serves as the Administrator-of-Record of one-or-more additional licensed facilities within a fifty (50) mile radius of each other and wherein the total number of occupied beds at such facilities does not exceed 120 beds. Individuals who serve as Assistant Administrators, ~~Unlicensed~~, do so under the direct supervision and license of the licensed long term care Administrator-of-Record.

490:15-1-3. Minimum qualifications for an individual applicant to meet certification requirements for an Assistant Administrator, ~~Unlicensed~~

(a) In addition to the general requirements for administrators found at OAC 490:10-1-2.1, each applicant seeking certification as having met the minimum qualifications to be able to serve as an Assistant Administrator, ~~Unlicensed~~, shall meet the requirements in this Section.

(b) In order to qualify to receive a letter from the Board wherein the Board would 'certify' that the individual met the minimum qualifications to be able to serve as an Assistant Administrator, ~~Unlicensed~~, each applicant must provide evidence satisfactory to the Board of the following:

- (1) Successful completion of a high school education and receipt of a high school diploma, or receipt of his/her G.E.D.;
- (2) Successful completion of a Board-approved intensive review course on State Rules and Regulations;
- (3) Receipt of a passing score on the current Oklahoma State Standards examination; and
- (4) two (2) years management, leadership or supervisory experience in a long term care facility,

490:15-1-3.1. Evidence requirements

To satisfy the Board's requirement for evidence indicating experience, the applicant shall submit a declaration signed by a licensed administrator of a long term care facility, facility medical director, facility director of nurses, or registered nurse, who can attest to the applicant's work experience.

490:15-1-4. Conditions of employment for individuals 'certified' by the Board as having met the minimum qualifications required for them to serve as a "Assistant Administrator, ~~Unlicensed~~

(a) Under the supervision, direction and license of the licensed Administrator-of-Record, it shall be the responsibility of the "Assistant Administrator, ~~Unlicensed~~" to plan, organize, direct, and control those day-to-day functions of a facility delegated to him/her and to maintain the facility's compliance

with applicable laws, rules, and regulations during the absence of the licensed administrator.

(b) An "Assistant Administrator, ~~Unlicensed~~" shall practice only under the direct supervision and license of a licensed Administrator-of-Record who is in charge of two-or-more licensed facilities within a 50-mile radius wherein the total number of occupied beds does not exceed 120, and whose license is active and otherwise unrestricted. An "Assistant Administrator, ~~Unlicensed~~" shall not continue to serve at a facility in the assistant administrator capacity if the license of the Administrator-of-Record is suspended, revoked or placed on inactive status, or if the Administrator-of-Record resigns his/her employment or his/her employment is otherwise terminated, until such time as another licensed administrator is designated and begins serving as the Administrator-of-Record.

(c) An individual serving as an "Assistant Administrator, ~~Unlicensed~~" shall be employed by the facility full-time in that capacity, regularly-scheduled for 40 hours per calendar week; shall not concurrently serve as the Assistant Administrator, ~~Unlicensed~~, of more than one (1) long term care facility; and shall spend at least eighty (80%) percent of their working time on-site at the facility, equitably distributing their on-site time throughout each calendar week, with emphasis placed on weekdays, Monday through Friday, between the hours of 9:00 a.m. and 5:00 p.m. .

SUBCHAPTER 3. APPLICATION FOR CERTIFICATION AND REQUIREMENTS FOR CONTINUED ELIGIBILITY

490:15-3-1. Application process

(a) Each applicant who is seeking Board review and for the Board to 'certify' that as of the date of the letter, the applicant has met the minimum qualifications necessary to serve as an "Assistant Administrator, ~~Unlicensed~~", shall make a verified application on a form furnished by the Board and remit a non-refundable application fee as prescribed by the Board at OAC 490:1-7-2.

(b) An application for review by the Board for purposes of the Board 'certifying' an individual's qualifications to serve in the capacity of an Assistant Administrator, ~~Unlicensed~~, is valid for one year after the date of receipt by the Board.

(c) An application shall be determined complete when:
(1) the criminal background check is received by the Board;
(2) all documentation requested in the application has been received by the Board; and
(3) the application fee prescribed by the Board at OAC 490:1-7-2 has been remitted and the monies credited to the Board's account with the State Treasurer.

(d) Once an application is determined complete, the applicant must then meet the remaining requirements for certification found in this Chapter.

490:15-3-2. Approval process

(a) Upon verification of compliance with all requirements, the Board shall 'certify' an individual as having met, as of the date of the letter, the minimum requirements to be eligible to serve as an Assistant Administrator, ~~Unlicensed~~, within a single facility, one which is administered by a licensed administrator who is serving as the administrator-of-record for that facility and for one-or-more additional licensed facilities within a 50-mile radius of each other and wherein the total number of occupied beds at all such facilities administered by this Administrator-of-Record does not exceed 120.

(b) The applicant shall be presented to the Board for consideration at the next Board meeting. Applicants are encouraged to attend the Board meeting.

(c) Applicants shall be notified of the Board's decision by letter in which the Board will either 'certify' the individual as having met the minimum qualifications or will indicate the individual did not meet the minimum qualifications for the Board to issue its 'certification'. The Board will maintain a listing of individuals it has 'certified' as having met the minimum qualifications. Such listing shall include the individual's name, mailing address and the date the Board issued the letter of 'certification'.

(d) As of the date the Board 'certifies' that an individual applicant meets the minimum requirements for that individual to serve in the capacity of an Assistant Administrator, ~~Unlicensed~~, such the individual may serve in such an unlicensed capacity. However, it shall be the obligation of the Administrator-of-Record to subsequently verify that the individual serving as an Assistant Administrator, ~~Unlicensed~~, continues to meet the minimum qualifications for continued certification (i.e. criminal background check).

[OAR Docket #09-1176; filed 6-12-09]

**TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 10. DRIVER LICENSES AND IDENTIFICATION CARDS AND MOTOR LICENSE AGENT PROCEDURES**

[OAR Docket #09-1188]

RULEMAKING ACTION:

PERMANENT final adoption.

RULES:

- Subchapter 1. Procedures for Obtaining and Maintaining a Driver License or Identification Card [AMENDED]
- Subchapter 3. Examination [AMENDED]
- Subchapter 5. Medical Aspects [AMENDED]
- Subchapter 9. Certified Schools and Designated Examiners [REVOKED]

AUTHORITY:

Commissioner of Public Safety; 47 O.S. § 6-101 et seq.

DATES:

Comment Periods:

February 17, 2009, through March 24, 2009

Public Hearing:

March 24, 2009

Adoption:

April 1, 2009

Submitted to Governor:

April 1, 2009

Permanent Final Adoptions

Submitted to House:

April 1, 2009

Submitted to Senate:

April 1, 2009

Gubernatorial approval:

May 4, 2009

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 23, 2009.

Final Adoption:

May 23, 2009

Effective:

July 25, 2009

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

Amendments to this chapter would clarify, update, and establish procedures relating to driver licenses and identification cards in general, motor license agent activities, medical aspects of driver licensing, and parent-taught driver education.

The proposed actions are amendments to existing rules, add new rules regarding the Identity Verification Unit of the Department and medical exemptions for window tinting, and revoke rules related to commercial driver licenses.

The circumstance which created the need for these rules is to provide consistency and clarity in rules regarding requirements in Oklahoma law and federal regulations, and to remove rules regarding commercial driver licenses as they are to be established in a new chapter, OAC 595:11.

The intended effect of these rules is to allow the Department of Public Safety to perform its duties as required or authorized by law.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 25, 2009:

SUBCHAPTER 1. PROCEDURES FOR OBTAINING AND MAINTAINING A DRIVER LICENSE OR IDENTIFICATION CARD

PART 1. PURPOSE

595:10-1-1. Purpose

(a) The Department of Public Safety issues driver licenses and identification cards to qualified applicants and renews and replaces licenses and cards for licensees and cardholders who maintain their licenses and cards in accordance with this Subchapter. This Subchapter establishes how to apply for an initial, renewal, or replacement Class D driver license or an identification card, what identification is required, how to change information on the license or card, and procedures for motor license agents.

(b) OAC 595:11 establishes how to apply for an initial, renewal or replacement commercial driver license.

(c) Procedures in this Chapter for motor license agents shall apply equally to Class D driver licenses and identification cards and to commercial driver licenses.

(d) For the purposes of this Chapter:

(1) **"Parent"** means a biological or adoptive parent who has actual physical and legal custody of a minor under the age of eighteen (18) years.

(2) **"Guardian"** means any person over the age of twenty-one (21) years who has actual physical and legal custody of a minor under the age of eighteen (18) years.

PART 2. APPLICATION FOR INITIAL DRIVER LICENSE

595:10-1-2. General information

(a) **Prerequisite.** A driver license shall not be issued to any person whose driving privilege is under suspension, revocation, disqualification, cancellation, or denial in this state or any other state or country until such privilege has been reinstated by the state or country withdrawing such privilege [47 O.S. §6-103].

(b) **Application for and issuance of driver licenses.** Information regarding the application for and issuance of driver licenses and identification cards may be obtained by:

(1) Telephone: (405) 425-2026

(2) Mail: Department of Public Safety, Driver License ~~Services Bureau~~ Examining Division, P.O. Box 11415, Oklahoma City, Oklahoma 73136-0415

(3) In person: Department of Public Safety, Driver License Services Bureau, 3600 North M. L. King Avenue, Oklahoma City, Oklahoma.

(4) Internet: <http://www.dps.state.ok.us/dls/>

(c) **Driver license examinations.** Information regarding driver license examination and examination locations may be obtained:

(1) Telephone: (405) 425-2020

(2) Mail: Department of Public Safety, ~~Examiners Bureau~~ Driver License Examining Division, P.O. Box 11415, Oklahoma City, Oklahoma 73136-0415.

(3) Internet:

<http://www.dps.state.ok.us/dls/dlexam.htm>

595:10-1-3. Procedures for obtaining an initial driver license

(a) **Application.** Every applicant for an initial Oklahoma driver license must first appear before a Driver License Examiner [47 O.S. §6-110]. An application for a driver license must be completed by the applicant at the Driver License Examination Station prior to the commencement of the required examination. Upon submitting a completed and approved application, providing proof of identity [see (b) regarding required identification documents] and proof that the applicant is a United States citizen, foreign national or a legal permanent resident alien [21 O.S., § 1550.42(B)], meeting all statutory requirements, and successfully completing every required examination [see Subchapter 3 of this Chapter relating to examinations], the applicant may then proceed to a motor

license agent or the Department of Public Safety Headquarters, Driver License ~~Services~~ Examining Division, with a DL-10 form with primary and secondary identification presented to the examiner, issued by the Driver License Examiner, and pay the required fees and be issued a driver license. A person who has been declared to be a disabled veteran in receipt of compensation at the 100% rate for a permanent disability shall receive an original, renewal, or replacement driver license or identification card at no charge, upon presentation of one of the following documents:

- (1) proof of 100% status from the U.S. Department of Veterans Affairs, or
- (2) a tax exempt card from the Oklahoma Tax Commission showing exemption from state tax based upon 100% status.

(b) **Required identification.** Every applicant must furnish both primary documentary proof of identity [47 O.S., § 6-106(A)(3)], to include whether the applicant is a United States citizen, foreign national or a legal permanent resident alien [21 O.S., § 1550.42(B)], and secondary documentary proof of identity [47 O.S., § 6-106(A)(3)] and proof of full legal name and birth date beyond any reasonable doubt when applying for an initial Oklahoma driver license [47 O.S. § 6-101(L)]. Any document furnished must be either a certified or original copy and issued by the proper authority; notarized documents will not be accepted. Any document that has been or appears to have been duplicated, traced over, mutilated, defaced, tampered with, or altered in any manner or that can not be read by the Driver License Examiner shall not be accepted or used for identification purposes. All identification documents must be approved by the Examiner before acceptance. The Examiner may, at his or her discretion, request additional identification documentation of the applicant.

(1) **Primary proof of identification for original issuance to a United States citizen.** The following shall be presented by the applicant as primary proof of identification for a citizen of the United States:

(A) A certified birth certificate, as issued by the appropriate state agency from the state of birth. A certified birth certificate issued by a city or county may be accepted if it is issued on secure document paper and if the certificate either is from a state which the Department has verified authorizes the issuance of birth certificates certified by a city or county or contains a statement indicating the record is a copy of the facts on file with the state agency responsible for maintaining and certifying vital records (the Department shall maintain on its website a list of states which comply with this provision). The birth certificate shall include the person's name, date of birth, and sex, shall be signed and sealed, and shall include the certificate number. The following documents are not acceptable:

- (i) a hospital birth certificate or record,
- (ii) a birth registration, or
- (iii) an abstract of birth, unless the abstract is issued on secure document paper and contains the

following statement "I hereby certify that this abstract of birth facts has been provided to this office by the Department of Health, Bureau of Vital Statistics, from a document officially in its custody",

- (B) A United States passport,
- (C) For a United States citizen who is born in another country, a certification issued by the United States Department of State ~~or a state birth certificate issued for a birth outside of that state, or~~
- (D) For a naturalized citizen of the United States, a Certificate of Naturalization issued by the United States Citizenship and Immigration Service. The name on the document must be the same as the name used by the applicant on the driver license or identification card,
- (E) An Oklahoma driver license originally issued by Department of Public Safety on or after November 1, 2007,
- (F) A State of Oklahoma identification card originally issued by the Department of Public Safety on or after November 1, 2007, or
- (G) If none of the forms of identification listed in this paragraph are available, any other documentation as approved by the Driver License Examiner Supervisor, Administrative Officer or Director, and listed on the DL-10 form by the Driver License Examiner.

(2) **Primary proof of identification for renewal or replacement issuance to a United States citizen.** The following shall be presented by the applicant as primary proof of identification for a citizen of the United States:

- (A) ~~Finger image comparison, if a Department-generated finger image algorithm~~ Digital photograph comparison, if a Department-generated digital photograph is already on file with the Department, or
- (B) Any primary proof of identification listed in (1) of this subsection, ~~or~~
- ~~(C) No document need be presented if the applicant is personally known by the motor license agent.~~

(3) **Primary proof of identification for original, renewal, or replacement issuance to a foreign national or legal permanent resident alien.** The following shall be presented by the applicant as primary proof of identification and proof of lawful presence in the United States for a foreign national or legal permanent resident alien:

- (A) A passport issued by a country other than the United States and I-94 card, when applicable. The name on the passport shall be the same as the name used by the applicant on the driver license or identification card. An I-94 card, which shall be accompanied by the applicant's passport when applicable, shall not be considered a separate identification document. The following passport classifications shall not be accepted for the purpose of issuing a driver license or identification card:
 - (i) B-1, temporary visitor for business,
 - (ii) B-2, temporary visitor for pleasure,

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- (iii) C-1, alien in continuous transit through the United States,
 - (iv) C-2, alien and family in transit to the United Nations,
 - (v) C-3, foreign government official and family transiting the United States,
 - (vi) D-1, member of ship's crew who can not change ships or employers,
 - (vii) D-2, member of ship's crew who may change ship's or employers,
 - (viii) I-185/586, Mexican or Canadian nationals with border crossing, cards
 - (ix) I-444, Mexican or Canadian nationals with border crossing cards,
 - (x) Q, international cultural exchange visitor,
 - (xi) TWOV, transit without visa,
 - (xii) WT, visa waiver pilot program for tourist, or
 - (xiii) WB, visa waiver pilot program for business, or
- (B) An alien registration card issued by the United States Citizenship and Immigration Service. The name on the card shall be the same as the name used by the applicant on the driver license or identification card; provided, if the applicant presents a permanent resident card, then the applicant may change his or her name by presenting acceptable name change documents; or
- (C) If none of the forms of identification listed in this paragraph are available, any other documentation as approved by the Driver License Examiner Supervisor, Administrative Officer or Director, and listed on the DL-10 form by the Driver License Examiner.
- (4) **Secondary proof of identification.** The following shall be presented by the applicant as secondary proof of identification:
- (A) Any primary proof of identification listed in (1), (2), or (3), as applicable, of this subsection which is not used as the primary identification document of the applicant,
 - (B) For any person under the age of 18, an affidavit signed by the parent or legal guardian,
 - (C) Photo identification card that is issued by an Oklahoma:
 - (i) public, private, or parochial secondary school,
 - (ii) institution of higher education,
 - (iii) technology center school, or
 - (iv) employer,
 - (D) Oklahoma gun permit,
 - (E) Pilot license,
 - (F) Oklahoma lifetime hunting or fishing license,
 - (G) Oklahoma voter identification card,
 - (H) Social Security card,
 - (I) Health insurance card,
 - (J) Motor vehicle registration or title,
 - (K) Marriage certificate,
 - (L) Separation or divorce judgment,
 - (M) High school, technology center school, college, or university diploma
 - (N) Professional degree, certificate, or license,
 - (O) Deed or title to property in Oklahoma, including a burial plot deed,
 - (P) Health, life, or home insurance policy issued to the applicant,
 - (Q) Automobile insurance policy or security verification form issued to the applicant,
 - (R) A valid U.S.D.O.T. health card, as required by 49 C.F.R. Part 391,
 - (S) ~~Digital photograph comparison, if a Department generated digital photograph~~ Finger image comparison, if a Department-generated finger image algorithm is already on file with the Department,
 - (T) ~~No document need be presented if the applicant is personally known by the motor license agent,~~
 - (~~U~~) Identification documents issued by the United States Armed Services:
 - (i) Military discharge (DD-214), unless specified not to be used for identification,
 - (ii) Military identification card, or
 - (iii) Military dependent identification card,
 - (~~U~~) United States Bureau of Indian Affairs identification card or a Oklahoma tribal photo identification card, approved by the Department of Public Safety (the Department shall maintain on its website a list of tribes which comply with this provision), which identifies the person and includes the following information:
 - (i) color photograph of the person,
 - (ii) full legal name of the person,
 - (iii) birth date of the person,
 - (iv) signature of the person,
 - (v) signature of person who verifies records, and
 - (vi) tribal seal,
 - (~~W~~~~V~~) Out-of-state driver license, if the issuing state participates in the REAL ID Act of 2005, or
 - (~~X~~~~W~~) Expired Oklahoma Driver License,
 - (~~X~~) Expired Oklahoma Identification Card,
 - (~~Y~~) Oklahoma Tax Commission Agricultural Exemption Permit (tax exempt card),
 - (~~Z~~) Department of Corrections Consolidated Record Card, or
 - (~~AA~~) If none of the forms of identification listed in this paragraph are available, any other documentation as approved by the Driver License Examiner Supervisor, Administrative Officer or Director, and listed on the DL-10 form by the Driver License Examiner,;
- (5) **Additional identification requirements.** The Department may require additional identification documents:
- (A) when the Department is unable to determine the reliability or validity of the identification document(s) presented, or
 - (B) as provided in OAC 595:10-1-35.
- (c) **Driver license numbers.**

(1) Driver license numbers ~~will~~ shall be assigned by computer. Use of the applicant's Social Security number as the driver license number is prohibited [47 O.S. § 6-106(B)]; provided, every applicant shall provide the Department with the Social Security number of the applicant [47 O.S., § 6-106(B),12], which shall be verified before a driver license shall be issued to the applicant. Verification shall be accomplished using the Social Security On-line Verification (SSOLV) system. The Department shall refer any applicant to the Social Security Administration whenever the Social Security number can not be verified for the applicant.

(2) Any licensee may request to change his or her driver license number to any nine-digit number by making a written request to the Department. Upon approval by the Department, the licensee shall obtain a replacement driver license from a motor license agent, and the licensee shall pay the required fee for the replacement license [see OAC 595:10-1-18 regarding replacement driver licenses]. The driver license number may be changed no more than two (2) times in any four-year period without prior approval of the ~~Driver License Fraud Division~~ Identity Verification Unit of the Department.

595:10-1-5. Graduated driver license; persons under eighteen (18) years of age

(a) **Purpose.** The purpose of this Section is to establish the procedures for a person under the age of eighteen (18) years to apply for and be issued a Class D driver license and whose parent has not filed an objection with the Department prohibiting the licensing of the person [47 O.S. § 6-103.1].

(b) **Exclusions.** This Section does not apply to motorcycles and other motor-driven cycles.

(c) **Learner Permit.** A person at least 15 1/2 but less than 16, who is ~~enrolled~~ enrolled currently receiving instruction in or has successfully completed a driver education course, or a person at least 16, with or without driver education, may make application to the Department for a Learner Permit. The Department will issue a Learner Permit under this subsection if the Department approves the application and if the person successfully passes all required examinations and is otherwise eligible for the driver license [47 O.S. §§ 6-103, 6-105].

(1) **Application requirements.** The applicant shall meet the following requirements before the Department grants driving privileges to operate a Class D motor vehicle and issues a learner permit to the person.

(A) The applicant shall provide proof of identity and other required documentation [see (2)], submit all application information, sign the application, and successfully pass the vision and written tests. The applicant shall have his or her driver license application signed by a parent or guardian, or by a responsible adult if there is no parent or guardian [47 O.S. § 6-107(A)].

(B) Documentation shall be submitted proving:

(i) compliance with the school attendance requirements prescribed in 47 O.S. § 6-107.3,

(ii) successful passage of the eighth grade reading test as prescribed in 47 O.S. § 6-107.3(A)(2) and 70 O.S. § 1210.515, and

(iii) for an applicant at least 15 1/2 years of age but less than 16 years of age, documentation of attendance or successful completion of a driver education course as defined in 47 O.S. § 6-105(C)(1) shall be submitted. If the applicant is 16 years of age or older and has successfully completed a driver education course, documentation shall be submitted. Documentation of attendance shall be the green card issued to the person from the driver education instructor or a signed contract or an attendance card issued for the person by the commercial driver education school. Documentation of completion shall be the completed green card issued to the person from the driver education instructor or a completion certificate issued to the person by the commercial driver education school. Any applicant who has completed driver education at a public high school in a state other than Oklahoma shall be required to obtain a green card issued by the Oklahoma high school in which he or she is currently enrolled. Proof of driver education from an out-of-state commercial driver education program shall not acceptable.

(2) **Driving restrictions.** The permittee is authorized to operate a Class D motor vehicle only *while accompanied by a licensed driver who is at least twenty-one (21) years of age and who is actually occupying a seat beside the permittee* [47 O.S. § 6-105(C)(2)].

(3) **Other information.** During the period the permittee is issued and possesses a Learner permit, the custodial legal parent or legal guardian shall ensure that the permittee *has received a minimum of forty (40) hours of actual behind-the-wheel training, of which at least (10) hours of such training was at night, from a licensed driver who was at least twenty-one (21) years of age and who was properly licensed to operate a Class D motor vehicle for a minimum of two (2) years* [47 O.S. § 6-105(D)(1)(c)].

(d) **Intermediate License.** When a permittee *has applied for, been issued, and has possessed a Learner Permit for a minimum of six (6) months* [47 O.S. § 6-105(D)(1)(a)], the permittee may apply to the Department for an Intermediate License.

(1) **Application requirements.** The permittee shall meet the following requirements before the Department grants driving privileges to operate a Class D motor vehicle and issues an Intermediate License to the permittee.

(A) The permittee shall provide proof of identity and successfully pass the driving skills tests,

(B) The person must not have been convicted of, pled guilty to, or pled no contest to any moving vehicle violation [47 O.S. § 6-105(D)(1)(b)],

(C) the permittee's parent or legal guardian shall certify *to the Department by sworn affidavit that the permittee has received a minimum of forty (40) hours of actual behind-the-wheel training, of which at least*

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(10) hours of such training was at night, from a licensed driver who was at least twenty-one (21) years of age and who was properly licensed to operate a Class D motor vehicle for a minimum of two (2) years [47 O.S. § 6-105(D)(1)(c)], and

(D) for a person who was issued a learner permit and who was less than 16 years of age at the time of issuance pursuant to (c)(1)(B)(iii), documentation of successful completion of a driver education course as defined in 47 O.S. § 6-105(C)(1) shall be submitted. Documentation of completion shall be the completed green card issued to the person from the driver education instructor or a completion certificate issued to the person by the commercial driver education school. If such documentation is not presented, the person shall not be eligible for issuance of an intermediate license until the person is at least 16 1/2 years of age.

(2) **Driving restrictions.** The intermediate licensee shall be:

(A) restricted to driving:

- (i) *only between the hours of 5:00 a.m. and 11:00 p.m., except for driving to and from work, school, school activities, and church activities, or*
- (ii) *at any time, if a licensed driver who is at least twenty-one (21) years of age is actually occupying a seat beside the intermediate Class D licensee, and*

(B) *shall not operate a motor vehicle with more than one passenger unless:*

- (i) *all passengers live in the same household as the custodial legal parent or legal guardian, or*
- (ii) *a licensed driver at least twenty-one (21) years of age is actually occupying a seat beside the intermediate Class D licensee.* [47 O.S. § 6-105(D)(2)].

(e) **Class D driver license.** An intermediate licensee may apply to the Department for a Class D driver license if the licensee has applied for, been issued and possessed an Intermediate License for a minimum of:

- (1) *one (1) year, or*
- (2) *six (6) months, if the person has completed both the driver education and the parent-certified behind-the-wheel training provisions of subparagraph c of paragraph 1 of subsection D of this section* [47 O.S. § 61-05(E)(1)].

(A) **Application requirements.** The licensee shall meet the following requirements before the Department grants driving privileges to operate a Class D motor vehicle and issues a Class D driver license to the licensee.

- (i) The licensee shall provide proof of identity and successfully pass the driving skills tests;
- (ii) The licensee must not have been convicted of, pled guilty to, or pled no contest to any moving vehicle violation [47 O.S. § 6-105(D)(1)(b)]; and
- (iii) for a person who has completed both driver education and the parent-certified behind-the-wheel training, documentation shall

be submitted. Documentation of completion of a driver education course as defined in 47 O.S. § 6-105(C)(1) shall be the completed green card issued to the person from the driver education instructor or a completion certificate issued to the person by the commercial driver education school. Documentation of completion of parent-certified behind-the-wheel training shall be by affidavit signed by the parent and approved by the Department of Public Safety.

(B) **Driving restrictions.** The Department may restrict the driving privileges of any person as provided by law [47 O.S. § 6-113].

(f) **Persons licensed by another jurisdiction.** A person who, at the time of application, is licensed by another jurisdiction may apply for driving privileges under this Section. As used in this subsection, "another jurisdiction" means one of the fifty (50) states, the District of Columbia, or a Canadian province.

(1) **Learner Permit.** If the person is operating under a learner permit, or equivalent, issued by another jurisdiction, the person may apply for:

- (A) A Learner Permit, as provided in subsection (c); provided, a person who is less than fifteen and one half (15 1/2) years of age shall not be issued a Learner Permit; or
- (B) An Intermediate License, as provided in subsection (d), if driving privileges granted by another jurisdiction have been in effect for a minimum of six (6) months; provided, a person who is less than sixteen (16) years of age shall not be issued an Intermediate License.

(2) **Intermediate License.** If the person is operating under an intermediate license, or equivalent, issued by another jurisdiction, the person may apply for:

- (A) A Learner Permit, as provided in subsection (c); provided, a person who is less than fifteen and one half (15 1/2) years of age shall not be issued a Learner Permit;
- (B) An Intermediate License, as provided in subsection (d); provided, a person who is less than sixteen (16) years of age shall not be issued an Intermediate License; or
- (C) A Class D Driver License, as provided in subsection (e), if driving privileges granted by another jurisdiction have been in effect for a minimum of twelve (12) months; provided, a person who is less than sixteen and one half (16 1/2) years of age shall not be issued a Class D Driver License; or

(3) **Class D Driver License.** If the person is operating under a Class D Driver License, or equivalent, issued by another jurisdiction, the person may apply for:

- (A) A Learner Permit, as provided in subsection (c); provided, a person who is less than fifteen and one half (15 1/2) years of age shall not be issued a Learner Permit;
- (B) An Intermediate License, as provided in subsection (d); provided, a person who is less than sixteen

(16) years of age shall not be issued an Intermediate License; or

(C) A Class D Driver License, as provided in subsection (e), if driving privileges granted by another jurisdiction have been in effect for a minimum of twelve (12) months; provided, a person who is less than sixteen and one half (16 1/2) years of age shall not be issued a Class D Driver License.

(4) Considerations.

(A) Credit shall be given for the time driving privileges have been granted and in effect, as evidenced by another jurisdiction. Evidence of driving privileges shall be confirmed by the issuance date on the permit or license from another jurisdiction, by the issuance date provided by the other jurisdiction, or both; provided, the earliest date shall be the date used to calculate credit.

(B) Examinations may be waived as provided in OAC 595:10-3-9(h).

595:10-1-7. Adoption by reference [REVOKED]

~~The Department of Public Safety adopts by reference the United States Department of Transportation regulations pertaining to licensing of commercial motor vehicle operators, as contained in Title 49 of the Code of Federal Regulations (49 C.F.R.) [47 O.S. §6-101(L)]. Information relative to this adoption is available through various sources, such as the Labelmaster publication, "Federal Motor Carrier Safety Regulations." Copies of this publication are available by contacting the Oklahoma Trucking Association at (405) 843-9488. Those regulations pertaining to licensing of commercial motor vehicle operators adopted by reference under this Section are:~~

- ~~(1) Part 383, Commercial Driver's License Standards; Requirements and Penalties;~~
- ~~(2) Part 384, State Compliance with Commercial Driver's License Program;~~
- ~~(3) Part 390, Federal Motor Carrier Safety Regulations: General;~~
- ~~(4) Part 391, Qualifications of Drivers.~~

PART 3. DRIVER LICENSE RENEWAL

595:10-1-10. Procedure for obtaining a renewal driver license

(a) **General requirements.** During the month of expiration or as provided in (d) of this Section, each licensee shall present proper identification and pay the required fee to a Motor License Agent or to the Driver License ~~Services~~ Examining Division of the Department of Public Safety for renewal of the driver license of the licensee. Failure to renew a driver license by the end of the month of expiration shall not relieve the person of the obligation to renew his or her driver license under the provisions required by law and this Section if the person wishes to keep his or her driver license in force.

(b) Required identification.

(1) **Renewal with expiring or expired valid and unexpired driver license.** ~~The expiring or expired valid~~

~~and unexpired~~ driver license provided as the primary identification may be retained by the licensee, after the motor license agent has first punched a hole through the identification number of the license. The person shall provide secondary identification as prescribed in OAC 595:10-1-3(b)(2)(4).

(2) **Renewal with an expired driver license.** The expired driver license provided as the primary identification may be retained by the licensee, after the motor license agent has first punched a hole through the identification number of the license. The person shall provide primary identification as prescribed in OAC 595:10-1-3(b)(2) or (3), as appropriate.

(3) **Renewal without driver license.** Any person who does not have the ~~expiring valid and unexpired~~ or expired driver license shall provide both primary and secondary identification as prescribed in OAC 595:10-1-3(b).

(c) **Vision examination.** Persons holding a commercial driver license shall, upon renewal, meet the vision standards established in OAC 595:10-5-7 and 49 C.F.R., §391.41.

(d) Limitations to issuance of a renewal driver license.

(1) A renewal driver license will be issued only to an individual whose driving privilege is not under suspension, revocation, disqualification, cancellation, or denial and who complies with this Section.

(2) Any applicant who requests a renewal of his or her driver license when the license has been expired in excess of three (3) years is required to appear before a Driver License Examiner, pursuant to OAC 595:10-1-2.

(e) **Early renewal of a driver license.** Any licensee may renew his or her driver license no more than six (6) months prior to the expiration date. A renewal which occurs more than six (6) months prior to the expiration date shall be treated as a replacement under the provisions of OAC 595:10-1-18.

(f) Change of driver license number.

(1) Use of the licensee's Social Security number as the driver license number is prohibited. At the time of renewal, any licensee whose driver license number is his or her social security number shall inform the Department or the motor license agent of that fact. If the numbers are the same, a new driver license number will be assigned for the licensee by computer [47 O.S. § 6-106(B)].

(2) Any licensee may request to change his or her driver license number to any nine-digit number by making a written request to the Department. Upon approval by the Department, the licensee shall obtain a replacement driver license from a motor license agent, and the licensee shall pay the required fee for the replacement license [see OAC 595:10-1-18 regarding replacement driver licenses]. The driver license number may be changed no more than two (2) times in any four-year period without prior approval of the ~~Driver License Fraud Division~~ Identity Verification Unit of the Department.

(g) **Persons who may appear before a motor license agent.** An individual who has previously held an Oklahoma Class D driver license which has been surrendered to another state in exchange for the other state's license, may apply directly to a motor license agent for renewal of the previous

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Oklahoma license, upon establishing Oklahoma residence and following the applicable procedure for renewal. The agent shall call the Driver License Services Division and request clearance to issue the license. If the clearance is given by the Department, the person shall surrender the out of state license to the agent, and the agent shall issue the Oklahoma license. If the out of state license has been lost or destroyed, the person shall provide to the motor license agent a notarized affidavit of that fact. In no case shall the out of state driver license be retained by the person when an Oklahoma license has been issued to the person. The agent shall retain the license and submit it to the Department with the agent's report. If clearance is not given, the person shall be informed to contact the state whose action is causing the clearance to be withheld.

595:10-1-12. Oklahoma licensee temporarily residing out of the state

(a) Any Oklahoma licensee who is temporarily residing out of the state may request the Department of Public Safety to renew his or her license by mail. The Oklahoma licensee shall mail copies of documentary evidence of his or her name and date of birth as required by OAC 595:10-1-10 (documents sent for verification will not be ~~returne~~ returned; therefore, original documents should not be sent), his or her driver license number, ~~his or her photograph in passport style and quality,~~ his or her signature, and the required fee for a driver license renewal along with his or her out-of-state address to:

(1) Department of Public Safety, Driver License ~~Services~~ Examining Division, P. O. Box 11415, Oklahoma City, Oklahoma 73136-0415; ~~or~~

(2) ~~any motor license agent.~~

(b) If the Department approves the renewal by mail ~~and:~~

(1) ~~the digital photograph and digital signature of the licensee are available from the files of the Department,~~ the Department shall create the renewal license using ~~that photo~~ the most recent digital photograph and digital signature; ~~or~~

(2) ~~there is no digital photo and digital signature of the licensee available from the files of the Department, the Department shall create the renewal driver license from the photograph and signature submitted of the licensee available from the files of the Department.~~

(c) The Department shall mail the renewal license to the out-of-state address provided by the licensee.

(d) If the Department denies the renewal by mail, the Department shall notify the licensee in writing of the denial and the reason for the denial.

(e) ~~Class A, B, and C commercial driver licenses can not be renewed by mail. The licensee shall appear before a Driver License Examiner.~~

PART 5. DRIVER LICENSE REPLACEMENT

595:10-1-18. Procedure for obtaining a replacement driver license

(a) **General requirements.** Any person requiring a replacement driver license because the license was lost, stolen,

or mutilated or because information on the license needs to be changed may request a motor license agent to issue a replacement, upon presentation of proper identification and payment of the required fee.

(b) **Required identification to replace lost, stolen, or mutilated license.** Any person shall provide both primary and secondary identification as prescribed in OAC 595:10-1-3(b).

(c) **Required identification to change information and replace a license.**

(1) **Name change.** Any person who requests a replacement driver license in order to make a name change shall comply with the primary and secondary identification requirements prescribed in OAC 595:10-1-3(b) in order to identify the person by his or her former name and with OAC 595:10-1-35 in order to identify the person by his or her new name. The former name shall be entered into the "Alias" field in the driver license database to provide historical information to the Department. The person requesting the name change may retain the old license, if it is available, after the motor license agent has first punched a hole through the identification number of the license.

(2) **Address change.** Any person who requests a replacement driver license in order to make an address change shall provide both primary and secondary identification as prescribed in OAC 595:10-1-3(b). The person requesting the address change may retain the old license, if it is available, after the motor license agent has first punched a hole through the identification number of the license.

(3) **Endorsement or restriction change.** Any person who requests a replacement driver license in order to change endorsement or restriction information on the license shall provide both primary and secondary identification as prescribed in OAC 595:10-1-3(b). The person requesting the information change may retain the old license, if it is available, after the motor license agent has first punched a hole through the identification number of the license.

(4) **Sex change.** The licensee shall show an original or certified court order for name change, if applicable, and a notarized statement on letterhead from the physician who performed the sex change operation indicating the applicant or licensee has undergone a complete physical sex change. The letter shall state the sex change is "irreversible and permanent". The licensee shall also show proof of former legal name. The former name shall be entered into the "Alias" field in the driver license database to provide historical information to the Department. The person requesting the information change may retain the old license, if it is available, after the motor license agent has first punched a hole through the identification number of the license.

(d) **Limitations to issuance of a replacement driver license.**

(1) A replacement driver license will be issued only to an individual whose driving privilege is not under suspension, revocation, disqualification, cancellation, or denial and who complies with this Section.

(2) ~~All Class A, B, and C replacement licenses require clearance from a Department of Public Safety Driver License Examiner.~~

(3) ~~The driver license number may be changed no more than two (2) times in any four-year period without prior approval of the Driver License Fraud Division Identity Verification Unit of the Department.~~

(e) **Change of driver license number.**

(1) Use of the licensee's Social Security number as the driver license number is prohibited. At the time of replacement, any licensee whose driver license number is his or her social security number shall inform the Department or the motor license agent of that fact. If the numbers are the same, a new driver license number will be assigned for the licensee by computer [47 O.S. § 6-106(B)].

(2) Any licensee may request to change his or her driver license number to any nine-digit number by making a written request to the Department. Upon approval by the Department, the licensee shall obtain a replacement driver license from a motor license agent, and the licensee shall pay the required fee for the replacement. The driver license number may be changed no more than two (2) times in any four-year period without prior approval of the ~~Driver License Fraud Division Identity Verification Unit~~ of the Department.

(f) **Persons who may appear before a motor license agent.** An individual who has previously held an Oklahoma Class D driver license which has been surrendered to another state in exchange for the other state's license may apply directly to a motor license agent for replacement of the previous Oklahoma license, upon establishing Oklahoma residence and following the applicable procedure for replacement. The agent shall call the Driver License ~~Services Examining~~ Division and request clearance to issue the license. If the clearance is given by the Department, the person shall surrender the out of state license to the agent, and the agent shall issue the Oklahoma license. If the out of state license has been lost or destroyed, the person shall provide to the motor license agent a notarized affidavit of that fact. In no case shall the out of state driver license be retained by the person when an Oklahoma license has been issued to the person. The agent shall retain the license and submit it to the Department with the agent's report. If clearance is not given, the person shall be informed to contact the state whose action is causing the clearance to be withheld.

595:10-1-19. Oklahoma licensee temporarily residing out of the state

(a) Any Oklahoma licensee who is temporarily residing out of the state may request the Department of Public Safety to replace his or her license by mail. The Oklahoma licensee shall mail copies of documentary evidence of his or her name and date of birth as required by OAC 595:10-1-10 (documents sent for verification will not be returned., therefore, original documents should not be sent), his or her driver license number, ~~his or her photograph in passport style and quality, his or her signature,~~ and the required fee for a driver license replacement along with his or her out-of-state address to:

(1) Department of Public Safety, Driver License ~~Services Examining~~ Division, P. O. Box 11415, Oklahoma City, Oklahoma 73136-0415; ~~or~~

(2) ~~any motor license agent.~~

(b) If the Department approves the replacement by mail ~~and:~~

(1) ~~the digital photograph and digital signature of the licensee are available from the files of the Department, the Department shall create the replacement license using that photo the most recent digital photograph and digital signature; or~~

(2) ~~there is no digital photo and digital signature of the licensee available from the files of the Department, the Department shall create the replacement driver license from the photograph and signature submitted of the licensee available from the files of the Department.~~

(c) The Department shall mail the replacement license to the out-of-state address provided by the licensee.

(d) If the Department denies the replacement by mail, the Department shall notify the licensee in writing of the denial and the reason for the denial.

(e) ~~Class A, B, and C commercial driver licenses can not be replaced by mail. The licensee shall appear before a Driver License Examiner.~~

PART 13. MOTOR LICENSE AGENTS

595:10-1-51. Operational procedures

(a) The driver license computer, camera, printer, and other hardware, software, and supplies (which may be referred to as driver license equipment) used in the production of driver licenses and identification cards shall be used solely for the issuance of Oklahoma driver licenses or identification cards. Driver licenses shall be issued if the agency is open for business. If the agency is unable to issue licenses, the agent shall notify the Department why the agency is not issuing licenses.

(b) At the close of business each day, the agent shall remove the top "clam shell" and lock it in a safe place and shall also destroy all used color print ribbon.

(c)

(1) Only persons who have been issued a personal access code by the Department of Public Safety shall be authorized to operate driver license equipment and issue or make changes to driver licenses or identification cards.

(2) Agents shall not submit applications for personal access codes for employees who are not at least eighteen (18) years of age. Personal access codes shall not be assigned to anyone under the age of eighteen (18) or to any employee whose driver license is suspended, revoked, cancelled or denied. On and after the Commissioner's approval of this rule, each application for a personal access code shall be submitted by an agent to the Department, and the Department shall be given give temporary approval to the applicant to issue driver licenses and identification cards, pending an investigation of the applicant's state criminal records by the Department. Background information shall be completed and returned by the agent within thirty (30) calendar days of temporary approval

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being given by the Department. If the background information has not been completed and returned upon the expiration of the thirty (30) days, the temporary access shall be cancelled by the Department. If an employee leaves one agency and becomes employed by another agency, if it has been more than one year since a criminal history check has been given to the Department for the employee, if there has been a break in service for more than one year, or if the criminal history check was not previously required of the employee, the a criminal history check shall be done for the employee. The Department shall cancel the access code upon determination the person's state criminal history does not warrant certification, based upon the presence in the history of misdemeanor convictions and of any felony conviction, to issue driver licenses or identification cards. If no record is found within state criminal records, the temporarily approved applicant shall submit to a national criminal history records search, as defined by Section 150.9 of Title 74 of the Oklahoma Statutes, from the Oklahoma State Bureau of Investigation for that employee which shall be used to determine whether the employee is eligible for a personal access code. The Department shall cancel the access code upon determination the person's national criminal history does not warrant certification, based upon the presence in the history of misdemeanor convictions and of any felony conviction, to issue driver licenses or identification cards. If no record is found within national criminal records, the applicant shall be given regular approval to issue driver licenses and identification cards. Personal access codes shall be kept confidential by the employee and agent. Personal access codes shall be used only by the person to whom the code has been assigned. New employees whose duties are intended to include the issuance of driver licenses and identification cards shall first apply for a personal access code from the Department of Public Safety as provided for in this subsection; provided, ~~no~~ an employee shall not be authorized operate driver license equipment and to issue driver licenses and identifications cards unless approved by the Department and a personal access code has been issued to the employee by the Department.

(3) The agent shall be responsible for training new employees. The Department may offer periodic training programs as needed.

(4) The agent ~~will~~ shall be responsible for the conduct of the employee.

(d) Any substitution of equipment or alteration in the making of a driver license or identification card is prohibited by law, and may be subject to criminal prosecution. Licenses or cards shall be made in accordance with specifications as determined by the Department. If they do not meet these specifications, the agent or the employee shall not issue the license or card.

(e) Reports shall be forwarded to the Driver License Services Division in accordance with the rules of the Oklahoma Tax Commission or as prescribed by law.

(f) If the agency relocates, the agent shall immediately notify the Department of Public Safety in writing of the new address and telephone number. The Department will contact

the agent and schedule a time to set up the agency at the new location and provide any training necessary to the agency.

(g) In the event of loss, theft, or misuse of any of the equipment, supplies, or documents, or any violation of state law, Department rule, or other improper conduct related to the issuance of driver license or identification cards, the Department of Public Safety, Driver License Examining Division, shall be notified immediately by telephone at (405) 425-7745. In case of loss or theft the agent shall take an immediate inventory of all driver license documents on hand and list all missing items and equipment by number, when applicable. A copy of missing inventory, police investigation, and/or incident report shall be immediately forwarded to the Department of Public Safety, Driver License Examining Division. In cases of misuse, the agent must immediately contact the Driver License Examining Division, Identity Verification Unit of the Department of Public Safety by telephone at (405) 425-2477. If the agent is unable to contact this unit, then the Driver License Examining Division shall be notified by telephone at the number listed above.

(h) Agents are prohibited from accepting an altered driver license application (DL-10 form) or any other altered or unapproved document for the issuance of an Oklahoma driver license or identification card.

(i) When an agency closes, any equipment, supplies, and documents issued to the agent by the Department of Public Safety must be accounted for and returned to the Department of Public Safety.

(j) Each employee is to be made aware by the agent of the penalties for misuse of driver license documents or identification cards and any production of fraudulent and erroneous driver licenses or identification cards.

(k) When it comes to the attention of the Department of Public Safety that any agent or an employee of an agency is in violation of any statute or rule or has committed any fraudulent act regarding the issuance of driver licenses or identification cards, after consultation with the Commissioner's office, the Director of the Driver License ~~Services~~ Examining Division may notify the motor license agent, the Tax Commissioner, and the appointing senator that the access code number(s) may be canceled or suspended and/or the camera may be removed. In accordance with the Administrative Procedures Act, a hearing before the Commissioner or the Commissioner's designee will be offered, provided the Director of the Driver License Services Division is notified in writing within fifteen (15) days of receipt of notification. The issue at the hearing will be whether or not a violation occurred and the severity of the sanction which should be imposed.

(l) The following changes or activities are not authorized at an agency without other authority:

- (1) Driver license number or identification card number, except when changing to a computer generated number,
- (2) Sex,
- (3) Eye color,
- (4) Race,
- (5) Date of birth,
- (6) Class of license,

- (7) Endorsement,
 - (8) Extension of expiration on driver license or identification card,
 - (9) Temporary receipt or authorization to drive for lost license while application is in process,
 - (10) Taking photographs for other identification cards (for example: police, fire, sheriff, passport, etc.),
 - (11) Adding titles to names, such as Sheriff, Police Officer, Judge, Senator, Representative, Dr., Rev., Fireman, etc.,
 - (12) Adding addresses or information to indicate professional status on the face of the driver license or identification card such as JOHN DOE, OKLAHOMA HIGHWAY PATROL or ROBERT DOE, M.D. All addresses must be the legal residence address [47 O.S. § 6-106]. Any combination of residence and mailing address is prohibited,
 - (13) Placing anything on a driver license or identification card, such as stickers of civic clubs, medical symbols, etc., except those approved by the Department of Public Safety,
 - (14) Producing more than one (1) driver license or identification card for the applicant at the time of application,
 - (15) Adding service charges to an application fee for any reason other than actual cost for telephone calls made for the applicant to obtain approval to issue the driver license or identification card, or
 - (16) Providing information from the driver license or identification card application to private businesses, government agencies, or persons other than the Department of Public Safety, unless authorized by the Department.
- (m) No documents shall be removed from the office of the motor license agent by anyone unless authorized by the Driver License Services Examining Division. If this a situation arises which warrants removal of documents, the motor license agent shall telephone the Division at (405) 425-2034 to explain the circumstances and obtain authority to comply with any request.
- (n) During the issuance process for an original, renewal or replacement driver license or identification card, the motor license agency shall ask the applicant if he or she would like to donate One Dollar (\$1.00) to the Oklahoma Organ Donor Education and Awareness Program [63 O.S., § 2220.5]. If the applicant consents to the donation, the agency shall enter a "Y" in the (??donation field??) on the computer which shall add the One-Dollar donation to the amount collected with the cost of the license or card. Each One-Dollar donation shall be recorded and shall be reflected on the semi-monthly reports of the motor license agency. The applicant shall be given the option to become or to decline becoming an organ donor by marking the "Yes" or "No" box, as appropriate, on the signature pad. A mark of "Yes" shall cause an organ donor symbol to be placed on the driver license or identification card. If the holder of a driver license or identification card wishes to remove the organ donor symbol from the license or card, the applicant shall make the request of the motor license agency and shall be asked to mark the "No" box on the signature pad. A license or card shall be issued without the organ donor symbol and the appropriate fee collected by the motor license agency.

The holder of a Class A, B, or C commercial driver license shall be required to appear before a Driver License Examiner to remove or add the organ donor symbol.

(o) Rules in this Chapter regarding motor license agents are specific and limiting. Whenever an action either is not included or is not prohibited, it shall not be construed to convey authority to perform that action within the duties, responsibilities, or authority of the motor license agents.

595:10-1-52. Photographic procedures

(a) In order to provide a photograph which clearly identifies the licensee or cardholder, the photograph shall show a full front view of the face, from the hairline to the neck, of the applicant who shall be looking straight ahead.

(1) A photograph, which in the opinion of the Commissioner or his designee, distracts from the identification purpose, shall not be allowed to appear on an Oklahoma driver license or identification card.

(2) Objects, costumes and gestures are not permitted within the photograph.

(3) Head coverings are not permitted in the photograph if the head covering:

(A) obscures or obstructs a full front view of the face,

(B) displays any:

(i) logo,

(ii) insignia, symbol, or regalia,

(iii) word or words,

(iv) letter, number, or character, or any combination thereof, or

(v) graphic design, other than the overall pattern of the fabric or material, or

(C) casts a shadow onto the face of the person.

(4) ~~Prescription or non-prescription sunglasses are not permitted~~ glasses of any type shall be removed for the photograph.

(5) Profile style photographs are not permitted.

(b) Retakes of a photograph are permitted only at the time of making the license or card in order to obtain the correct photograph, as long as the agent or the agent's employee is still at the photograph-taking step in the procedure. Retakes of a photograph shall not be permitted at any other time in the issuance procedure, after the issuance procedure, or after the licensee or cardholder has left the agency.

(c) Agencies shall not take an additional photograph of any applicant, licensee, or cardholder unless authorized by the Commissioner or his designee.

(d) Applicants shall submit to the computer finger imaging process. Refusal shall result in ~~not being issued a no~~ driver license being issued. [47 O.S. § 6-110.2(A)]

(e) Applicants shall sign and submit only their signature for a driver license or identification card. Nothing else may be added to the signature [47 O.S. §§ 6-111(A)(1) and 6-301(H)]. The driver license or identification card shall not be issued if the applicant refuses to sign the driver license or identification card.

(f) Male applicants whose age is between 16 and 26 shall read the Selective Service statement, which shall appear on the

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signature pad. Signing and submitting their signature indicates agreement with the statement.

595:10-1-56. Renewal of driver license or identification cards

(a) **Normal renewal procedure.** If an applicant presents proper identification [see OAC 595:10-1-51 regarding identification documents required], the agent may accept the required remittance for the class of driver license or the identification card being issued, make any changes necessary that have been authorized and issue the driver license or identification card. If the licensee presents an Oklahoma driver license or the card holder presents an Oklahoma identification card as a form of identification, the agent shall:

- (1) return the expired license or card, if requested by the licensee and after first punching a hole through the identification number on the license or card, or
- (2) if the licensee does not wish to retain the expired license or card, return it with the agent's regular reports to the Driver License Services Division of the Department.

(b) **Early renewal.** An individual may make application for the renewal of his or her license or card not more than six (6) months prior to the expiration date of the license or card. If the application for renewal occurs more than six (6) months prior to the expiration date, the agent shall notify the individual that the transaction must be treated as a replacement under the provisions of OAC 595:10-1-57. The agent shall:

- (1) return the expired license or card, if requested by the licensee and after first punching a hole through the identification number on the license or card, or
- (2) if the licensee does not wish to retain the expired license or card, return it with the agent's regular reports to the Driver License Services Examining Division of the Department.

(c) **Late renewal.** An individual who makes application for renewal but whose license or card has been expired in excess of three (3) years shall be referred by the agent to a Driver License Examiner.

(d) **Renewal of expired license.** ~~Oklahoma licensees and card holders, whose license or identification card has not expired.~~ The holder of an expired Oklahoma driver license or identification card shall be required to show proof of lawful presence in the United States to the motor license agency in order to renew the license or card. Any motor license agent who has been certified by the Department to identify state certified birth certificates may renew an expired license or card by entering the certificate information in the computer. If the agent has not certified by the Department, the agent shall refer the applicant to a Driver License Examiner to show proof of lawful presence in the United States.

(e) ~~The holder of an unexpired Oklahoma driver license or identification card who is temporarily out of the state of Oklahoma and wish who wishes to renew or replace their Oklahoma the license or identification card by mail shall be referred to the Driver License Examining Division of the Department of Public Safety. Only digital driver license and identification cards shall be processed for renewal or replacement by a motor license agent.~~

(ef) **Previous Oklahoma licensees and card holders.** An individual who has previously held an Oklahoma Class D driver license which has been surrendered to another state in exchange for the other state's license or who has previously held an Oklahoma identification card, may apply directly to a motor license agent for replacement or renewal of the previous Oklahoma license or identification card, upon establishing Oklahoma residence and following the applicable procedures for replacement or renewal. Before attempting to issue a driver license under this subsection, the agent shall call the Driver License ~~Services~~ Examining Division and request clearance to issue the license. If clearance is not given, the person shall be informed to contact the state whose action is causing the clearance to be withheld. If the clearance is given by the Department, the person shall surrender the out of state license to the agent, and the agent shall issue the Oklahoma license. If the out of state license has been lost or destroyed, the person shall provide to the motor license agent a notarized affidavit of that fact. The agent shall retain the license or affidavit, as applicable, and submit it to the Department with the agent's report. This procedure applies to a Class D driver license or identification card only.

(fg) **CDL Commercial driver license renewal.** The holder of a Class A, B and, or C licensees commercial driver license shall appear before a Driver License Examiner for renewal.

595:10-1-58. Restrictions and endorsements on driver licenses

(a) When a restriction or endorsement is required or changes to restrictions or endorsements are necessary, the applicant will be provided a DL-10 form by the Department, except for the removal of Restriction G, authorizing the issuance of a replacement, renewal or original license, whichever is applicable. The applicant shall surrender the DL-10 form to the agent.

(b) The details of a Restriction 8 appear only on the computer file at the Department of Public Safety. The Department should be contacted for information concerning this restriction.

(c) The agent shall:

- (1) return the old driver license, if it is available, to the licensee, if requested by the licensee and after first punching a hole through the identification number on the license or card, or
- (2) if the licensee does not wish to retain the expired license or card, return it to the Driver License ~~Services~~ Examining Division of the Department with the agent's regular reports.

SUBCHAPTER 3. EXAMINATION

595:10-3-3. Study guides

The official study guides for applicants shall be the Oklahoma Driver's Manual; and the Oklahoma Motorcycle Manual; ~~and the Oklahoma Commercial Driver's Manual~~ which are distributed by the Department of Public Safety. Copies are available free of charge:

- (1) from motor license agencies,

- (2) by mail from: Department of Public Safety, Driver License Services Bureau Examining Division, P.O. Box 11415, Oklahoma City, Oklahoma 73136-0415,
- (3) in person at the Department of Public Safety, Driver License Services Bureau Examining Division, 3600 North M. L. King Avenue, Oklahoma City, or
- (4) from the Department's website at <http://www.dps.state.ok.us/dls/> on the world wide web.

595:10-3-4. Application for examination

(a) **Information from applicant.** The applicant must complete and submit an application for a driver license at the Driver License Examination Station prior to the commencement of the required examination. When determined by the Driver Examiner, from information received from the applicant, that the applicant may be afflicted with any physical or mental ailment as set out in 47 O.S. §6-119, the examination will be discontinued until the applicant has met all of the requirements set out in the Medical Aspects of Driver Licensing [see Subchapter 5 of the Chapter regarding medical aspects]. ~~In addition, applicants for a Commercial Driver License who do not certify they are exempt from Subpart E of the Federal Motor Carrier Safety Regulations must meet the requirements under Subpart E, 49 CFR §391.41.~~

(b) **Required identification.** Each applicant must furnish documentary proof to establish his or her identity, legal name and birth date as required in OAC 595:10-1-3(b). ~~Notwithstanding the requirements of OAC 595:10-1-3(b), an applicant for an "H" endorsement who possesses either an I-766 or I-688 card issued by United States Citizenship and Immigration Service (USCIS) shall not be granted an "H" endorsement pursuant to 49 CFR § 383.71.~~

(c) **Medical reports.** An applicant may be required to submit medical reports regarding any physical or mental condition which might affect driving ability as set forth in 47 O.S. § 6-119 and Department of Public Safety rules regarding the Medical Aspects of Driver Licensing [see Subchapter 5 of this Chapter regarding medical aspects].

(d) **License application void.** Approved Class D driver license applications and identification card applications shall be void after ten (10) days from the date of approval or no more than thirty (30) calendar days following initial application date, whichever occurs first. ~~Approved commercial driver license applications (Class A, B, or C) shall be void twenty four (24) hours from the time of approval.~~ If the license or card has not been obtained by the applicant within the allowed time, the applicant must appear before a Driver License Examiner and, after determination by the Examiner that all criteria and test scores are still valid, the Examiner may revalidate the application.

595:10-3-5. Incomplete applications

(a) If an applicant has passed at least one (1) examination required for issuance of a driver license, but is unable to complete other required examinations, for whatever reason, the application shall be designated by the Department as "Incomplete." The applicant shall have ~~ninety (90) days~~ one (1) year

from the date of initial application to complete the application process and take all required examinations for the driver license; ~~provided, a passing score for an examination for an "H" endorsement shall remain valid for one (1) year from the date of the successful test.~~ If a license has not been obtained by the end of the ~~ninety-day~~ one-year period, the applicant ~~must~~ shall restart the application process. Reasons for an "Incomplete" designation may include, but are not limited to:

- (1) The applicant has no vehicle for a driving skills examination.
- (2) The applicant provides an unsafe or improperly equipped vehicle for a driving skills examination.
- (3) The applicant is unfamiliar with the vehicle being operated for a driving skills examination resulting in termination of the examination by the examiner. The applicant shall be allowed a second opportunity on the same day to take the driving skills examination. If the applicant is still unfamiliar with the vehicle, the applicant shall be required to take the examination on another day.
- (4) The applicant must obtain a clearance for medical reasons (if required, the proper medical form will be issued to the applicant),
- (5) The applicant fails to meet vision standards (a DL-20 shall be issued to the applicant).
- (6) The applicant, during the driving skills examination, is involved in an collision which is not the fault of the applicant.

(b) A passing score for any examination will remain valid for a period of ~~ninety (90) days~~ one (1) year from the date the examination was taken. If a license has not been obtained by the expiration of the ~~ninety-day~~ one-year period, the applicant will be required to retake the examination.

(c) A failed examination shall not make the applicant eligible for an "Incomplete" designation under this Section. [47 O.S. § 6-110]

595:10-3-6. Vision

(a) **Visual examination.** The vision standards set forth in this section and OAC 595:10-5-7 are not intended to supersede any other;

- (1) state standard or rule for operators of school buses [see OAC 210:30-5 regarding school bus operator rules], or
- (2) federal regulation or law.

(b) **Vision screening.** A driver license applicant's eyesight shall be screened by means of a vision screener or by the use of a Snellen Chart and must meet the requirements set out in OAC 595:10-5-7 or 49 C.F.R., Section 391.41, whichever is applicable.

(c) **Visual acuity and field of vision - Class D driver license applicants.**

- (1) An applicant may be considered for a Class D driver license if the applicant meets the vision standards established in:
 - (A) OAC 595:10-5-7(a)(1)(A) or (B), and
 - (B) OAC 595:10-5-7(b)(1)(A).
- (2) An applicant who fails to meet the vision standards in (1) of this subsection shall be given an "Additional

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Visual Screening Report" (Form DL20) to take to a vision specialist of the applicant's choice to determine if the vision can be corrected to meet the standards in (1) of this subsection. The applicant must return the completed Form DL20 to the Driver Examiner after visiting the vision specialist. The visual acuity and field of vision readings of the vision specialist shall be the readings accepted by the Department. Any recommendations by the vision specialist regarding the driving ability or limitations of the applicant shall be followed by Department.

(3) If the vision specialist:

(A) is able to correct vision to meet the standards of (1) of this subsection, the applicant may be further considered by the Department for a Class D driver license, or

(B) is unable to correct vision to meet the standards of (1) of this subsection, the applicant will be referred to the Medical Desk, Department of Public, P.O. Box 11415, Oklahoma City, OK 73136-0415, 405-425-2083.

(4) The Medical Desk of the Department will make the final determination as to whether the applicant may be further considered by the Department for a Class D driver license.

(A) If the Medical Desk authorizes the applicant for further consideration, the Desk will issue an authority letter to the applicant which will include any recommendations to the Driver License Examining Division as to driving limitations deemed necessary for the condition of the applicant.

(B) If the Medical Desk does not authorize the applicant for further consideration, the Desk will issue a letter to the applicant stating that authority is being denied. The applicant may appeal the denial pursuant to OAC 595:10-5-18.

(d) Visual acuity and field of vision—Class A, B, or C commercial driver license applicants who are exempt from the 49 C.F.R., § 391.41(b)(10).

(1) An applicant may be considered for a Class A, B, or C commercial driver license, if the applicant is exempt from 49 C.F.R., § 391.41(b)(10), if the applicant meets the vision standards established in:

(A) OAC 595:10-5-7(a)(1)(C), and

(B) OAC 595:10-5-7(b)(2).

(2) An applicant who fails to meet the vision standards in (1) of this subsection shall be given an "Additional Visual Screening Report" (Form DL20) to take to a vision specialist of the applicant's choice to determine if the vision can be corrected to meet the standards in (1) of this subsection. The applicant must return the completed Form DL20 to the Driver Examiner after visiting the vision specialist. The visual acuity and field of vision readings of the vision specialist shall be the readings accepted by the Department. Any recommendations by the vision specialist regarding the driving ability or limitations of the applicant shall be followed by Department.

(3) If the vision specialist:

(A) is able to correct vision to meet the standards of (1) of this subsection, the applicant may be further considered by the Department for a commercial driver license, or

(B) is unable to correct vision to meet the standards of (1) of this subsection, the applicant will be denied a commercial driver license. The applicant may appeal the denial pursuant to OAC 595:10-5-18.

(e) Visual acuity and field of vision—Class A, B, or C commercial driver license applicants who are not exempt from the 49 C.F.R., § 391.41(b)(10).

(1) An applicant may be considered for a Class A, B, or C commercial driver license, if the applicant is not exempt from 49 C.F.R., § 391.41(b)(10), and meets the standards established in 49 C.F.R., § 391.41(b)(10).

(2) An applicant who fails to meet the vision standards in (1) of this subsection shall be given an "Additional Visual Screening Report" (Form DL20) to take to a vision specialist of the applicant's choice to determine if the vision can be corrected to meet the standards in (1) of this subsection. The applicant must return the completed Form DL20 to the Driver Examiner after visiting the vision specialist. The visual acuity and field of vision readings of the vision specialist shall be the readings accepted by the Department. Any recommendations by the vision specialist regarding the driving ability or limitations of the applicant shall be followed by Department.

(3) If the vision specialist:

(A) is able to correct vision to meet the standards of (1) of this subsection, the applicant may be further considered by the Department for a commercial driver license, or

(B) is unable to correct vision to meet the standards of (1), the applicant will be referred to:

(i) for an interstate Class A, B, or C commercial driver license, to the Federal Motor Carrier Safety Administration, Oklahoma Division Office, 300 N. Meridian, Suite 106 South, Oklahoma City, OK 73107, 405-605-6047, or

(ii) for an intrastate Class A, B, or C commercial driver license, if the applicant has been continuously operating as a commercial driver with the proper type of driver license prior to and since June 12, 1989, to the Medical Desk, Department of Public, P.O. Box 11415, Oklahoma City, OK 73136-0415, 405-425-2083.

(4) The Federal Motor Carrier Safety Administration will make the final determination as to whether the applicant may be further considered by the Department for an interstate Class A, B, or C commercial driver license.

(A) If the Administration authorizes the applicant for further consideration, the Administration will issue a waiver to the applicant which will include any recommendations to the Driver License Examining Division as to driving limitations deemed necessary for the condition of the applicant.

(B) If the Administration does not authorize the applicant for further consideration, the applicant may

contact the Medical Desk of the Department, as provided in (3)(B)(ii) of this subsection, for consideration for a waiver for an intrastate Class A, B, or C commercial driver license, if the applicant has been continuously operating as a commercial driver with the proper type of license prior to and since June 12, 1989.

(5) The Medical Desk of the Department will make the final determination as to whether the applicant may be further considered by the Department for an intrastate Class A, B, or C commercial driver license.

(A) If the Medical Desk authorizes the applicant for further consideration, the Desk will issue an authority letter to the applicant which will include any recommendations to the Driver License Examining Division as to driving limitations deemed necessary for the condition of the applicant.

(B) If the Medical Desk does not authorize the applicant for further consideration, the Desk will issue a letter to the applicant stating that authority is being denied. The applicant may appeal the denial pursuant to OAC 595:10-5-18.

(f) **Restrictions.** The Department of Public Safety may impose restrictions on those applicants under (c) and (d) of this section whose visual acuity does not meet standards established in OAC 595:10-5-7, restricting the operation of a motor vehicle to specified area, time of day, streets and highways, speed limits and any other restriction deemed necessary by the Commissioner of Public Safety for the safe operation of a motor vehicle. An extended skills test may be conducted to determine the appropriate restriction. Such restrictions shall apply if the applicant is licensed by the Department to operate a motor vehicle.

595:10-3-7. Knowledge test

(a) **General.** A knowledge test is administered to each applicant for a driver license to determine the person's ability to read and understand highway signs and the person's knowledge of the traffic laws of this state. The knowledge test, if it is not waived, and the vision test shall be successfully passed by the applicant before the skills test is administered. The knowledge test includes, when applicable, any separate endorsement/restriction test as described in this Section. An applicant determined by an examiner to be cheating on any portion of an examination shall:

- (1) immediately forfeit the examination,
- (2) be given a failing score by the examiner, and
- (3) be disqualified from retaking the examination for one week.

(b) **Class D driver license.** The knowledge test administered for a Class D driver license shall consist of a minimum of twenty (20) multiple choice questions. The minimum passing score for a Class D knowledge test shall be seventy-five percent (75%).

(c) **Class A, B, or C commercial driver license.**

(1) **Knowledge test.** The knowledge test administered for a Class A, B, or C commercial driver license shall consist of a minimum of thirty three (33) multiple choice

questions. The minimum passing score for a Class A, B, or C knowledge test shall be eighty percent (80%). In addition, the combination test administered for a Class A license shall consist of a minimum of twenty (20) multiple choice questions. The minimum passing score shall be eighty percent (80%).

(2) **Written pre-trip inspection test.** The written pre-trip inspection test administered for a Class A, B, or C commercial driver license shall consist of seven (7) multiple choice questions. The minimum passing score shall be six (6) questions correct out of the seven (7) questions.

(3) **Physical pre-trip inspection test.** The physical pre-trip inspection test administered for a Class A, B, or C commercial driver license shall consist of a minimum of nine (9) and a maximum of twenty seven (27) items of inspection and shall be performed only on commercial vehicles with air brakes, depending on the type and axle configuration of the vehicle. The test shall include the items prescribed in 595:10-3-8.

(d) **Endorsement.** The minimum number of multiple choice questions and the minimum passing score for each endorsement/restriction test shall be as follows:

- (1) "P" Passenger — 20 questions — 80% score
- (2) "H" Hazardous Materials — 30 questions — 80% score
- (3) "N" Tank Vehicle — 20 questions — 80% score
- (4) "M" Motorcycle — 20 questions — 75% score
- (5) "S" School Bus — 20 questions — 80% score. On and after July 15, 2004, the Department shall begin implementation of the "S" endorsement on commercial driver license for any person who is certified by the State Department of Education to operate a school bus. On and after July 15, 2004, and until and through September 30, 2005, any person who presents valid and current evidence of completion of a twenty five (25) hour school bus driver certification course sanctioned by the State Department of Education along with his or her current Oklahoma commercial driver license, with a passenger endorsement, shall be authorized to apply for the "S" endorsement without additional examinations. Expired school bus certifications shall not be accepted. On and after October 1, 2005, any applicant for a school bus endorsement shall be required to take both knowledge and skills examinations, administered by examiners or certified designated examiners of the Department.
- (6) "T" Double or triple Trailers — 20 questions — 80% score

(e) **Restriction.** Failure to pass at least 80% of the 25 questions regarding air brakes will result in a restriction code "V" (Vehicle Without Air Brakes) being placed on the applicant's license upon issuance. The applicant shall be prohibited from taking the skills examination in a vehicle with air brakes.

(f) **Alternate method of testing.** The Department may provide an alternate method of testing the knowledge of the individual who cannot read or has a language barrier.

(g) **Retesting.** An applicant failing the knowledge, combination, or endorsement test may be granted the opportunity to retest on the next regular business day.

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(he) **Discretionary tests.** Tests may be administered as required for the establishment and authorization of special endorsements or of permits for the operation of certain vehicles.

(i) **Restricted Class A, B, or C commercial driver license.** Any person eighteen (18) years of age or older may apply for a Class A, B, or C commercial driver license, as provided in 47 O.S. §6 101(F), solely for the purpose of behind the wheel training while accompanied by a licensed driver twenty one (21) years of age or older holding a valid license for the class of vehicle being driven including any and all required endorsements.

(1) The restricted commercial driver license shall be issued as provided for 47 O.S., § 6 101(F)(2). Any person may reapply for another restricted commercial driver license by complying with all requirements for the class of restricted license desired.

(2) A hazardous materials (H) endorsement shall not be placed on a restricted commercial driver license.

595:10-3-8. Pre-trip inspection of Class A, B, and C commercial vehicles [REVOKED]

(a) **Condition of vehicle.** It is the responsibility of the applicant to furnish for the driving skills examination a commercial motor vehicle in good working order which meets all state rules and federal requirements.

(b) **In general.** Applicants for a commercial driver license shall pass a vehicle pre trip inspection test at the designated inspection location. The pre trip inspection test:

(1) shall be performed in a vehicle representative of the vehicle class for the type of commercial driver license for which the applicant is applying;

(2) shall not be performed using a vehicle transporting hazardous materials or a vehicle which is required to be placarded for hazardous materials under the rules of the Department of Public Safety or federal law;

(3) shall not be performed using a vehicle which requires an oversize permit under state law or Department of Public Safety rules;

(4) shall not be performed using a vehicle that was not designed and constructed by the manufacturer with a seating capacity for one or more persons in addition to the driver, and

(5) shall not be performed with the aid or assistance of notes or prompting. An applicant determined by an examiner to be cheating on any portion of an examination shall:

- (A) immediately forfeit the examination,
- (B) be given a failing score by the examiner, and
- (C) be disqualified from retaking the examination for one week.

(c) **Scoring procedure.** The scoring procedure will be on a system based on the applicant's ability to identify and explain the function or purpose of each item required to be inspected. Failure to perform any of the following actions will constitute an automatic failure:

(1) an air brakes leakage test while the engine is running;

(2) turn the ignition key to the "on" or "accessory" position for air brake bleed down test, or

(3) release the parking brake for air leakage and bleed down test.

(d) **Components.** The vehicle pre trip inspection test may include, but not be limited to, the inspection of the following items:

(1) **All vehicles:**

(A) Engine compartment

(i) air compressor

(ii) leaks

(B) Engine start

(i) air buzzer sounds

(ii) air brakes

(2) **Tractor only:** air, electric lines

(3) **Truck, school buses, tractors and coach/transit buses:**

(A) Front brake

(i) Slack adjustor

(ii) chamber

(iii) hoses

(iv) drum

(B) Rear brakes

(i) slack adjustor

(ii) chamber

(iii) hoses

(iv) drum

(4) **Trailer:**

(A) Trailer front air/electric connect

(B) Brakes

(i) slack adjustor

(ii) chamber

(iii) hoses

(iv) drum

595:10-3-9. Skills examination

(a) **In general.** The skills examination shall only be administered after the applicant has successfully passed the knowledge test, or had it waived if eligible, and the vision test. Whenever a skills examination is required, the following general conditions shall apply:

(1) The skills examination shall start at a designated location and shall include an actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle. Applicants shall furnish the type of vehicle required for the Class D skills examination necessary for the class of driver license requested. A vehicle used for a Class A, B, or C skills examination not equipped with air brakes will be required to have driving restriction code "V" (Vehicle without air brakes) placed on the license of the applicant.

(2) The skills examination shall not be administered in a vehicle:

(A) transporting hazardous materials or a vehicle which is required to be placarded for hazardous materials,

~~(B) which requires an oversize permit under the laws of this state or the rules of the Department of Public Safety,~~

~~(C) which was not designed and constructed by the manufacturer with a seating capacity for one or more persons in addition to the driver,~~

~~(D) which is not insured as required by 47 O.S. §7-600 et seq.,~~

~~(E) which does not have a current license plate, or~~

~~(F) which is saddle mounted,~~

~~(G) which is a wrecker vehicle towing another vehicle, or~~

~~(H) which is not equipped with seatbelts, if the vehicle was originally manufactured and equipped with seatbelts.~~

(b) **Scoring of examination.** The scoring procedure will be on a cumulative deduction system based on poor driving practices. The Commissioner or the Commissioner's representative shall determine a point value for each improper driving act.

(c) **Content of examination for Class D driver license.**

(1) The skills examination shall include, but not be limited to, the following maneuvers:

(A) Starting,

(B) Backing (excluding two-wheel and three-wheel vehicles),

(C) Parallel parking (excluding commercial motor vehicles over 26,001 pounds GVWR and two wheel vehicles),

~~(D) Hill parking (excluding two-wheel and three-wheel vehicles),~~

~~(E) Starting on hill (excluding two-wheel and three-wheel vehicles),~~

~~(F) Intersection movement and observance,~~

~~(G) Lane observance and changing,~~

~~(H) Left and right turns,~~

~~(I) Pedestrian and vehicle right-of-way,~~

~~(J) Proper use of automatic transmission or clutch gear (excluding two-wheel or three-wheel vehicles),~~

~~(K) Use of brake and accelerator, and~~

~~(L) Traffic lights or signals.~~

(2) The skills examination will not be conducted when examination route roadways are considered by the examiner to be slick or hazardous due to inclement weather.

(3) Criteria for a skills examination are as follows:

(A) Starting: To determine if the individual is familiar with the vehicle's controls and proper use, and to determine the individual's skill and ability to move the vehicle from a parking space or parking lot into the traffic lane.

(B) Backing: To determine the individual's ability to control vehicle while backing.

~~(C) Parallel parking: To determine the proficiency an individual has attained in coordinating judgment, skill, and ability to park a vehicle and drive away from a designated area, and to maneuver the vehicle in close quarters.~~

~~(D) Hill parking (stopping and starting): To determine if the individual has the ability to park a vehicle~~

on an incline in a safe manner and leave that position in a safe manner.

~~(E) Transmission (automatic or standard): To determine if the individual has the coordination and ability necessary for reasonable control of the vehicle.~~

~~(F) Brakes: To determine the individual's skill and physical ability in the proper usage of the brake(s).~~

~~(G) Control of speed: To determine the speed the individual maintains relative to speed limits and other traffic.~~

~~(H) Gap selection: To determine whether the individual exercises proper judgment when entering or leaving the roadway, when turning or crossing an intersection, or when changing lanes.~~

~~(I) Driver alertness: To determine whether the individual observes and is aware of situations and circumstances which play an important part in safe driving.~~

~~(J) Right-of-way: To determine the individual's knowledge of right-of-way and the ability to react properly, and to determine whether an individual shares the road properly with other drivers and pedestrians.~~

~~(K) Legal stop: To determine whether the individual observes, understands, and obeys stop signs and traffic signals.~~

~~(L) Traffic lights or signs: To determine whether the individual sees, understands, and obeys traffic lights and other signs.~~

~~(M) Signals: To determine whether the individual gives the proper signal when driving away from the curb, changing lanes, or turning.~~

~~(N) Lane usage: To determine whether the individual has the knowledge and ability to use lanes properly.~~

~~(O) Observation: To determine whether the individual observes those things which are necessary for safe driving.~~

~~(P) Final Park: To determine the individual's ability to park the vehicle at the conclusion of the skills examination in a manner compatible with safe driving practices and statutory requirements.~~

~~(Q) Left turn items scored:~~

~~(i) Cuts corner on approach.~~

~~(ii) Cuts corner on lane entry.~~

~~(iii) Turns into the wrong lane (does not affect other traffic).~~

~~(iv) Turns from wrong lane (does not affect other traffic).~~

~~(v) Turns wheels while stopped, waiting to make turn.~~

~~(vi) Too wide on lane entry.~~

~~(vii) Fail to signal turn for at least 100 feet before turning.~~

~~(viii) Fail to approach turn in the proper lane.~~

~~(R) Right turn items scored:~~

~~(i) Too wide on approach.~~

~~(ii) Too wide on lane entry.~~

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- (iii) Turns from wrong lane (does not affect other traffic).
 - (iv) Turns into wrong lane (does not affect other traffic).
 - (v) Bumps, scrapes, or climbs curb.
 - (vii) Fail to signal turn for at least 100 feet before turning.
 - (viii) Fail to approach turn in the proper lane.
- (SR) Passenger vehicles other than school buses or vehicles transporting passengers for hire are not required to stop at a railroad crossing.
- (4) Disqualifications are as follows:
- (A) ~~Collision with an object or a person. **Seat belt not in use.** Applicant fails to use seat belt. The seat belt shall be properly adjusted and fastened before the vehicle enters a public roadway.~~
 - (B) ~~Violation of traffic laws. **Moving traffic violation.** Applicant received a traffic citation for a moving violation during the skills examination.~~
 - (C) ~~Collision prevented by defensive driving on the part of another driver, or evasive or defensive action taken by a pedestrian. An act which interferes with other vehicles or pedestrians, or otherwise could be considered an act or action that endangers lives or property shall constitute immediate failure. **Disobey sign or signal.** Applicant ignored or did not obey sign or signal.~~
 - (D) ~~Action that results in damage to a vehicle or vehicles or property, or personal injury. **Driver speeding.** Applicant's speed is more than five (5) miles per hour over the posted speed limit or the lawful speed limit for the vehicle being driven.~~
 - (E) ~~Applicant's refusal to attempt to comply with the examiner's instruction. **Fail to stop.** Applicant rolled through stops or failed to stop.~~
 - (F) ~~Examiner must aid in controlling the vehicle physically or by voice command. **Traffic laws.** Applicant ignored or did not obey traffic laws.~~
 - (G) ~~An applicant offers a bribe or gratuity. **Yield to others.** Applicant did not yield to other road users (pedestrians, vehicles, etc.) Applicant did not appropriately yield the right-of-way to pedestrians or other vehicles during driving maneuvers.~~
 - (H) ~~Applicant is unable or fails to operate the controls needed for the inspection of the vehicle. **Left of center.** Applicant drives left of center (except when needed to perform a turn safely or to proceed safely on a direct course.~~
 - (I) **Avoidable crash or incident or dangerous act.**
 - (i) Applicant involved in an avoidable crash or collision.
 - (ii) Applicant's vehicle has physical contact with other vehicles, objects, pedestrians, etc.
 - (iii) Applicant commits any act or omission that creates a dangerous or unsafe traffic environment (near accidents, etc.).
 - (iv) Applicant's actions causes drivers of other vehicles or pedestrians to take evasive actions.
 - (v) Applicant's actions force examiner to take verbal or physical control of the vehicle.
 - (J) **Put vehicle over sidewalk or curb.** Applicant put vehicle over curbs or sidewalks unnecessarily.
 - (K) **Weighted Offenses.** Accumulation of four (4) or more of any of the following offenses, in any combination:
 - (i) Failure to use turn signal.
 - (ii) Coasting on a downgrade (gears in neutral or clutch disengaged).
 - (iii) Consistently goes over speed limit.
 - (iv) Proceed through intersection on yellow light when applicant could stop without creating a dangerous situation.
- (d) ~~Content of examination for Class A, B, or C commercial driver license. The skills examination shall be conducted in conformance with 49 C.F.R., Section 383. The following actions by the applicant during the skills examination shall result in the applicant being disqualified from retaking the examination for one week:~~
- (1) a collision with an object or a person;
 - (2) any violation of traffic laws;
 - (3) a potential collision which is prevented by defensive driving on the part of another driver or by evasive or defensive actions taken by a pedestrian;
 - (4) an act which interferes with another vehicle or a pedestrian or which otherwise could be considered an act or action that endangers life or property;
 - (5) an action that results in damage to any vehicle or property or in personal injury;
 - (6) the refusal by an applicant to attempt to comply with the instructions of the examiner;
 - (7) an action requiring the examiner to aid in controlling the vehicle either physically or by voice command;
 - (8) an applicant offering a bribe or gratuity to the examiner; or
 - (9) the inability or failure of the applicant to operate the controls needed for the inspection of the vehicle.
- (e) **Retesting.**
- (1) Applicants who fail the skills examination for a driver license or the motorcycle endorsement may be granted the opportunity to retest following a minimum waiting period of one (1) week on the next available regular business day as scheduling permits. When an applicant fails to qualify for a Class A, B, C, or D license after three (3) skills examination attempts, he or she will be required to obtain a restricted driver license, restricting the individual to operating a motor vehicle while accompanied by a qualified licensed driver in the front seat, before another skills examination will be administered.
 - (2) The Department shall conduct the skills examination for the holder of a restricted Class A, B, or C commercial driver license not more than three (3) times during the first one hundred eighty (180) days after the date of issuance of the restricted license and not more than one

~~(1) time every ninety (90) days thereafter at the request of the restricted licensee [47 O.S. § 6-101(F)(2)].~~

~~(3) The Department shall conduct the skills examination for the holder of a restricted Class D driver license not more than three (3) times, each time at least seven (7) days apart or as instructed by the examiner, beginning thirty (30) days from the date of issuance of the restricted license. Should the restricted licensee fail the third examination, the licensee shall wait thirty (30) days before being given another skills examination by the Department. The fourth and subsequent examinations shall be given not more than one (1) time every thirty (30) days thereafter at the request of the restricted licensee.~~

~~(43) In computing any time period prescribed by this subsection, the day of the failed examination from which the designated period of time begins to run shall not be included. The last day of the period computed shall be included, unless it is not a working day, in which event the period runs until the end of the next working day.~~

~~(4e) **Minimum waiting period for examination.** The holder of a restricted driver license will not be eligible to have a skills examination administered until after a minimum of thirty (30) days following the issuance of such license, provided the applicant is at least sixteen (16) years of age. However, the holder of a restricted Class A, B or C commercial driver license, restricting the holder to being accompanied by a licensed driver twenty one (21) years of age or older holding a valid license for the class of vehicle being driven, may have the thirty day waiting time waived, provided the holder of such restricted license is currently receiving instruction or has completed the driver training program conducted by a commercial truck driver education school licensed by the Department, a school bus driver education course conducted by the State Department of Education, or a truck driver training course offered by the Oklahoma Department of Career and Technology Education. Evidence of course completion or evidence the applicant is currently receiving instruction is required. In computing the 30-day time period prescribed by this subsection, the day on which the restricted driver license is issued shall not be included. The last day of the period computed shall be included, unless it is not a working day, in which event the period runs until the end of the next working day.~~

~~(4f) **Skills examination for severely handicapped.** Any severely handicapped individual, who has completed the standard skills examination and not been disqualified, will continue to drive an extended route, as provided in this subsection, in order to evaluate the operation of special equipment that may be required because of the handicap.~~

~~(1) The extended skills examination will be at least thirty (30) minutes long, making the total examination at least forty-five (45) minutes in duration. However, the individual may be given a four-minute rest stop midway through the examination.~~

~~(2) The extended skills examination will consist of interstate, expressway, or highway driving, or a combination of such driving situations, where possible so that a better evaluation may be rendered. Key points in this portion of the skills examination are as follows:~~

- ~~(A) Proper usage of acceleration and deceleration lanes,~~
- ~~(B) Lane usage,~~
- ~~(C) Highway speed control,~~
- ~~(D) Reaction to larger vehicles and fast traffic, and~~
- ~~(E) Use of special control devices.~~

~~(3) If the individual fails to adequately perform on the extended portion of the examination, at the discretion of the driver examiner, the individual will be notified when he or she is eligible to return for the next examination.~~

~~(4g) **Substitute for skills examination.** A skills examination may be waived for a licensee when one of the following requirements is met:~~

~~(1) The licensee is the holder of a valid commercial driver license from one of the fifty (50) states, the District of Columbia, or a Canadian province.~~

~~(2) The licensee is a fireman or an active member of a branch of the military, provided the person for the two (2) years immediately preceding application for a commercial driver license [49 C.F.R. Parts 383 and 391];~~

~~(A) can show, with proper documentation, that he or she has operated a representative class vehicle,~~

~~(B) certifies that he or she has not been licensed by more than one jurisdiction at the same time,~~

~~(C) certifies that he or she has not had any suspension, revocation, cancellation, denial, or disqualifications of driving privileges in the two (2) years immediately preceding application,~~

~~(D) has not been convicted of any major disqualifying offense, as defined in 47 O.S. § 6-205.2,~~

~~(E) has not been convicted more than once of a serious traffic offense, as defined in 47 O.S. § 6-205.2, regardless of type of vehicle the offense occurred in, and~~

~~(F) certifies that he or she has not been involved in any collision in which he or she was recorded as being at fault.~~

~~(3) The licensee is applying for a Class D driver license, provided all established requirements for a Class D license have been satisfied, and the licensee is licensed at the time of application by one of the fifty (50) states, by the District of Columbia, by a Canadian province, or by another country; provided, the current driver examination requirements of the country must be on file with the Department and must meet or exceed the standards, specifications, and requirements of the Department as set out in this Subchapter [47 O.S. § 6-110(A)(2)].~~

~~(42) The licensee:~~

~~(A) has enrolled in and successfully completed a course taught by an instructor certified by the Motorcycle Safety Foundation and using the Motorcycle Safety Foundation curriculum, and~~

~~(B) submits to the Department at the time of application for a motorcycle endorsement a Motorcycle RiderCourse® or an Experienced RiderCourse® completion card filled out by the certified instructor [47 O.S. §6-101(D)].~~

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(i) ~~**Exemption from skills examination.** Any current licensee who is changing from a Class D driver license to a Class C commercial driver license with a hazardous materials endorsement is not required to take a skills examination unless the vehicle is equipped with air brakes.~~

than twenty percent (20%) may cause a restriction of "daylight driving only" along with any other appropriate restrictions as determined in accordance Title 47 of the Oklahoma Statutes or O.A.C. 595:10-5 (Medical Aspects), or both, to be placed on the driver license of the person.

(b) No exemption shall be allowed for luminous reflectance.

SUBCHAPTER 5. MEDICAL ASPECTS

PART 1. MEDICAL CONDITIONS

595:10-5-1. Purpose

To operate a motor vehicle, a driver ~~must~~ shall possess certain physical and mental abilities. The first and primary purpose and intent of the Department of Public Safety is to license new applicants and to renew driver licenses of persons with these abilities but, when necessary, to restrict, deny, cancel, or disqualify the driving privilege of those applicants or licensees who present an unwarranted risk or do not meet the minimum standards.

595:10-5-36. Tinted windows and windshields exemption

The Department of Public Safety shall, upon the approval of the tinted window and windshield exemption, provide an exemption letter to the applicant. The exemption shall include the applicant's name, address, vehicle information, and the percentage of tinting allowed. The exemption shall not be transferable and shall be presented upon request by any law enforcement officer. The exemption shall be valid only for the vehicle listed on the letter.

595:10-5-37. Exemptions issued prior to this rulemaking

An exemption issued prior to the effective date of the rules in this Part shall remain valid as provided in the exemption. However, in the event an application is received for another vehicle for an applicant previously issued an exemption, these rules shall apply as if no prior exemption had been issued.

PART 3. MEDICAL EXEMPTION FOR TINTED WINDOWS AND WINDSHIELDS

595:10-5-31. Purpose

Pursuant to 47 O.S., § 12-422, the rules in this Part provide procedures for administering the medical exemptions to the statutory restrictions on tinted windows and windshields.

595:10-5-38. Ability to safely operate a motor vehicle

To safely operate a motor vehicle a driver shall possess certain physical abilities. Pursuant to this Subchapter, in the event the application for a tinted window or windshield exemption lists a condition which may affect the ability to safely operate a motor vehicle, or a progressive condition which may later affect that ability, or both, the person may be required to furnish additional medical reports or be subject to a reexamination by the Department of driving skills, or both, and shall otherwise meet the statutory standards and Medical Aspects standards [see this Subchapter] for licensing. The person may also be required to furnish future medical reports to the department.

595:10-5-32. Definitions

Words and terms, when used in this Part, shall have the same meaning as defined in 47 O.S., § 12-422, as well as other sections of Title 47 of the Oklahoma Statutes, and as defined in OAC 595:10-5 Medical Aspects.

595:10-5-33. Application

A person requesting a medical exemption related to tinted windows or windshields shall make application on a form prescribed by the Department of Public Safety.

595:10-5-34. Applicability

A medical exemption for tinted windows and windshields shall apply only to a person who has a diagnosed and documented medical reason to be shielded from the direct rays of the sun, supported by written attestation from the person's physician who is licensed pursuant to 59 O.S., § 495 and who has diagnosed or is treating the applicant for a condition which necessitates a medical exemption from window and windshield tinting laws prescribed in 47 O.S., § 12-422.

595:10-5-35. Percentage of light transmission allowed on exemptions

(a) The minimum allowed percentage of light transmission shall be fifteen percent (15%); provided, an exemption of less

SUBCHAPTER 9. CERTIFIED SCHOOLS AND DESIGNATED EXAMINERS [REVOKED]

595:10-9-1. Purpose [REVOKED]

~~This Subchapter establishes requirements and procedures standards for the certification of public and technology center schools and of driver training instructors to administer driving skills examinations on the premises of the school to qualified applicants for a Class A, B, or C commercial driver license.~~

595:10-9-2. Scope and application [REVOKED]

~~The provisions of this Subchapter shall apply only to schools and persons described under the following agreements:~~

(1) Memorandum of Understanding entered into on July 1, 2006, by and between the Department of Public Safety and the State Board of Education.

(2) Memorandum of Understanding entered into on January 1, 2007, by and between the Department of Public Safety and the Oklahoma Department of Career and Technology Education.

595:10-9-3. Definitions [REVOKED]

In addition to terms defined in 47 O.S., Section 1-101 et seq., the following words or terms, when used in this Subchapter, shall have the following meaning unless the context clearly indicates otherwise. Use of the singular term includes the plural, and use of the plural term includes the singular.

"High school" means a public school which is a secondary school, as defined in 70 O.S., Section 1-106, within a school district, as defined in 70 O.S., Section 1-108 which offers a school bus driver training course approved by the State Board of Education.

"Technology center school" means a technology center school within technology center school district, established pursuant to Section 9B of Article X of the Oklahoma Constitution and operated in accordance with the rules of the Oklahoma Board of Career and Technology Education which offers a school bus driver training course approved by the State Board of Education or a truck driver training course approved by the State Board of Education.

"Designated examiner" means a driver training instructor employed by a certified school who has been approved by the Department of Public Safety to administer, on the premises of the certified school employing the instructor, the examination, as defined in this Section, for an Oklahoma Class A, B, or C commercial driver license. A designated examiner is not an employee of the Department of Public Safety.

"Certified school" means a high school or technology center school approved by the Department of Public Safety to provide, on the premises of the school, the driving skills examinations for Oklahoma Class A, B, or C commercial driver licenses.

"Department" means the Department of Public Safety.

"Examination" means the driving skills portion of the examination for an Oklahoma Class A, B, or C commercial driver license, including an examination to upgrade the current commercial driver license of a driver license applicant or an examination to remove restriction "V" from the current commercial driver license of a driver license applicant, administered on the premises of a certified school by a designated examiner employed by that school.

"Federal Motor Carrier Safety Administration" means the United States Department of Transportation Office of Motor Carrier Safety, 300 N. Meridian, Suite 106 South, Oklahoma City, Oklahoma 73107, (405) 605-6047.

"Driver training instructor" means an employee of a certified school who has been approved by the State Board of Education to teach school bus driver training courses, or has been approved by Oklahoma Board of Career and Technology Education to teach truck driver training courses, or who has the appropriate approval to teach both courses.

595:10-9-4. Requirements for certification as a certified school; display of certificate; certification renewal [REVOKED]

(a) **Requirements and application for certification.** A high school or technology center school may apply for certification as a certified school. The applying school must meet the following requirements:

(1) Be actively enrolling students and teaching a formal course of instruction for school bus drivers training as approved by the State Board of Education or truck driver training as approved by the Oklahoma Board of Career and Technology Education.

(2) Obtain written approval from:

(A) the State Board of Education, if the school is a high school, or

(B) the Oklahoma Board of Career and Technology Education, if the school is a technology center school.

(3) Submit an application to the Department on a form prescribed by the Department [see 595:10-9-13].

(4) Have its on-site examination route or routes examined and approved by an employee of the Department. A route:

(A) must start and end on the premises or property of the certified school, unless otherwise approved by the Department,

(B) must meet all state and federal requirements,

(C) may not be altered or changed in any manner without first being examined and approved by the Department, and

(D) may not be replaced by an alternate route unless the alternate route is first examined and approved by the Department. If, during the course of the examination, it is determined that any of the approved routes could not be followed, the designated examiner shall notify the Department in writing as soon as possible as to the reason for the change in route.

(5) Agree to:

(A) meet minimum examination standards required by the Department and by the Federal Motor Carrier Safety Regulations [49 C.F.R. § 383];

(B) allow access to school facilities by the Department and by the Federal Motor Carrier Safety Administration for the purpose of monitoring examinations and examining records;

(C) comply with the Oklahoma Open Records Act [51 O.S., Section 24a.1 et seq.] with regard to records kept pursuant to this Subchapter;

(D) maintain security of examination documents and related material as deemed necessary by the Department;

(E) ensure all examinations are administered by a designated examiner;

(F) ensure designated examiners administer the examination only to driver license applicants who:

(i) have enrolled in and successfully completed a formal course of instruction, as submitted

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to and approved by the Department, at the institution where the designated examiner is employed and certified, and

(ii) have an Oklahoma restricted commercial driver license and Oklahoma Class D driver license;

(G) ensure no person acts as a designated examiner without current certification from the Department;

(H) provide immediate written notification to the Department of any impropriety or misconduct of any designated examiner employed by the school;

(I) acknowledge that the Department reserves the right to take prompt and appropriate remedial action against the certification of any school or of any designated examiner in the event that the school or the designated examiner fails to comply with:

(i) any state law, Department rule, or federal regulation regarding the examination of an applicant for an Oklahoma Class A, B, or C commercial driver license, or

(ii) any terms of the appropriate memorandum of understanding or of a subsequent contract or agreement entered into pursuant to the memorandum of understanding;

(J) maintain records of all designated examiners employed by the school and copies of all documents relating to examinations administered for a period of not less than three (3) years;

(K) immediately notify the Department by telephone, followed by written notification within five (5) days, of the termination of employment of any designated examiner. The official seal of the Department, and the certificate and identification card issued by the Department to the designated examiner shall be returned to the Department with the written notification;

(L) immediately notify the CDL Coordinator within the Driver License Examining Division of the Department by telephone or first class mail of any fraudulent applications made to them to obtain an Oklahoma commercial driver license; and

(M) acknowledge that the Department reserves the right to randomly reexamine applicants tested by designated examiners for purposes of quality assurance.

(b) **Certification.** Upon acceptance and approval by the Department of the application for certification from a high school or technology center school, or upon acceptance and approval by the Department of the application for renewal of certification from a certified school, and upon completion to the satisfaction of the Department by the school of all other requirements for certification, the Department will provide the certified school with a certificate evidencing approval by the Department as a certified school. The certificate shall be posted at the examination location at the certified school and in full view of the public. The certificate shall be valid for five (5) years.

(e) **Renewal of certification.** A certified school may apply for renewal of certification as a certified school. The school must meet the following requirements:

(1) Have evidence on file with the Department of a satisfactory on-site inspection conducted by an employee of the Department prior to renewal.

(2) Employ at least one designated examiner.

(3) Submit an application for renewal on a form prescribed by the Department no later than December 1 of the year of expiration [See 595:10-9-13].

595:10-9-5. Requirements for certification as a designated examiner, display of certificate, certification renewal [REVOKED]

(a) **Requirements and application for certification.** A driver training instructor may apply for certification as a designated examiner. The applicant must meet the following requirements:

(1) Meet all the requirements for a Driver License Examiner of the Department [47 O.S. §2-106(c) and (d)].

(2) Complete an application provided by the Department [see 595:10-9-13] and submit a certified criminal history report from the Oklahoma State Bureau of Investigation certified within the immediately preceding thirty (30) days and, if the applicant has not lived in Oklahoma for the immediately preceding five (5), a criminal background check from the agency responsible for keeping criminal history in the state or states of previous residence.

(3) Be employed by a certified school.

(4) Have and maintain throughout the time period to be covered by the certification:

(A) a valid Oklahoma commercial driver license for the class or classes of vehicle, including any endorsement or endorsements, for which the instructor desires to administer examinations; provided, the applicant shall not be required to have a hazardous materials endorsement (Endorsement H);

(B) in order to administer school bus examinations, a current School Bus Workshop Instructor Certificate issued by the State Board of Education;

(C) in order to administer truck examinations, a current certificate issued by the Oklahoma Board of Career and Technology Education showing the applicant has met the current requirements.

(5) Successfully complete a course of instruction prescribed by the Department [see 595:10-9-6].

(6) Meet the same vision standards as for Driver License Examiners of the Department.

(7) Have full use of both upper and lower extremities.

(8) Shall pass knowledge and skills examinations administered by the Department of Public Safety. If the applicant fails to pass either required examination after three (3) attempts, the applicant shall be denied certification as a designated examiner and may reapply after a twelve-month waiting period.

- (9) Agree to submit monthly reports, by the tenth business day of the following month, to the Department detailing examining activity.
- (b) **Ineligibility based upon driving record or criminal record.** A driver training instructor shall be deemed to be ineligible for certification as a designated examiner upon evidence of a record of any of the following convictions:
- (1) Two (2) or more convictions for a moving traffic offense within the twelve (12) months immediately preceding the application.
 - (2) Any alcohol or drug related conviction requiring the Department to revoke, suspend, or disqualify the instructor's driving privilege within the five (5) years immediately preceding the application.
 - (3) Any conviction for any offense which required or will require the Department to take any type of action against the instructor within the three (3) years immediately preceding the application, including, but not limited to:
 - (A) a warning letter, or
 - (B) a revocation, suspension, cancellation, denial or disqualification of the instructor's driving privileges.
 - (4) Any of at least six (6) months from the date the examiner was notified he or she was not a misdemeanor conviction, except for a misdemeanor conviction for a traffic offense, within the five (5) years immediately preceding the application.
 - (5) Any felony conviction in this state or any other state or country.
- (c) **Certification.** Upon acceptance and approval by the Department of the application for certification from a driver training instructor, or upon acceptance and approval by the Department of the application for renewal of certification from a designated examiner, and upon completion to the satisfaction of the Department by the instructor or designated examiner of all other requirements for certification, the Department will provide the designated examiner with:
- (1) a certificate evidencing approval by the Department as a designated examiner, which shall be posted at the examination location at the certified school and in full view of the public. The certification will be valid for four (4) years.
 - (2) an identification card to be carried by the designated examiner whenever the examiner is administering an examination.
 - (3) an official seal to be used by the designated examiner to be used as provided in 595:10-9-14.
- (d) **Renewal of certification.**
- (1) A certified designated examiner shall be eligible for renewal of certification if the examiner:
 - (A) submits an application for certification renewal upon a form provided by the Department no later than December 1 of each year [see 595:10-9-13],
 - (B) submits a certified criminal history report from the Oklahoma State Bureau of Investigation certified within the immediately preceding thirty (30) days and, if the applicant has not lived in Oklahoma

- for the immediately preceding five (5), a criminal background check from the agency responsible for keeping criminal history in the state or states of previous residence,
- (C) submits a current copy of the State Department of Education instructor certificate,
 - (D) is currently employed by a certified school,
 - (E) currently meets the requirements and standards of the Department as prescribed by this Subchapter,
 - (F) administered fifteen (15) or more examinations within the twelve (12) months immediately preceding the application for renewal of certification, and
 - (G) has passed all the written and the driving skills examinations for the class or classes of vehicle for which the designated examiner administers the examination. The examinations must be taken and passed every four (4) years, with a score of 80% or higher. If the applicant fails to pass either of the required examinations after three (3) attempts, the applicant will be denied recertification and may reapply after a twelve month waiting period.
- (2) Any driver training instructor who was previously certified as a designated examiner and whose previous certification has been expired for not more than one (1) year may make application for renewal of certification as provided in paragraph (1) of this section.
- (3) Any designated examiner who does not qualify for renewal of certification may apply, after a period of at least one (1) year from the date the examiner was notified he or she was not qualified for renewal of certification, for certification as a designated examiner and must meet all requirements as for an initial application for certification as a designated examiner.

595:10-9-6. Course of instruction for driver training instructors applying for certification as a designated examiner [REVOKED]

- (a) A driver training instructor apply for certification as a designated examiner shall enroll in and successfully complete a course of instruction as determined by the Department before the instructor will be considered for approval and certification as a designated examiner.
- (b) The Department will, from time to time, conduct a course of instruction for driver training instructors applying for certification as designated examiners. The Department will determine the standards and requirements for the curriculum and successful completion of the course of instruction. The curriculum shall include, but not be limited to, the following subjects:
- (1) Examination standards and scoring.
 - (2) Forms and reports.
 - (3) Oklahoma statutes.
 - (4) Department rules.
 - (5) Federal regulations.
 - (6) Hands on pre tripping [see 595:10-3-8 (relating to pre-trip inspections)].
 - (7) Behind the wheel driving.
 - (8) Records and recordkeeping.

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(e) The dates and locations of courses of instruction will be determined by the Department.

595:10-9-7. Examination requirements and standards [REVOKED]

(a) **Eligibility.** To be eligible for an examination, applicants must successfully complete, prior to the examination, a formal course of instruction, as submitted to and approved by the Department, by the institution where the examination will be administered.

(b) **Application.** Before an examination may be given to a driver license applicant by a designated examiner, the applicant must completely fill out and submit to the examiner an Oklahoma driver license application (DPS Form DL-18-CT) [see 595:10-9-13].

(c) **Physical Qualifications.** Prior to any examination applicants shall be provided with a copy of physical qualifications for drivers from the Federal Motor Carrier Safety Regulations [49 C.F.R. § 391.41].

(d) **Standards.** Current minimum standards for the examination of applicants for an Oklahoma commercial driver license, as set forth in state statutes, Department rules, and federal regulations, shall be provided to all certified schools and designated examiners by the Department.

(e) **School bus examination requirements.** The school bus examination for an Oklahoma Class B or C commercial driver license administered by a designated examiner shall:

- (1) include all specified school bus maneuvers as required by the Department, and
- (2) meet or exceed all requirements of the Department and of the Federal Motor Carrier Safety Act [49 C.F.R. § 391] for the class or classes of vehicle for which the driver license applicant is to be licensed.

(f) **Truck examination requirements.** The truck examination for an Oklahoma Class A, B, or C commercial driver license administered by a designated examiner shall:

- (1) include all specified maneuvers as required by the Department [see 595:10-3-9 (relating to skills test)] and the Federal Motor Carrier Safety Act [49 C.F.R. § 383].
- (2) meet or exceed all requirements of the Department and of the Federal Motor Carrier Safety Act [49 C.F.R. § 383].

(g) **Location of examination.** All examinations shall be administered on the route approved for the certified school employing the designated examiner.

595:10-9-8. Examination for emergency certification for bus drivers [REVOKED]

If the driver license applicant needs an emergency certificate as a bus driver, the designated examiner shall refer the applicant to the Department for examination.

595:10-9-9. Failed examinations and reexamination [REVOKED]

(a) If the driver license applicant fails an examination administered by a designated examiner, the designated examiner

may administer the examination to the applicant up to two (2) additional times. The designated examiner must wait the required amount of time before reexamining the applicant [see 595:10-3-7 and 595:10-3-9]. If the applicant fails the examination three (3) times, the designated examiner shall refer the applicant to the Department for any further examination.

(b) The designated examiner shall:

- (1) record each failed examination on application form DL-18-CT [see 595:10-9-13]; and
- (2) within twelve (12) hours, notify the Driver License Examining Division, CDL Help Desk, of the Department at (405) 425-2020 to report each failed examination.

595:10-9-10. Driver license applicant [REVOKED]

(a) Any driver license applicant who requests an examination from a designated examiner shall:

- (1) have enrolled in and successfully completed the school bus driver course or truck driver course approved by the Department, and
- (2) take the examination on route approved by the Department for the certified school employing the designated examiner.

(b) Any driver license applicant who does not pass the examination administered by a designated examiner:

- (1) must wait the required amount of time [see 595:10-3-7 and 595:10-3-9] before being reexamined, and
- (2) may be given no more than two (2) subsequent examinations by the designated examiner at the certified school. Further examination of the driver license applicant must be conducted by the Department.

(c) Any driver license applicant who needs an emergency certificate as a bus driver shall be examined only by the Department.

(d) Enrollment in or successful completion of a school bus driver course or a truck driver course, or successful passage of an examination administered by a designated examiner does not grant to the driver license applicant the privilege to operate any vehicle.

595:10-9-11. Records to be maintained by certified schools and designated examiners [REVOKED]

(a) **Certified schools.** A certified school shall be responsible for maintaining all records pertaining to:

- (1) the certification of the school,
- (2) designated examiners currently employed by the school,
- (3) the certification of each examiner,
- (4) designated examiners employed by the school for the last three (3) years,
- (5) examination certificates and pre-trip forms on tests administered by designated examiner,
- (6) form DL-18-CT,
- (7) class rosters for classes conducted,
- (8) commercial driver license permits,

- (9) driver license applicants to whom an examination was administered by a designated examiner employed by the school;
- (10) examinations and the scores of those examinations; and
- (11) records of previously certified designated examiners.

(b) ~~Designated examiner.~~ A designated examiner shall be responsible for assisting the school in the maintenance of records described in (a).

(c) All records are to be kept for a period of three (3) years and open for audit and inspection by the Department, the State Board of Education, the Oklahoma Board of Career and Technology Education, and the Federal Motor Carrier Safety Administration. An employee of any of the foregoing entities shall not be required to give prior notice before appearing to examine the records of a certified school or a designated examiner.

595:10-9-12. Records to be maintained at the Department [REVOKED]

(a) ~~School records.~~ The following records shall be maintained by the Department at its headquarters for each certified school, for each previously certified school, and for each high school and technology center school which submitted an application for certification but was denied certification by the Department:

- (1) The original application and all subsequent renewal applications, including investigative reports.
- (2) Evidence of approval or denial of the application by the Department.
- (3) Current designated examiners employed by the school.
- (4) Former designated examiners employed by the school within the last three (3) years.
- (5) Annual quality inspection reports.
- (6) Complaints received.
- (7) Commendations received.
- (8) Evidence of violation of any standard, requirement, state statute, Department rule, or federal law or regulation relating to driver license examination.
- (9) Correspondence.
- (10) Expired certifications.
- (11) Canceled, suspended or revoked certifications.
- (12) Audits.

(b) ~~Designated examiner and driver training instructor records.~~ The following records shall be maintained by the Department at its headquarters for each designated examiner and for each driver training instructor who submitted an application for certification as a designated examiner but was denied certification by the Department:

- (1) The original application and all subsequent renewal applications, including investigative reports.
- (2) Evidence of approval or denial of the application by the Department.
- (3) The name of the school where the examiner is employed.

- (4) The name of any school which employed the examiner within the last three (3) years.
- (5) Annual quality inspection reports.
- (6) Complaints received.
- (7) Commendations received.
- (8) Evidence of violation of any standard, requirement, state statute, Department rule, or federal law or regulation relating to driver license examination.
- (9) Correspondence.
- (10) Expired certifications.
- (11) Canceled, suspended or revoked certifications.
- (12) Individual files of audits.

(c) In addition to the records specified in paragraphs (a) and (b) of this Section, the Department shall make available to the public upon request a list of all current designated examiners and certified schools.

595:10-9-13. Prescribed forms [REVOKED]

(a) ~~Certified school application.~~ A high school or technology center school shall request an application from the Department to apply for certification as a certified school. A certified school shall request an application form from the Department to apply for renewal of certification as a certified school. The application will require the applying school to provide the following information:

- (1) Date of application.
- (2) Whether the application is an original or renewal application.
- (3) Name of the school.
- (4) Name and number of the school district.
- (5) Complete school physical address and mailing address.
- (6) County name and number.
- (7) Name of administrator or superintendent.
- (8) Telephone number of administrator or superintendent.
- (9) Name of transportation director.
- (10) Name of each designated examiner employed by the school, if the application is for renewal of certification.
- (11) Statement of agreement to comply with rules of the Department and with the provisions of the appropriate memorandum of understanding and any subsequent contracts and memorandums.
- (12) Any other information the Department deems necessary to process the application.
- (13) Signature of the administrator or superintendent.

(b) ~~Designated examiner application.~~ A driver training instructor shall request an application form from the Department to apply for certification as a designated examiner. A designated examiner shall request an application form from the Department to apply for renewal of certification as a designated examiner. The application will require the applicant to provide the following personal information:

- (1) Date of application.
- (2) Whether the application is an original or renewal application.
- (3) Full name.
- (4) Complete home address and mailing address.

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- (5) Telephone numbers (residence and business).
 - (6) Name of the employing school.
 - (7) Name and number of the school district in which the employing school is located.
 - (8) Date of birth.
 - (9) Social security number.
 - (10) Oklahoma commercial driver license number.
 - (11) Any other information the Department deems necessary to process the application.
 - (12) Signature of applicant.
- (e) **Certified school certificate.** The certificate for a certified school shall include, but not limited to, the following information:
- (1) Official name and seal of the Department.
 - (2) Official name of the school.
 - (3) School district name and number.
 - (4) City (when applicable) and county where the school is located.
 - (5) Type of certification.
 - (6) Date of certification.
 - (7) Expiration date of certification.
 - (8) A unique certification number.
 - (9) Name and signature of the Commissioner of Public Safety.
- (d) **Designated examiner certificate.** The certificate for a designated examiner shall include, but not limited to, the following information:
- (1) Official name and seal of the Department.
 - (2) Full name of the designated examiner.
 - (3) Name, school district name and number, city (when applicable), county, and certification number of the certified school employing the designated examiner.
 - (4) Type of certification.
 - (5) Date of certification.
 - (6) Expiration date of certification.
 - (7) A unique certification number.
 - (8) Name and signature of the Commissioner of Public Safety.
- (e) **Oklahoma driver license application.** Oklahoma driver license application forms (DPS Form DL 18 CT) [see Appendix E] will be provided to each certified school. Each portion of the application shall be completed by the appropriate person, as indicated on the application, using black ink only. The driver license applicant shall complete the applicant's portion of the application form and submit the form to the designated examiner. The designated examiner shall document on the application form the gross vehicle weight rating (GVWR), the license plate number, as well as any other specific identifier pertinent to the vehicle used in the examination. The designated examiner shall also document on the form the results of the each examination administered to the driver license applicant, verifying all the information on the application, and approving the application, if the driver license applicant successfully passes each examination administered for the class of motor vehicle and any endorsements. Upon approval, the designated examiner shall return the application form to the applicant. The driver license applicant shall surrender the approved application to a

Driver License Examiner of the Department to complete any required licensing procedures, including, but not limited to, the administration of written examinations. The application shall be filled out by the designated examiner before referring the applicant to the Department to take the commercial driver license written examination.

(f) **Where to obtain forms.** All forms are provided by the Department and can be obtained by a certified school or a designated examiner by written request to: Oklahoma Department of Public Safety, Driver License Examining Division, P.O. Box 11415, Oklahoma City, Ok 73136 1415.

595:10-9-14. Official seal [REVOKED]

(a) The Department will provide its official seal to each designated examiner. The certified school shall provide its official seal to each designated examiner it employs. The seals shall be imprinted upon each approved Oklahoma Driver License Application (DPS Form DL 18 CT) signed by the designated examiner as a part of the examiner's verification of each examination administered to the applicant whose name appears on the application form.

(b) If the designated examiner does not renew certification as a designated examiner, or leaves the employment of or is terminated from employment by the certified school, the official seal of the Department shall be surrendered by the examiner to the school. The school shall ensure the official seal of the Department is surrendered to it by the designated examiner. The school shall immediately notify the Department by telephone of the status of the designate examiner and shall, within five (5) days, return the official seal of the Department along with written notification of the status of the examiner.

595:10-9-15. Prohibited acts; conduct [REVOKED]

(a) **Certified schools—prohibited acts.** A certified school shall not:

- (1) permit to be used any form of alcoholic beverage or drugs in or about the school premises, including the examination route, or in any motor vehicle being used for the purpose of administering an examination;
- (2) require or permit the administration of an examination to any driver license applicant with physical handicaps;
- (3) require or permit the administration of an examination to any person who has not enrolled in and successfully completed a course, as submitted to and approved by the Department, at that certified school;
- (4) require or permit any person other than a designated examiner to administer any examination;
- (5) require or permit the administration of an examination in a vehicle required to be placarded for hazardous materials;
- (6) commit or omit any act which constitutes a violation of any of the rules of this subchapter or the laws of this state governing designated examiner certification.

(b) **Designated examiner—prohibited acts.** A designated examiner shall not:

- (1) use or permit to be used any form of alcoholic beverage or drugs in or about the school premises, including the examination route, or in any motor vehicle being used for purpose of administering an examination;
- (2) administer an examination to any driver license applicant with physical handicaps;
- (3) administer an examination to any person who has not enrolled in and successfully completed a course, as submitted to and approved by the Department, at the certified school employing the designated examiner;
- (4) administer an examination to any person who has not been issued and does not possess a restricted commercial driver license for the class of vehicle in which the examination is to be given, or
- (5) administer an examination in a vehicle required to be placarded for hazardous materials;
- (6) administer an examination to any person related by consanguinity (by blood relation) or affinity (by marriage) within the third degree;
- (7) accept any present or favor from an applicant or any other person who has or may have an interest in the outcome of an examination, or accept any employment which represents a conflict of interest to the examination process;
- (8) use the designated examiner position for any personal advantage;
- (9) commit or omit any act which constitutes a violation of any of the rules of this subchapter or the laws of this state governing designated examiner certification.

(e) **Designated examiner — conduct.** A designated examiner shall:

- (1) Recognize that his or her position is of the highest public trust and that, on the wisdom of his or her decision, the lives of many people daily depend;
- (2) Impartially administer all official duties without regard to race, creed, position, or influence, according no applicant more reasonable treatment than any other;
- (3) Conduct each examination in a manner which reflects:
 - (A) its importance to society;
 - (B) its seriousness to the individual; and
 - (C) the unquestioned competence of the examiner;
- (4) Exercise only such legal authority as has been duly vested in the position of a designated driver examiner;
- (5) Fully appreciate and fulfill the responsibilities of his or her certification in order to strengthen public confidence in driver license testing.

595:10-9-16. Termination of contracts and agreements [REVOKED]

Contracts and agreements entered into by the State Board of Education, by the Oklahoma Board of Career and Technology Education, or by an individual certified school and the Department may be terminated by either party, by giving written notice to the other party, stating cause or reason for termination, as provided by the applicable memorandum of understanding.

595:10-9-17. Withdrawal or denial of certification [REVOKED]

- (a) The Department may:
 - (1) cancel, suspend, revoke, or refuse to renew the certification of a certified school or designated examiner for failure to comply with any provisions of state law, federal regulation, or Department rule.
 - (2) deny certification to a high school or technology center school applying for certification as a certified school for failure to meet the requirements prescribed by this Subchapter.
 - (3) deny certification to any driver training instructor applying for certification as a designated examiner for failure to meet the requirements prescribed by this Subchapter.
- (b) Where it is determined that a minor disqualification exists which may readily be rectified by the school or designated examiner, the Department may informally notify such party by mail or telephone of such minor disqualification or violation, with a request for compliance within a specified period of time. If such party fails to rectify the disqualification or violation, the Department may proceed to deny, suspend, revoke or cancel certification.
- (c) The Department may deny or cancel certification of any applicant, certified school, or designated examiner for not more than five (5) years when it is determined and good cause appears that the applicant, school, or examiner demonstrated wilful disregard of the rules established in this subchapter or committed other negligent acts.

595:10-9-18. Hearings [REVOKED]

Any party aggrieved under this Subchapter may request a hearing with the Department pursuant to OAC 595:1-3.

[OAR Docket #09-1188; filed 6-23-09]

**TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 11. COMMERCIAL DRIVER LICENSES**

[OAR Docket #09-1189]

RULEMAKING ACTION:

PERMANENT final adoption.

RULES:

- Subchapter 1. Procedures for Obtaining and Maintaining a Commercial Driver License [NEW]
- Subchapter 3. Examination [NEW]
- Subchapter 5. Medical Aspects [NEW]
- Subchapter 7. [RESERVED]
- Subchapter 9. Certified Schools and Designated Examiners [NEW]

AUTHORITY:

Commissioner of Public Safety; 47 O.S. § 6-101 et seq.

DATES:

Comment Periods:

February 17, 2009, through March 24, 2009

Public Hearing:

March 24, 2009

Adoption:

April 1, 2009

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Submitted to Governor:

April 1, 2009

Submitted to House:

April 1, 2009

Submitted to Senate:

April 1, 2009

Gubernatorial approval:

May 4, 2009

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 23, 2009.

Final Adoption:

May 23, 2009

Effective:

July 25, 2009

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:**Incorporated standards:**

United States Department of Transportation regulations pertaining to licensing of commercial motor vehicle operators, as contained in Title 49 of the Code of Federal Regulations (49 C.F.R.)

Incorporating rules:

595:11-1-14

Availability:

See Contact Person below

ANALYSIS:

Creation of this chapter would clarify, update, and establish procedures relating to commercial driver licenses and separate those procedures from Class D driver licenses, to include examinations, medical aspects of commercial driver licensing, and commercial driver license schools.

The proposed actions are essentially a recodification of existing rules with the addition of amendments to comply with federal regulation of the commercial driver licenses.

The circumstance which created the need for these rules is to provide consistency and clarity in rules regarding requirements in Oklahoma law and federal regulations, and to establish in a new chapter, OAC 595:11, for commercial driver licenses because of their unique procedures which are different from Class D driver licenses.

The intended effect of these rules is to allow the Department of Public Safety to perform its duties as required or authorized by law.

CONTACT PERSON:

David W. Beatty, Administrative Rules Liaison, Department of Public Safety, 3600 N. M.L. King Ave., P.O. Box 11415, Oklahoma City, OK 73136-0415. Phone: (405) 425-2024. Email: dbeatty@dps.state.ok.us.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 25, 2009:

SUBCHAPTER 1. COMMERCIAL DRIVER LICENSING

PART 1. PURPOSE

595:11-1-1. Purpose

The Department of Public Safety issues commercial driver licenses to qualified applicants and renews and replaces commercial driver licenses to individuals who maintain their licenses in accordance with this Chapter, state law, and federal law and regulation. This Subchapter establishes how to apply for an initial, renewal, or replacement commercial driver

license, what identification is required and how to change information on the commercial driver license.

PART 2. APPLICATION FOR INITIAL COMMERCIAL DRIVER LICENSE

595:11-1-11. General information

(a) **Prerequisite.** A commercial driver license shall not be issued to any person whose driving privilege is under suspension, revocation, disqualification, cancellation, or denial in this state or any other state or country until such privilege has been reinstated by the state or country withdrawing such privilege [47 O.S. §6-103]. Eligibility shall be determined by a driver examiner using the, at a minimum, the following resources:

- (1) driver records of the Department of Public Safety;
- (2) the Commercial Driver License Information System (CDLIS);
- (3) the National Driver Registry (NDR); and
- (4) the National Law Enforcement Telecommunication System (NLETS).

(b) **Information.** Information regarding the application for and issuance of commercial driver licenses may be obtained by:

- (1) Telephone: (405) 425-2020
- (2) Mail: Department of Public Safety, Driver License Examining Division, P.O. Box 11415, Oklahoma City, Oklahoma 73136-0415
- (3) In person: Department of Public Safety, Driver License Examining Division, 3600 North M. L. King Avenue, Oklahoma City, Oklahoma.
- (4) Internet: <http://www.dps.state.ok.us/dls/>

(c) **Commercial driver license standards.** Information regarding commercial driver license standards and federal commercial driver license regulations may be obtained:

- (1) Telephone: (405) 425-2015
- (2) Mail: Department of Public Safety, Commercial Driver License Program Administration, P.O. Box 11415, Oklahoma City, Oklahoma 73136-0415.
- (3) Internet: <http://www.dps.state.ok.us/dls/dlexam.htm>

595:11-1-12. Procedures for obtaining an initial commercial driver license

(a) **Application.** An applicant for an initial Oklahoma commercial driver license shall first appear before a driver license examiner [47 O.S. §6-110]. An application for a commercial driver license shall be completed by the applicant at the driver license examination station and approved by a driver examiner prior to the commencement of the required examination. Upon submitting a completed and approved application, providing proof of identity [see OAC 595:10-1-3(b) regarding required identification documents] and proof that the applicant is a United States citizen, foreign national or a legal permanent resident alien [21 O.S., § 1550.42(B)], meeting all statutory requirements, and successfully completing every required examination [see Subchapter 3 of this Chapter relating to examinations], the applicant may then proceed to a motor license

agent or the Department of Public Safety, 3600 N. M.L. King, Oklahoma City, and present a DL-10 form issued by the driver license examiner, along with the same primary and secondary identification presented to the examiner, to the agent or the Department, pay the required fees, and be issued a driver license.

(b) **Required identification.** Every applicant shall furnish to the driver examiner both primary documentary proof of identity [47 O.S., § 6-106(A)(3)], to include whether the applicant is a United States citizen, foreign national or a legal permanent resident alien [21 O.S., § 1550.42(B)], and secondary documentary proof of identity [47 O.S., § 6-106(A)(3)] and proof of full legal name and birth date beyond any reasonable doubt when applying for an initial Oklahoma driver license [47 O.S. § 6-101(L)]. Complete requirements for identification and the documents which are acceptable for primary and secondary proofs of identity are found in OAC 595:10-1-3(b).

(c) **Commercial driver license numbers.**

(1) Commercial driver license numbers shall be assigned by computer. Use of the applicant's Social Security number as the commercial driver license number is prohibited [47 O.S. § 6-106(B)].

(2) Any licensee may request to change the numeric characters of his or her commercial driver license number to any nine-digit number by making a written request to the Department. Upon approval by the Department, the licensee shall obtain a replacement commercial driver license from a motor license agent or the Department, and the licensee shall pay the required fee for the replacement license [see OAC 595:11-1-31 or OAC 595:11-1-41 regarding replacement commercial driver licenses]. The commercial driver license number may be changed no more than two (2) times in any four-year period without prior approval of the Identification Verification Unit of the Department.

595:11-1-13. Application by person licensed by another jurisdiction

(a) Any person who holds a valid commercial driver license to operate a motor vehicle equivalent to a Class A, B or C commercial motor vehicle, as defined by 47 O.S. §§1-107.1 through 1-107.3, issued by another state, as defined in 47 OS § 1-168, may have the written or skills examination, or both, required in 47 O.S. §6-110 waived; provided, an applicant applying for a hazardous materials endorsement shall take the required examination.

(b) Upon approval of the application by the Department, the applicant shall surrender to the Department the driver license from the other state, and the Department shall issue to the person a commercial driver license [47 O.S. §6-101] if the applicant is otherwise eligible.

(c) The Department may cancel the Oklahoma commercial driver license of the person, whereupon the person shall surrender the commercial driver license to the Department [47 O.S. §6-201(A)], for any of the following reasons.

(1) The driving record is not available from the other jurisdiction.

(2) The driving record is not forwarded from the other jurisdiction within ninety (30) days of the application.

(3) The driving record indicates any type of withdrawal of driving privileges.

(4) Information is received by the Department that the surrendered license was inappropriately or erroneously issued to the person; provided, the Department shall first attempt to resolve with the person the underlying cause for the inappropriate or erroneous issuance.

595:11-1-14. Adoption by reference

The Department of Public Safety hereby adopts by reference the United States Department of Transportation regulations pertaining to licensing of commercial motor vehicle operators, as contained in Title 49 of the Code of Federal Regulations (49 C.F.R.) [47 O.S. §6-101(L)]. Information relative to this adoption is available through various sources, such as the Labelmaster publication, "Federal Motor Carrier Safety Regulations." Copies of this publication are available by contacting the Oklahoma Trucking Association at (405) 843-9488. Specific regulations pertaining to licensing of commercial motor vehicle operators adopted by reference under this Section are:

- (1) Part 380, Special Driver Training Requirements;
- (2) Part 383, Commercial Driver's License Standards; Requirements and Penalties;
- (3) Part 384, State Compliance with Commercial Driver's License Program;
- (4) Part 390, Federal Motor Carrier Safety Regulations: General; and
- (5) Part 391, Qualifications of Drivers.

595:11-1-15. Applicability, substitutions, limitations, and additions to federal regulations adopted by reference

(a) **Applicability.** The licensing regulations found in 49 C.F.R., Parts 383 and 391, as adopted in OAC 595:11-1-14 are applicable to all applicants for Class A, B, and C commercial driver licenses.

(b) **Terminology substitutions.** Unless otherwise specified, the following terminology shall apply to federal rules adopted by referenced in OAC 595:11-1-14;

(1) "Department of Public Safety" shall be substituted wherever the term "Department of Transportation" or "Federal Motor Carrier Safety Administration" is used.

(2) "Commissioner of Public Safety" shall be substituted wherever the term "Federal Motor Carrier Safety Administrator" or "Regional Director" is used.

(c) **Limitations to scope of definitions.** The definitions provided in (b) of this Section are limited in application to 47 O.S. § 6-101 et seq. and the rules adopted by the Department to carry out the provisions those statutes. These definitions do not alter, replace, or change any definitions contained in Title 47 of the Oklahoma Statutes.

(d) **Additional qualification of drivers.** The following additions are made to the federal requirement in Qualifications of Drivers [49 CFR §391.11(b)(1)] that a driver be twenty-one (21) years of age or older:

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- (1) A driver operating solely in intrastate commerce shall be at least eighteen (18) years of age; and
- (2) Any person who is not at least twenty-one (21) years old shall not be licensed for:
 - (A) the transportation of hazardous materials which are required to be placarded or marked in accordance with 49 CFR §177.823, or
 - (B) transporting fifteen (15) or more passengers; provided, this subparagraph shall not apply to school bus drivers as provided in OAC 210:30-5.

595:11-1-16. Waiver of certain physical conditions for Class A, B, or C commercial driver license applicants

(a) **For interstate commerce.** An applicant who does not meet the physical requirements of 49 C.F.R., § 391.41, and who desires to be considered for an interstate commercial driver license, shall apply for a variance under the alternative physical qualification standards under 49 C.F.R., Section 391.49, by contacting the Federal Motor Carrier Safety Administration, Oklahoma Division Office, 300 N. Meridian, Suite 106 North, Oklahoma City, OK 73107, (405) 605-6047.

(b) **For intrastate commerce.**

(1) **Applicability to certain applicants.** This subsection applies to an applicant who does not meet the requirements of 49 C.F.R., § 391.41, who will be operating solely in intrastate commerce, and who:

(A) has been continuously operating as a commercial motor vehicle driver with the proper type of commercial driver license prior to and since June 12, 1989, or

(B) is exempt from meeting the medical requirements as prescribed in 49 CFR §390.3(f).

(2) **Applicability to certain physical conditions.** This subsection shall apply to the following physical conditions:

(A) Metabolic diseases (see OAC 595:10-5-5)

(B) Cardiovascular diseases (see OAC 595:10-5-6)

(C) Musculoskeletal problems (see OAC 595:10-5-8)

(D) Neurological disorders (see OAC 595:10-5-9)

(3) **Application process.** Application for an intrastate waiver shall be made jointly by the applicant and the motor carrier employer of the applicant. Applications for this waiver are available through the Medical Desk, Department of Public Safety, P.O. Box 11415, Oklahoma City, OK 73136-0415, (405) 425-2083.

(4) **Determination by the Department.** The Medical Desk of the Department shall make the final determination as to whether the applicant may be further considered by the Department for an intrastate Class A, B, or C commercial driver license.

(A) If the Medical Desk authorizes the applicant for further consideration, the Medical Desk shall issue an authority letter to the applicant, to include any recommendations to the Driver License Examining Division as to driving limitations deemed necessary for the condition of the applicant.

(B) If the Medical Desk does not authorize the applicant for further consideration, the Medical Desk shall issue a letter to the applicant stating that authority is being denied. The applicant may appeal the denial pursuant to OAC 595:10-5-18.

(5) **Limitation of waiver.** If a waiver is granted by the Medical Desk, the waiver is only effective in intrastate commerce, subject to the restrictions imposed pursuant to (c) of this Section.

(c) **Restrictions.** The Department of Public Safety may impose restrictions on any applicant under (b) of this section to whom the Department issues an intrastate waiver restricting the operation of a commercial motor vehicle to specified area, time of day, streets and highways, speed limits and any other restriction deemed necessary by the Department for the safe operation of a commercial motor vehicle. An extended skills examination may be conducted to determine the appropriate restriction. The restrictions shall apply upon and be a condition of the applicant becoming licensed by the Department to operate a motor vehicle.

PART 3. COMMERCIAL DRIVER LICENSE RENEWAL - IN PERSON

595:11-1-21. Procedure for obtaining a renewal commercial driver license in person

(a) **General requirements.** During the month of expiration or as provided in (d) of this Section, each licensee shall present proper identification and pay the required fee to a Motor License Agent or to the Department of Public Safety for renewal of the commercial driver license of the licensee. Failure to renew a commercial driver license by the end of the month of expiration shall not relieve the person of the obligation to renew his or her commercial driver license under the provisions required by law and this Section if the person wishes to keep his or her commercial driver license in force.

(b) **Required identification.**

(1) **Renewal with expiring or expired commercial driver license.** The expiring or expired commercial driver license provided as the primary identification may be retained by the licensee, after the Department has invalidated the document by punching holes through the license class and license type displayed. The person shall provide secondary identification as prescribed in OAC 595:10-1-3(b)(2).

(2) **Renewal without driver license.** Any person who does not have the expiring or expired commercial driver license shall provide both primary and secondary identification as prescribed in OAC 595:10-1-3(b).

(c) **Vision screening.** Persons holding a commercial driver license shall, upon renewal, meet the vision standards established in OAC 595:10-5-7 and 49 C.F.R., §391.41. A valid and unexpired United States Department of Transportation medical examiner's certificate (USDOT physical) may be submitted in lieu of actual vision screening by the Department.

(d) **Limitations to issuance of a renewal commercial driver license.**

(1) A renewal commercial driver license shall be issued only to an individual whose driving privilege is not under suspension, revocation, disqualification, cancellation, or denial and who complies with this Chapter, state law, and federal law and regulation.

(2) Any applicant who requests a renewal of his or her commercial driver license when the license has been expired in excess of three (3) years shall be required to appear before a driver license examiner, pursuant to OAC 595:11-1-11 as for an original license.

(e) **Early renewal of a commercial driver license.** Any licensee may renew his or her commercial driver license no more than six (6) months prior to the expiration date. A renewal which occurs more than six (6) months prior to the expiration date shall be treated as a replacement under the provisions of OAC 595:10-1-18.

(f) **Change of commercial driver license number.** A request by a licensee to change the commercial driver license number shall conform to the provisions of OAC 595:11-1-12(c).

PART 5. COMMERCIAL DRIVER LICENSE REPLACEMENT - IN PERSON

595:11-1-31. Procedure for obtaining a replacement driver license in person

(a) **General requirements.** Any licensee requiring a replacement commercial driver license because the license was lost, stolen, or mutilated, or because information on the license needs to be changed, shall request a replacement, upon presentation of proper identification and payment of the required fee. The driver examiner shall retain the driver license to be replaced if it is available.

(b) **Required identification to replace lost, stolen, or mutilated license.** Any person shall provide both primary and secondary identification as prescribed in OAC 595:10-1-3(b).

(c) **Required identification to change information and replace a commercial driver license.**

(1) **Name change.** Any person who requests a replacement commercial driver license in order to make a name change shall comply with the primary and secondary identification requirements prescribed in OAC 595:10-1-3(b) in order to identify the person by his or her former name and with OAC 595:10-1-35 in order to identify the person by his or her new name. The former name shall be entered by the driver examiner into the "Alias" field in the driver license database to provide historical information to the Department. The person requesting the name change may retain the old license, if it is available, after the Department has invalidated the document by punching holes through the license class and license type displayed.

(2) **Address change.** A licensee shall request a replacement commercial driver license within ten (10) calendar days of any address change, shall provide the new address to the Department, and shall provide both primary and secondary identification as prescribed in OAC 595:10-1-3(b).

(3) **Endorsement or restriction change.** Any licensee who requests a replacement commercial driver license in order to change endorsement or restriction information on the license shall provide both primary and secondary identification as prescribed in OAC 595:10-1-3(b). The person requesting the information change may retain the old license, if it is available, after the Department has invalidated the document by punching holes through the license class and license type displayed.

(4) **Sex change.** The licensee shall show an original or certified court order for name change, if applicable, and a notarized statement on letterhead from the physician who performed the sex change operation indicating the applicant or licensee has undergone a complete physical sex change. The letter shall state the sex change is "irreversible and permanent". The licensee shall also show proof of former legal name, if applicable. The new sex shall be entered by the driver examiner in the "Sex" field in the driver license database, and the former name shall be entered by the driver examiner into the "Alias" field in the driver license database to provide historical information to the Department.

(d) **Limitations to issuance of a replacement driver license.**

(1) A commercial driver licensee shall appear before a driver examiner to request a replacement commercial driver license in order for the examiner to perform the federally required ten-year driving history check.

(2) A replacement driver license shall be issued only to an individual whose driving privilege is not under suspension, revocation, disqualification, cancellation, or denial and who complies with this Chapter, state laws, and federal laws and regulations.

(3) The commercial driver license number may be changed as provided in OAC 595:11-1-12(c).

PART 6. RENEWAL OR REPLACEMENT - NOT IN PERSON

595:11-1-41. Renewal or replacement - not in person

(a) Any Oklahoma commercial driver license holder may apply to the Department of Public Safety to renew or replace his or her commercial driver license without appearing in person as provided in this Section.

(b) The commercial driver license holder shall make application in writing to the Department and shall submit to the Department:

(1) copies of documentary evidence of the applicant's name, date of birth and medical qualification as required by OAC 595:11-1-21 and OAC 595:10-5,

(2) the applicant's commercial driver license number,

(3) the applicant's address; provided, if the address is different than the address on record at the Department, the application for renewal or replacement without appearing in person shall be denied by the Department.

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- (4) the number of a nationally-recognized credit card and authorization for the required fee for the renewal or replacement commercial driver license to be paid for the applicant to the Department using the credit card; provided, payment may be made by check if the application for renewal or replacement commercial driver license is submitted by mail.
- (5) the applicant's signature.
- (c) Submission of the items required in (b) shall be made in one of the following manners:
- (1) on the internet at www.dps.state.ok.us/cdlreplacement/, or
- (2) by mail to: Department of Public Safety, PO Box 11415, Oklahoma City, OK 73136; provided, payment may be made by check if the application for renewal or replacement commercial driver license is submitted by mail.
- (d) If the Department approves the renewal or replacement commercial driver license without appearing in person, pursuant to the requirements of this chapter, and:
- (1) if the digital photograph and digital signature of the applicant are available from the files of the Department, the Department shall create the renewal or replacement commercial driver license using that photo and signature, or
- (2) if digital photograph and digital signature of the applicant are not available from the files of the Department, the Department shall not create the renewal or replacement commercial driver license.
- (e) The Department shall mail the renewal or replacement commercial driver license only to the address of record of the commercial driver license holder.
- (f) If the Department denies the renewal or replacement commercial driver license to the applicant pursuant to this Section, the Department shall notify the applicant in writing of the denial, the reason for the denial, return any payment submitted by the applicant, and the applicant shall be required to appear in person for the renewal or replacement commercial driver license.
- (g) A renewal or replacement commercial driver license without appearing in person shall be approved only when the immediately previous renewal or replacement was in person.
- (h) Upon successful processing of the renewal or replacement application, the Department shall charge the replacement fee to the credit card submitted by the applicant or deposit the check submitted by the applicant.

PART 7. CHANGES TO INFORMATION CONTAINED ON COMMERCIAL DRIVER LICENSE

595:11-1-51. Procedure to make a change of name on a commercial driver license

- (a) **Procedure.** Any licensee may request a change of name on his or her commercial driver license upon providing the appropriate identification, as provided in OAC 595:10-1-3(b), and paying the required fee to a motor license agent or to the Department of Public Safety.

(b) **Name changes allowed.** Name changes must result from either marriage or court action. A licensee requesting a legitimate name change shall submit, without exception, the original document which indicates the name change.

(c) **Documentation required.** A person requesting a name change shall comply with the primary and secondary identification requirements in OAC 595:10-1-3(b) in order to identify the person by his or her former name and OAC 595:10-1-18 in order to identify the person by his or her new name. The required documents for a name change shall include:

(1) Court-ordered name change, which shall be in addition to the primary and secondary forms of identification required by OAC 595:10-1-3(b). Only the following types of court orders may be considered when a name change is requested:

- (A) divorce decree,
(B) adoption decree,
(C) name change decree, or
(D) establishment of record of birth, pursuant to 63 O.S., § 1-315;

(2) Marriage certificate, which may serve only as the secondary form of identification required by OAC 595:10-1-3(b). The name change shall be to the name signed by the person on the marriage certificate; or

(3) For a common law marriage, "Affidavit of Common Law Marriage" containing the notarized signatures of the husband and wife. Both primary and secondary forms of identification as prescribed in OAC 595:10-1-3(b) must be submitted in addition to this affidavit.

(d) **Form of new name.**

(1) A name change resulting from marriage shall appear on the commercial driver license in one of the following forms. Provided, no initial shall be used unless it is a legal part of the name of the person; provided further, if any abbreviation is required due to the length of the name, only the Department shall have authority to determine the abbreviation used:

- (A) [Surname of spouse], [first name] [middle name or initial],
(B) [Surname of spouse], [first name] [former surname or initial],
(C) [Surname-surname of spouse], [first name] [middle name or initial], or
(D) [Surname of spouse-surname], [first name] [middle name or initial].

(2) A name change resulting from a court order or divorce decree must appear on the driver license or identification card exactly as stated on the court order or decree.

(e) **Titles or ecclesiastical names.** Titles or ecclesiastical names shall not be placed on a commercial driver license.

(f) **Retention of information.** The former name shall be entered by the driver examiner into the "Alias" field in the driver license database to provide historical information to the Department.

PART 9. COMMERCIAL DRIVER LICENSE CARD CONTENT

595:11-1-61. Information displayed on commercial driver licenses

Each commercial driver license shall display the following information about the person to whom the license was issued [47 O.S. §6-111(A)]:

- (1) digitized color photograph.
- (2) full legal name in the order [last], [first] [middle]. No initial shall be used unless the initial is a part of the legal name of the person. If any abbreviation is required due to the length of the name, only the Department of Public Safety shall have authority to determine the abbreviation used.
- (3) current residence address.
- (4) signature.
- (5) sex.
- (6) date of birth.
- (7) weight.
- (8) height.
- (9) color of eyes.
- (10) driver license class.
- (11) driver license number.
- (12) driver license issue date.
- (13) driver license expiration date.
- (14) any driving restriction code(s) (if applicable).
- (15) any driver license endorsement(s) (if applicable).
- (16) date upon which the person reaches twenty-one (21) years of age and the words "UNDER 21" [47 O.S. §6-101.1(A)] (if applicable), and
- (17) organ donor indicator (if applicable).

595:11-1-62. Driving restriction codes

A restriction or restrictions shall be placed upon a person's commercial driving privilege as deemed necessary by the Department [47 O.S. §6-113]. Each restriction shall appear as a code on the commercial driver license of the person. Following are the possible driving restriction codes and their meanings:

- (1) 1. Corrective lenses
- (2) 6. Food, fruit, or candy within reach of driver
- (3) 7. Adequate artificial limbs
- (4) 8. Detailed restriction - Inquire against the commercial driver license file. (This restriction code is used when other restrictions are not applicable. A narrative explaining the restriction will appear on the person's commercial driver license file.)
- (5) A. Regardless of age, when operating a motorcycle must be in view of licensed driver at least 21 years old
- (6) E. When operating a Class A, B or C commercial motor vehicle, restricted to automatic transmission
- (7) K. CDL intrastate only
- (8) L. When operating a commercial motor vehicle with air brakes, restricted to air over hydraulic
- (9) M. When operating passenger bus, restricted to Class C commercial motor vehicle
- (10) N. When operating passenger bus, restricted to Class B or C commercial motor vehicle
- (11) O. Tractor-trailer
- (12) Z. Restricted to commercial motor vehicles without air brakes

- (13) V. Medical variance

SUBCHAPTER 3. EXAMINATION

595:11-3-1. Purpose

This Subchapter establishes procedures for applying for a commercial driver license examination, where to apply, studying for the examination, vision standards, vehicle requirements, written examinations, and skills examination and scoring criteria.

595:11-3-2. Study guide

The official study guide for applicants shall be the "Commercial Driver's Manual", which is distributed by the Department of Public Safety. Copies are available free of charge:

- (1) from motor license agencies,
- (2) by mail from: Department of Public Safety, Driver License Examining Division, P.O. Box 11415, Oklahoma City, Oklahoma 73136-0415,
- (3) in person at the Department of Public Safety, Driver License Examining Division, 3600 North M. L. King Avenue, Oklahoma City, or
- (4) from the Department's website at <http://www.dps.state.ok.us/dls/>

595:11-3-3. Application for examination

(a) **Information from applicant.** An applicant shall complete and submit an application for a commercial driver license at a driver license examination station prior to the commencement of the required examination. When determined by the driver examiner, from information received from the applicant, that the applicant may be afflicted with any physical or mental ailment as set out in 47 O.S. § 6-119, the examination shall be discontinued until the applicant has met all of the requirements set out in the OAC 595:10-5, Medical Aspects. In addition, an applicant for a commercial driver license who does not certify that he or she is exempt from Subpart E of the Federal Motor Carrier Safety Regulations shall meet the requirements prescribed under 49 CFR § 391.41.

(b) **Required identification.** Each applicant shall furnish documentary proof to establish his or her identity, legal name and birth date as required in OAC 595:10-1-3(b). Notwithstanding the requirements of OAC 595:11-1-12(b), an applicant for an "H" endorsement who possesses either an I-766 or I-688 card issued by United States Citizenship and Immigration Service (USCIS) shall not be granted an "H" endorsement pursuant to 49 CFR § 383.71.

(c) **Medical reports.** An applicant may be required to submit medical reports regarding any physical or mental condition which might affect driving ability as set forth in 47 O.S. § 6-119 and Department of Public Safety rules regarding Medical Aspects [see OAC 595:10-5].

(d) **License application void.** Approved commercial driver license applications (Class A, B, or C) shall be valid for only twenty-four (24) hours from the time of approval. If the license has not been obtained by the applicant within the allowed time,

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the approved application shall be void, and the applicant shall appear before a driver license examiner and, after determination by the Examiner that all criteria and test scores are still valid, the Examiner may revalidate the application.

595:11-3-4. Incomplete applications

(a) If an applicant has passed at least one (1) examination required for issuance of a commercial driver license, but is unable to complete successfully other required examinations, for whatever reason, the application shall be designated by the Department as "Incomplete". The applicant shall have one (1) year from the date of the last examination taken to complete the application process; provided, if a license has not been obtained by the end of one (1) year from the date of the last examination taken, the applicant shall be required to restart the application process if he or she desires to continue to attempt to obtain a commercial driver license. Reasons for an "Incomplete" designation may include, but are not limited to:

(1) The applicant does not have an appropriate commercial motor vehicle for a skills examination.

(2) The applicant provides an unsafe or improperly equipped commercial motor vehicle for a skills examination.

(3) The applicant is unfamiliar with the commercial motor vehicle being operated for a skills examination resulting in termination of the examination by the driver examiner. If time allows, the applicant shall be allowed a second opportunity on the same day to take the skills examination. If the applicant is still unfamiliar with the vehicle, the applicant shall be required to take the examination on another day.

(4) The applicant is required, for medical reasons, to obtain a clearance from the Medical Desk of the Department. If required, the proper medical form will be issued by the examiner to the applicant.

(5) The applicant fails to meet vision standards, at which time a DL-20 shall be issued to the applicant [see OAC 595:11-3-5(c) regarding DL-20].

(6) The applicant, during the skills examination, is involved in a collision which is not the fault of the applicant.

(b) A passing score for any examination shall remain valid for a period of one (1) year from the date the of the initial application. If a license has not been obtained by the end of the one (1) year period, the applicant shall be required to restart the application process if he or she desires to continue to attempt to obtain a commercial driver license. [47 O.S. § 6-110]

595:11-3-5. Vision

(a) **Visual examination.** The vision standards set forth in this section and OAC 595:10-5-7 are not intended to supersede any other:

(1) state standard or rule for operators of school buses [see OAC 210:30-5 regarding school bus operator rules],
or

(2) federal law or regulation.

(b) **Vision screening.** The eyesight of an applicant shall be screened by a driver examiner by means of a vision screener

or by the use of a Snellen Chart and shall meet the requirements set out in OAC 595:10-5-7 or 49 C.F.R., Section 391.41, whichever is applicable.

(c) **Visual acuity and field of vision - Commercial driver license applicants who are exempt from the 49 C.F.R., § 391.41(b)(10).**

(1) An applicant, who is exempt from 49 C.F.R., § 391.41(b)(10), may be considered for a commercial driver license, if the applicant meets the vision standards established in:

(A) OAC 595:10-5-7(a)(1)(C), and

(B) OAC 595:10-5-7(b)(2).

(2) An applicant who fails to meet the vision standards in (1) of this subsection shall be given by the driver examiner an "Additional Visual Screening Report" (Form DL-20) to be taken for completion to a vision specialist of the applicant's choice to determine if the applicant's vision can be corrected to meet the standards in (1) of this subsection. The applicant shall return the completed Form DL-20 to a driver examiner after visiting the vision specialist. The visual acuity and field of vision readings of the vision specialist shall be the readings accepted by the Department. Any recommendations by the vision specialist regarding the driving ability or limitations of the applicant shall be followed by Department.

(3) If the vision specialist:

(A) is able to correct vision to meet the standards of (1) of this subsection, the applicant may be further considered by the Department for a commercial driver license, or

(B) is unable to correct vision to meet the standards of (1) of this subsection, the applicant will be denied a commercial driver license. The applicant may appeal the denial pursuant to OAC 595:10-5-18.

(d) **Visual acuity and field of vision - Commercial driver license applicants who are not exempt from the 49 C.F.R., § 391.41(b)(10).**

(1) An applicant, who is not exempt from 49 C.F.R., § 391.41(b)(10), may be considered for a commercial driver license, if the applicant meets the standards established in 49 C.F.R., § 391.41(b)(10).

(2) An applicant who fails to meet the vision standards in (1) of this subsection shall be given by the driver examiner an "Additional Visual Screening Report" (Form DL-20) to be taken for completion to a vision specialist of the applicant's choice to determine if the applicant's vision can be corrected to meet the standards in (1) of this subsection. The applicant shall return the completed Form DL-20 to a driver examiner after visiting the vision specialist. The visual acuity and field of vision readings of the vision specialist shall be the readings accepted by the Department. Any recommendations by the vision specialist regarding the driving ability or limitations of the applicant shall be followed by Department.

(3) If the vision specialist:

(A) is able to correct vision to meet the standards of (1) of this subsection, the applicant may be further

considered by the Department for a commercial driver license, or

(B) is unable to correct vision to meet the standards of (1), the applicant shall be referred:

(i) for an interstate Class A, B, or C commercial driver license, to the Federal Motor Carrier Safety Administration, Oklahoma Division Office, 300 N. Meridian, Suite 106 North, Oklahoma City, OK 73107, (405) 605-6047, or

(ii) for an intrastate Class A, B, or C commercial driver license, if the applicant has been continuously operating as a commercial motor vehicle driver with the proper type of commercial driver license prior to and since June 12, 1989, to the Medical Desk, Department of Public, P.O. Box 11415, Oklahoma City, OK 73136-0415, (405) 425-2083.

(4) The decision of the Federal Motor Carrier Safety Administration shall be the final determination as to whether the applicant may be further considered by the Department for an interstate Class A, B, or C commercial driver license.

(A) If the Administration authorizes the applicant for further consideration, the applicant shall provide to the Department the waiver issued by the Administration to the applicant. The Department shall follow any recommendations included in the waiver as to driving limitations deemed necessary for the condition of the applicant.

(B) If the Administration does not authorize the applicant for further consideration, the applicant may contact the Medical Desk of the Department, as provided in (3)(B)(ii) of this subsection, for consideration for a waiver for an intrastate Class A, B, or C commercial driver license, if the applicant has been continuously operating as a commercial motor vehicle driver with the proper type of commercial driver license prior to and since June 12, 1989.

(5) The Medical Desk of the Department shall make the final determination as to whether the applicant may be further considered by the Department for an intrastate Class A, B, or C commercial driver license.

(A) If the Medical Desk authorizes the applicant for further consideration, the Desk shall issue an authority letter to the applicant which shall include any recommendations to the Driver License Examining Division as to driving limitations deemed necessary for the condition of the applicant.

(B) If the Medical Desk does not authorize the applicant for further consideration, the Desk shall issue a letter to the applicant stating that authority is being denied. The applicant may appeal the denial pursuant to OAC 595:10-5-18.

(e) **Restrictions.** The Department may impose restrictions on those applicants under (c) and (d) of this section whose visual acuity does not meet standards established in OAC 595:10-5-7, restricting the operation of a motor vehicle to specified area, time of day, streets and highways, speed limits and any other restriction deemed necessary by the Department

for the safe operation of a motor vehicle. Such restrictions shall apply if the applicant is licensed by the Department to operate a motor vehicle.

595:11-3-6. Written examination

(a) **General.** A written examination shall be administered by a driver examiner to each applicant for a commercial driver license to determine the applicant's ability to read and understand highway signs and the applicant's knowledge of the traffic laws of this state; provided, the written examination may be waived as provided in OAC 595:11-1-13(a). The written examination, if not waived, and the vision screening shall be successfully passed by the applicant before the skills test is administered. The written examination includes, when applicable, any separate endorsement/restriction examinations as described in this Section. An applicant determined by an examiner to be cheating on any portion of an examination shall:

- (1) immediately forfeit the examination,
- (2) be given a failing score by the examiner, and
- (3) be disqualified from retaking the examination for one week.

(b) **Examination content.**

(1) **Written examination.** The written examination administered for a commercial driver license shall consist of a minimum of fifty (50) multiple-choice questions. In addition, the combination vehicle test administered for a Class A commercial driver license shall consist of a minimum of twenty (20) multiple-choice questions. The minimum passing score for each written examination shall be eighty percent (80%).

(2) **Endorsement or restriction examination.** The minimum number of multiple-choice questions and the minimum passing score for each endorsement or restriction examination shall be as follows:

- (A) "P" passenger endorsement - 20 questions - 80% score
- (B) "H" hazardous materials endorsement - 30 questions - 80% score
- (C) "N" tank vehicle endorsement - 20 questions - 80% score
- (D) "M" motorcycle endorsement - 20 questions - 75% score
- (E) "S" school bus endorsement - 20 questions - 80% score
- (F) "T" double or triple trailers endorsement - 20 questions - 80% score
- (G) Air brakes - 25 questions - 80% score. Failure to pass at least 80% of the 25 questions regarding air brakes will result in a restriction code "Z" (Vehicle Without Air Brakes) being placed on the applicant's license upon issuance. The applicant shall be prohibited from taking the skills examination in a vehicle with air brakes.

(3) **Written pre-trip inspection examination.** The written pre-trip inspection examination administered for a commercial driver license shall consist of seven (7) multiple-choice questions. The minimum passing score

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shall be six (6) questions correct out of the seven (7) questions.

(c) **Alternate method of examination.** The Department may provide an alternate method for the written examination for an applicant who cannot read or has a language barrier.

(d) **Retesting.** An applicant failing the written examination may be granted the opportunity to retest on the next regular business day.

(e) **Discretionary examination.** Any examination, as deemed necessary by the Department, may be administered by the Department as required for the establishment and authorization of a special endorsement or to permit the operation of commercial motor vehicles.

(f) **Restricted Class A, B, or C commercial driver license.** Any person eighteen (18) years of age or older may apply for a restricted Class A, B, or C commercial driver license, as provided in 47 O.S. §6-101(F), solely for the purpose of behind-the-wheel training in a commercial motor vehicle while accompanied by a licensed driver who is twenty-one (21) years of age or older and who holds a valid commercial driver license, including any and all required endorsements, for the class and type of commercial motor vehicle being driven.

(1) The restricted commercial driver license shall be issued as provided for 47 O.S., § 6-101(F)(2). Any person may reapply for another restricted commercial driver license by complying with all requirements for the class of restricted commercial driver license desired.

(2) The Department shall not place a hazardous materials (H) endorsement on a restricted commercial driver license.

595:11-3-7. Pre-trip inspection examination of commercial motor vehicles

(a) **Condition of vehicle.** It is the responsibility of the applicant to furnish for the skills examination a commercial motor vehicle in good working order which meets all state laws and federal requirements regarding operability and equipment.

(b) **In general.** An applicant for a commercial driver license shall pass a vehicle pre-trip inspection examination at the designated inspection location. The pre-trip inspection test:

(1) shall be performed in a vehicle representative of the vehicle class for the type of commercial driver license for which the applicant is applying.

(2) shall not be performed using a vehicle transporting hazardous materials or a vehicle which is required to be placarded for hazardous materials under the rules of the Department of Public Safety or federal law or regulation.

(3) shall not be performed using a vehicle which requires an oversize permit under state law or Department of Public Safety rules.

(4) shall not be performed using a vehicle that was not designed and constructed by the manufacturer with a seating capacity for one or more persons in addition to the driver, and

(5) shall not be performed with the aid or assistance of notes or prompting. An applicant determined by an examiner to be cheating on any portion of an examination shall:

(A) immediately forfeit the examination,

(B) be given a failing score by the examiner, and

(C) be disqualified from retaking the examination for one week.

(c) **Physical pre-trip inspection examination.** The physical pre-trip inspection examination administered for a commercial driver license shall consist of a minimum of nine (9) and a maximum of twenty-seven (27) items of inspection and shall be performed only on commercial motor vehicles with air brakes, depending on the type and axle configuration of the vehicle. The test shall include the items prescribed in OAC 595:11-3-8.

(d) **Scoring procedure.** The scoring procedure for the vehicle pre-trip inspection examination shall be based on the applicant's ability to identify and explain the function or purpose of each item required to be inspected. The following actions will constitute an automatic failure:

(1) an air brakes leakage test while the engine is running.

(2) failure to turn the ignition key to the "on" or "accessory" position for air brake bleed down test, or

(3) failure to release the parking brake for air leakage and bleed down test.

(e) **Components.** The vehicle pre-trip inspection examination may include, but shall not be limited to, inspection of the following items:

(1) **All vehicles:**

(A) Engine compartment:

(i) air compressor

(ii) leaks

(B) Engine start:

(i) air buzzer sounds

(ii) air brakes

(2) **Tractor only:** air, electric lines

(3) **Truck, school buses, tractors and coach/transit buses:**

(A) Front brake:

(i) slack adjuster

(ii) chamber

(iii) hoses

(iv) drum

(B) Rear brakes:

(i) slack adjuster

(ii) chamber

(iii) hoses

(iv) drum

(4) **Trailer:**

(A) Trailer front-air/electric connectors

(B) Brakes:

(i) slack adjuster

(ii) chamber

(iii) hoses

(iv) drum

595:11-3-8. Skills examination

(a) **In general.** The skills examination shall be administered only after the applicant has successfully passed the written examination, or had it waived if eligible under OAC 595:11-1-

13(a), and the vision screening. Whenever a skills examination is required, the following general conditions shall apply:

(1) The skills examination shall start at a designated location and shall include an actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the operation of a commercial motor vehicle. The applicant shall furnish for the skills examination the type of commercial motor vehicle required for the class of driver license requested. A vehicle not equipped with air brakes shall be required to have driving restriction code "Z" (Vehicle Without Air Brakes) placed on the license of the applicant, upon approval of the issuance of the license.

(2) The skills examination shall not be administered in a commercial motor vehicle which:

(A) is transporting hazardous materials or which is required to be placarded for hazardous materials,

(B) requires an oversize permit under the laws of this state or the rules of the Department of Public Safety,

(C) was not designed and constructed by the manufacturer with a seating capacity for one or more persons in addition to the driver,

(D) is not insured as required by 47 O.S. §7-600 et seq.,

(E) does not have a current license plate,

(F) is saddle mounted,

(G) is a wrecker vehicle towing another vehicle, or

(H) is not equipped with seatbelts, if the vehicle was originally manufactured and equipped with seatbelts.

(b) **Scoring of examination.** The scoring procedure will be on a cumulative deduction system based on poor or improper driving practices. The Commissioner or the Commissioner's representative shall determine a point value for each act of poor or improper driving.

(c) **Content of examination for commercial driver license.** The skills examination shall be conducted in conformance with 49 C.F.R., Section 383.

(d) **Retesting.**

(1) An applicant who fails the skills examination for a commercial driver license may be granted the opportunity to retest the following business day.

(2) When an applicant fails to qualify for a commercial driver license after three (3) attempts to successfully pass the skills examination, he or she will be required to obtain a restricted commercial driver license, which shall restrict the individual to operating a commercial motor vehicle while accompanied by a qualified licensed driver in the front seat, before another skills examination will be administered.

(3) The Department shall conduct the skills examination for the holder of a restricted commercial driver license not more than three (3) times, each time at least one (1) business day apart or as instructed by the examiner, beginning no sooner than thirty (30) days from the date of issuance of the restricted license. Should the restricted licensee fail the third examination, the licensee shall wait at

least thirty (30) days before being given another skills examination by the Department. The fourth and subsequent examinations shall be given at the request of the restricted licensee but not more than one (1) examination shall be given every thirty (30) days.

(4) In computing any time period prescribed by this subsection, the day of the failed examination from which the designated period of time begins to run shall not be included. The last day of the period computed shall be included, unless it is not a working day, in which event the period runs until the end of the next working day.

(d) **Exceptions to thirty-day waiting period.** The holder of a restricted commercial driver license shall not be eligible to have a skills examination administered until after a minimum of thirty (30) days following the issuance of such license. However, the holder of a restricted commercial driver license, restricting the holder to being accompanied by a licensed driver twenty-one (21) years of age or older holding a valid license for the class of vehicle being driven, may have the thirty-day waiting time waived if the restricted licensee is currently receiving instruction or has successfully completed a commercial motor vehicle driver training program conducted by a commercial truck driver education school licensed by the Department, a school bus driver education course conducted by the State Department of Education, or a truck driver training course offered by the Oklahoma Department of Career and Technology Education. The restricted licensee shall submit to the Department evidence of successful course completion or evidence the licensee is currently receiving instruction. In computing the 30-day time period prescribed by this subsection, the day on which the restricted commercial driver license is issued shall not be included. The last day of the period computed shall be included, unless it is not a working day, in which event the period runs until the end of the next working day.

(e) **Substitute for skills examination.** A skills examination may be waived by the Department for an applicant when one of the following requirements is met:

(1) The applicant is the holder of a valid commercial driver license from one of the fifty (50) states, the District of Columbia, or a Canadian province.

(2) The applicant is a fireman or an active member of a branch of the military; provided, the person for the two (2) years immediately preceding application for a commercial driver license [49 C.F.R. Parts 383 and 391]:

(A) can show, with proper documentation, that he or she has operated a representative class commercial motor vehicle,

(B) certifies that he or she has not been licensed by more than one jurisdiction at the same time,

(C) certifies that he or she has not had any suspension, revocation, cancellation, denial, or disqualification of driving privileges in the two (2) years immediately preceding the application,

(D) has not been convicted of any major disqualifying offense, as defined in 47 O.S., § 6-205.2,

(E) has not been convicted more than once of a serious traffic offense, as defined in 47 O.S., § 6-205.2,

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regardless of the type or class of vehicle the offense occurred in, and

(F) certifies that he or she has not been involved in any collision in which he or she was recorded as being at fault.

595:11-3-9. Automatic failure of skills examination

An occurrence of any of the following will result in the automatic failure of the skills examination by the applicant:

(1) **Seat belt not in use.** Applicant failed to use the seat belt. The seat belt shall be properly adjusted and fastened before the vehicle enters a public roadway.

(2) **Moving traffic violation.** Applicant received a traffic citation for a moving violation during the skills examination.

(3) **Disobey sign or signal.** Applicant ignored or did not obey sign or signal.

(4) **Speed.** Applicant sped more than five (5) miles per hour over the posted speed limit or the lawful speed limit for the vehicle being driven.

(5) **Fail to stop.** Applicant rolled through stops or failed to stop.

(6) **Fail to yield.** Applicant did not yield to other road users (pedestrians, vehicles, etc.). Applicant did not appropriately yield the right-of-way to pedestrians or other vehicles during driving maneuvers.

(7) **Left of center.** Applicant drove left of center (except when needed to perform a turn safely, or any other lawful reason).

(8) **School bus endorsement.** Commit any of the following in the procedures for pickup or discharge of students established by the State Department of Education:

(A) Fail to activate amber warning lights before stop

(B) Fail to set park brake and/or fail to shift to neutral

(C) Use hand outside the bus to direct students

(D) Fail to make final check of crossover mirrors before the bus is set in motion

(9) **School bus endorsement, passenger endorsement, or hazardous materials endorsement.** Commit any of the following:

(A) Fail to stop vehicle at most fifty (50) feet and no less than fifteen (15) feet from first rail of railroad tracks.

(B) Shift gears while crossing railroad track.

(10) **Avoidable crash or incident; dangerous act.** Commit any of the following:

(A) Applicant was involved in an avoidable crash or accident.

(B) Applicant's vehicle had physical contact with other vehicles, objects, pedestrians, etc.

(C) Applicant commits any act or omission that creates a dangerous or unsafe traffic environment (near accidents, etc.).

(D) Drivers of other vehicles or pedestrians were forced to take evasive actions.

(E) Applicant's actions force examiner to take verbal or physical control of the vehicle.

(11) **Put vehicle over sidewalk or curb.** Driver put vehicle over curb or sidewalk unnecessarily.

(12) **Improper backing.** Driver opens door and leans out of cab during backing maneuver.

(13) **Weighted offenses.** Accumulation of four (4) or more of any of the following offenses in any combination:

(A) Failure to use turn signal

(B) Failure to turn on headlamps (if required)

(C) Coasting on a downgrade (gears in neutral or clutch disengaged)

(D) Consistently exceed speed limit

(E) Proceed through intersection on yellow light when applicant could have stopped without creating a dangerous situation.

SUBCHAPTER 5. COMMERCIAL DRIVER LICENSE THIRD-PARTY EXAMINERS

595:11-5-1. Purpose

This Subchapter establishes requirements, procedures, and standards for the certification of public and technology center schools and of commercial motor vehicle driver training instructors to administer skills examinations on the premises of the schools to qualified applicants for a commercial driver license.

595:11-5-2. Scope and application

The provisions of this Subchapter shall apply only to schools and persons described under the following agreements:

(1) Memorandum of Understanding entered into on July 1, 2006, by and between the Department of Public Safety and the State Board of Education.

(2) Memorandum of Understanding entered into on January 1, 2007, by and between the Department of Public Safety and the Oklahoma Department of Career and Technology Education.

595:11-5-3. Definitions

In addition to terms defined in 47 O.S., § 1-101 et seq., the following words or terms, when used in this Subchapter, shall have the following meaning unless the context clearly indicates otherwise. Use of the singular term includes the plural, and use of the plural term includes the singular.

"Certified school" means a school district or technology center school approved by the Department of Public Safety to provide, on the premises of the school, the driving skills examinations for Oklahoma commercial driver licenses.

"Commercial driver license" means an Oklahoma Class A, B, or C commercial driver license, as defined in 47 O.S., § 6-101.

"Commercial motor vehicle" means a Class A, B, or C commercial motor vehicle, as defined in 47 O.S., §§1-107.1, 1-107.2 or 1-107.3, used for training students.

"Department" means the Department of Public Safety.

"Driver training instructor" means an employee of a certified school who has been approved by the State Board of Education to teach school bus driver training courses, or has been approved by Oklahoma Board of Career and Technology Education to teach truck driver training courses, or who has the appropriate approval to teach both courses.

"Examination" means the skills portion of the examination for a commercial driver license which shall test the ability of the applicant to operate a commercial motor vehicle and shall be administered on the premises of a certified school by a third-party examiner employed by that school. "Examination" shall also mean:

(A) an examination to upgrade the current commercial driver license of a driver license applicant, or

(B) an examination to remove restriction code "V" from the current commercial driver license of a driver license applicant.

"Federal Motor Carrier Safety Administration" means the United States Department of Transportation Office of Motor Carrier Safety, 300 N. Meridian, Suite 106 North, Oklahoma City, Oklahoma 73107, (405) 605-6047.

"School district" means a school district, as defined in 70 O.S., § 1-108, which has at least one secondary school, as defined in 70 O.S., §1-106, which offers a school bus driver training course approved by the State Board of Education.

"Technology center school" means a technology center school within a technology center school district, established pursuant to Section 9B of Article X of the Oklahoma Constitution, and operated in accordance with the rules of the Oklahoma Board of Career and Technology Education which offers a school bus driver training course approved by the State Board of Education or a truck driver training course approved by the State Board of Education.

"Third-party examiner" means a driver training instructor employed by a certified school who has been approved by the Department of Public Safety to administer, on the premises of the certified school employing the instructor, the examination, as defined in this Section, for a commercial driver license. A third-party examiner is not and shall not be construed or purported, either explicitly or by implication, to be an employee of the Department of Public Safety.

595:11-5-4. Requirements for certification as a certified school; display of certificate; certification renewal

(a) **Requirements and application for certification.** A school district or technology center school may apply for certification as a certified school. The applying school shall meet the following requirements:

(1) Be actively enrolling students and teaching a formal course of instruction for school bus drivers training as approved by the State Board of Education or truck driver training as approved by the Oklahoma Board of Career and Technology Education.

(2) Obtain and possess written approval to make application for and be, if approved, a certified school from:

(A) the State Board of Education, if the school is a school district, or

(B) the Oklahoma Board of Career and Technology Education, if the school is a technology center.

(3) Submit an application to the Department on a form prescribed by the Department [see 595:11-5-13].

(4) Have its on-site examination route or routes examined and approved by an employee of the Department. A route:

(A) shall start and end on the premises or property of the certified school, unless otherwise approved by the Department,

(B) shall meet all state and federal requirements,

(C) shall not be altered or changed in any manner without first being examined and approved by the Department, and

(D) shall not be replaced by an alternate route unless the alternate route is first examined and approved by the Department. If, during the course of the examination, it is determined that any of the approved routes could not be followed, the third-party examiner shall notify the Department in writing as soon as possible as to the reason for the change in route.

(5) Agree to:

(A) meet minimum examination standards required by the Department and by the Federal Motor Carrier Safety Regulations [49 C.F.R. § 383];

(B) allow access to school facilities by the Department and by the Federal Motor Carrier Safety Administration for the purpose of monitoring examinations and examining records;

(C) comply with the Oklahoma Open Records Act [51 O.S., § 24a.1 et seq.] with regard to records kept pursuant to this Subchapter;

(D) maintain security of examination documents and related material as deemed necessary by the Department;

(E) ensure all examinations are administered by a third-party examiner;

(F) ensure third-party examiners administer the examination only to driver license applicants who:

(i) have enrolled in and successfully completed a formal course of instruction, as submitted to and approved by the Department, at the institution where the third-party examiner is employed and certified, and

(ii) have an Oklahoma restricted commercial driver license and Oklahoma Class D driver license;

(G) ensure no person acts as a third-party examiner without current certification from the Department;

(H) provide immediate written notification to the Department of any impropriety or misconduct of any third-party examiner employed by the school;

(I) acknowledge that the Department reserves the right to take prompt and appropriate remedial action against the certification of any school or of any third-

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party examiner in the event that the school or the third-party examiner fails to comply with:

- (i) any state law, Department rule, or federal regulation regarding the examination of an applicant for a commercial driver license, or
- (ii) any terms of the appropriate memorandum of understanding or of a subsequent contract or agreement entered into pursuant to the memorandum of understanding;

(J) maintain records of all third-party examiners employed by the school and copies of all documents relating to examinations administered for a period of not less than three (3) years; provided, if a school discontinues doing business, the school shall send to the Department a roster of all students who were administered examinations by the school during the immediately preceding three (3) years;

(K) immediately notify the Department by telephone, followed by written notification within five (5) days, of the termination of employment of any third-party examiner. The official seal of the Department, and the certificate and identification card issued by the Department to the third-party examiner shall be returned to the Department with the written notification;

(L) immediately notify the CDL Coordinator within the Commercial Driver License Program Administration of the Department by telephone or first-class mail of every fraudulent application made to obtain a commercial driver license; and

(M) acknowledge that the Department reserves the right to randomly reexamine applicants tested by third-party examiners for purposes of quality assurance.

(b) **Certification.** Upon acceptance and approval by the Department of the application for certification from a school district or technology center school, or upon acceptance and approval by the Department of the application for renewal of certification from a certified school, and upon completion to the satisfaction of the Department by the school of all other requirements for certification, the Department shall provide the certified school with a certificate evidencing approval by the Department as a certified school. The certificate shall be posted at the examination location at the certified school and in full view of the public. The certificate shall be valid for five (5) years.

(c) **Renewal of certification.** A certified school may apply for renewal of certification as a certified school. The school shall meet the following requirements:

- (1) Have evidence on file with the Department of a satisfactory on-site inspection conducted by an employee of the Department prior to renewal.
- (2) Employ at least one third-party examiner.
- (3) Submit an application for renewal on a form prescribed by the Department no later than December 1 of the year of expiration [See 595:11-5-13].

595:11-5-5. Requirements for certification as a third-party examiner, display of certificate, certification renewal

(a) **Requirements and application for certification.** A driver training instructor may apply for certification as a third-party examiner. The applicant shall meet the following requirements:

(1) Meet all the requirements for a Driver License Examiner of the Department [47 O.S., § 2-106(c) and (d)].

(2) Complete an application provided by the Department [see 595:11-5-13] and submit a certified criminal history report from the Oklahoma State Bureau of Investigation certified within the immediately preceding thirty (30) days and, if the applicant has not lived in Oklahoma for the immediately preceding five (5) years, a criminal background check from the agency responsible for keeping criminal history in the state or states of previous residence.

(3) Be employed by a certified school.

(4) Have and maintain throughout the time period to be covered by the certification:

(A) a valid Oklahoma commercial driver license for the class or classes of vehicle, including any endorsement or endorsements, for which the instructor desires to administer examinations; provided, the applicant shall not be required to have a hazardous materials endorsement (endorsement H),

(B) in order to administer school bus examinations, a valid School Bus Workshop Instructor Certificate issued by the State Board of Education, and

(C) in order to administer truck examinations, a valid certificate issued by the Oklahoma Board of Career and Technology Education showing the applicant has met the current requirements.

(5) Successfully complete a course of instruction prescribed by the Department [see 595:11-5-6].

(6) Meet the same vision standards as for Driver License Examiners of the Department [see OAC 595:10-5-7 and 49 C.F.R., § 391.41 regarding vision standards].

(7) Have full use of both upper and lower extremities.

(8) Agree to submit monthly reports, by the tenth calendar day of the following month, to the Department detailing examining activity.

(b) **Ineligibility based upon driving record or criminal record.** A driver training instructor shall be deemed to be ineligible for certification as a third-party examiner upon evidence of a record of any of the following convictions:

(1) Two (2) or more convictions for a moving traffic offense within the twelve (12) months immediately preceding the application.

(2) Any alcohol- or drug-related conviction requiring the Department to revoke, suspend, or disqualify the instructor's driving privilege within the five (5) years immediately preceding the application.

(3) Any conviction for any offense which required or will require the Department to take any type of action

against the instructor within the three (3) years immediately preceding the application, including, but not limited to:

- (A) a warning letter, or
- (B) a revocation, suspension, cancellation, denial or disqualification of the instructor's driving privileges.

(4) Any misdemeanor conviction, except for a misdemeanor conviction for a traffic offense, within the five (5) years immediately preceding the application.

(5) Any felony conviction in this state or any other state or country.

(c) **Certification.** Upon acceptance and approval by the Department of the application for certification from a driver training instructor, or upon acceptance and approval by the Department of the application for renewal of certification from a third-party examiner, and upon completion to the satisfaction of the Department by the instructor or third-party examiner of all other requirements for certification, the Department shall provide the third-party examiner with:

- (1) a certificate evidencing approval by the Department as a third-party examiner, which shall be posted at the examination location at the certified school and in full view of the public. The certification will be valid for four (4) years.
- (2) an identification card to be carried by the third-party examiner whenever the examiner is administering an examination.
- (3) an official seal to be used by the third-party examiner to be used as provided in 595:11-5-14.

(d) **Renewal of certification.**

(1) A certified third-party examiner shall be eligible for renewal of certification if the examiner:

- (A) submits an application for certification renewal upon a form provided by the Department no later than December 1 of each year [see 595:11-5-13].
- (B) submits a certified criminal history report from the Oklahoma State Bureau of Investigation certified within the immediately preceding thirty (30) days and, if the applicant has not lived in Oklahoma for the immediately preceding five (5), a criminal background check from the agency responsible for keeping criminal history in the state or states of previous residence.
- (C) submits a current copy of the State Department of Education instructor certificate.
- (D) is currently employed by a certified school.
- (E) currently meets the requirements and standards of the Department as prescribed by this Subchapter.
- (F) administered fifteen (15) or more examinations within the twelve (12) months immediately preceding the application for renewal of certification, and

(2) Any driver training instructor who was previously certified as a third-party examiner and whose previous certification has been expired for not more than one (1) year may make application for renewal of certification as provided in paragraph (1) of this section.

(3) Any third-party examiner who does not qualify for renewal of certification may apply, after a period of at least one (1) year from the date the examiner was notified he or she was not qualified for renewal of certification, for certification as a third-party examiner and shall meet all requirements as for an initial application for certification as a third-party examiner.

595:11-5-6. Course of instruction for driver training instructors apply for certification as a third-party examiner

(a) A driver training instructor who desires to apply for certification as a third-party examiner shall enroll in and successfully complete a course of instruction as determined by the Department before the instructor will be considered for approval and certification as a third-party examiner.

(b) The Department shall, from time to time, conduct a course of instruction for driver training instructors applying for certification as a third-party examiner. The Department shall determine the standards and requirements for the curriculum and successful completion of the course of instruction. The curriculum shall include, but not be limited to, the following subjects:

- (1) Examination standards and scoring.
- (2) Forms and reports.
- (3) Oklahoma statutes.
- (4) Department rules.
- (5) Federal regulations.
- (6) Hands-on pre-tripping [see 595:11-3-8 relating to pre-trip inspections].
- (7) Behind-the-wheel driving.
- (8) Records and recordkeeping.

(c) The dates and locations of courses of instruction shall be determined by the Department.

595:11-5-7. Skills examination requirements and standards

(a) **Eligibility.** To be eligible for a skills examination, a commercial driver license applicant shall successfully complete, prior to the examination, a formal course of instruction, as submitted to and approved by the Department, by the institution where the examination will be administered.

(b) **Application.** Before an examination may be given to an applicant by a third-party examiner, the applicant must completely fill out and submit to the examiner an Oklahoma commercial driver license application (DPS Form DL-18-CT) [see 595:11-5-13].

(c) **Physical Qualifications.** Prior to any examination, an applicant shall be provided with a copy of the physical qualifications for commercial motor vehicle drivers from the Federal Motor Carrier Safety Regulations [49 C.F.R. § 391.41].

(d) **Standards.** Current minimum standards for the examination of an applicant for a commercial driver license, as set forth in state statutes, Department rules, and federal regulations, shall be provided to all certified schools and third-party examiners by the Department.

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(e) **School bus skills examination requirements.** The school bus skills examination for a commercial driver license administered by a third-party examiner shall:

- (1) include all specified school bus maneuvers as required by the Department, and
- (2) meet or exceed all requirements of the Department and of the Federal Motor Carrier Safety Act [49 C.F.R. §391] for the class or classes of vehicle for which the applicant desires to be licensed.

(f) **Truck skills examination requirements.** The truck skills examination for a commercial driver license administered by a third-party examiner shall:

- (1) include all specified maneuvers as required by the Department [see 595:11-3-9 relating to skills examination] and the Federal Motor Carrier Safety Act [49 C.F.R. § 383].
- (2) meet or exceed all requirements of the Department and of the Federal Motor Carrier Safety Act [49 C.F.R. § 383].

(g) **Notice of Examination.** At least twenty-four (24) hours prior to any examination to be administered by a third-party examiner, a notice of the examination schedule shall be sent to the CDL Program Administration.

(h) **Location of examination.** All examinations shall be administered on the route approved for the certified school employing the third-party examiner.

(i) **Limitation on number of examinations.** Not more than six (6) examinations per day shall be administered by a third-party examiner without prior written consent of the CDL Program Administration.

(j) **Examination reports.** Reports of examination activity by third-party examiners shall be submitted to the CDL Program Administration not later than the tenth calendar day of the month following the date of examination activity.

595:11-5-8. Examination for emergency certification for bus drivers

If the commercial driver license applicant needs an emergency certificate as a bus driver, the third-party examiner shall refer the applicant to the Department for examination.

595:11-5-9. Failed examinations and reexamination

(a) If the commercial driver license applicant fails an examination administered by a third-party examiner, the third-party examiner may administer the examination to the applicant up to two (2) additional times. The third-party examiner shall wait the required amount of time before reexamining the applicant [see 595:11-3-7 and 595:11-3-9]. If the applicant fails the examination three (3) times, the third-party examiner shall refer the applicant to the Department for any further examination.

(b) The third-party examiner shall:

- (1) record each failed examination on application form DL-18-CT [see 595:11-5-13]; and
- (2) within twelve (12) hours, notify the Driver License Examining Division, CDL Help Desk, of the Department at (405) 425-2020 to report each failed examination.

595:11-5-10. Commercial driver license applicant

(a) Any commercial driver license applicant who requests an examination from a third-party examiner shall:

- (1) have enrolled in and successfully completed the school bus driver course or truck driver course, as approved by the Department, at the certified school employing the third-party examiner, and
- (2) take the skills examination on a route approved by the Department for the certified school employing the third-party examiner.

(b) Any commercial driver license applicant who does not pass the skills examination administered by a third-party examiner:

- (1) shall wait the required amount of time [see 595:11-3-7 and 595:11-3-9] before being reexamined, and
- (2) shall be given no more than two (2) subsequent examinations by the third-party examiner at the certified school, at the discretion of the third-party examiner. Further examination of the driver license applicant shall be conducted by the Department.

(c) Any commercial driver license applicant who needs an emergency certificate as a bus driver shall be examined only by the Department.

(d) Enrollment in or successful completion of a school bus driver course or a truck driver course, or successful passage of a skills examination administered by a third-party examiner shall not grant to the driver license applicant the privilege to operate any vehicle.

595:11-5-11. Records to be maintained by certified schools and third-party examiners

(a) **Certified schools.** A certified school shall be responsible for maintaining all records pertaining to:

- (1) the certification of the school,
- (2) third-party examiners currently employed by the school,
- (3) the certification of each third-party examiner,
- (4) third-party examiners employed by the school for the immediately preceding three (3) years,
- (5) examination certificates and pre-trip forms for each examination administered by a third-party examiner,
- (6) Form DL-18-CT,
- (7) class rosters for classes conducted,
- (8) commercial driver license permits,
- (9) commercial driver license applicants to whom an examination was administered by a third-party examiner employed by the school,
- (10) examinations and the scores of those examinations, and
- (11) records of previously certified third-party examiners.

(b) **Third-party examiner.** A third-party examiner shall be responsible for assisting the school in the maintenance of records described in (a).

(c) All records shall be kept for a period of three (3) years and shall be open for audit and inspection by the Department.

the State Board of Education, the Oklahoma Board of Career and Technology Education, and the Federal Motor Carrier Safety Administration. An employee of any of the aforementioned entities shall not be required to give prior notice before appearing to examine the records of a certified school or a third-party examiner.

595:11-5-12. Records to be maintained at the Department

(a) School records. The following records shall be maintained by the Department at its headquarters for each certified school, for each previously certified school, and for each school district and technology center school which submitted an application for certification, whether the application was approved or denied by the Department:

- (1) The original application and all subsequent renewal applications, including investigative reports.
- (2) Evidence of approval or denial of the application by the Department.
- (3) Current third-party examiners employed by the certified school.
- (4) Former third-party examiners employed by the certified school within the last three (3) years.
- (5) Annual quality inspection reports.
- (6) Complaints received.
- (7) Commendations received.
- (8) Evidence of violation of any standard, requirement, state statute, Department rule, or federal law or regulation relating to skills examinations.
- (9) Correspondence.
- (10) Expired certifications.
- (11) Canceled, suspended or revoked certifications.
- (12) Audits.

(b) Third-party examiner and driver training instructor records. The following records shall be maintained by the Department at its headquarters for each third-party examiner and for each driver training instructor who submitted an application for certification as a third-party examiner, whether the application was approved or denied certification by the Department:

- (1) The original application and all subsequent renewal applications, including investigative reports.
- (2) Evidence of approval or denial of the application by the Department.
- (3) The name of the certified school employing the examiner or instructor.
- (4) The name of any certified school which employed the examiner within the last three (3) years.
- (5) Annual quality inspection reports.
- (6) Complaints received.
- (7) Commendations received.
- (8) Evidence of violation of any standard, requirement, state statute, Department rule, or federal law or regulation relating to driver license examination.
- (9) Correspondence.
- (10) Expired certifications.
- (11) Canceled, suspended or revoked certifications.
- (12) Individual files of audits.
- (13) Student Rosters.

(14) Examination Activity Reports.

(c) In addition to the records specified in paragraphs (a) and (b) of this Section, the Department shall make available to the public upon request a list of all current third-party examiners and certified schools.

595:11-5-13. Prescribed forms

(a) Certified school application. A school district or technology center school shall request an application from the Department to apply for certification as a certified school. A certified school shall request an application form from the Department to apply for renewal of certification as a certified school. The application shall require the applying school to provide the following information:

- (1) Date of application.
- (2) Whether the application is an original or renewal application.
- (3) Name of the school.
- (4) Name and number of the school district.
- (5) Complete physical address and mailing address.
- (6) County name and number.
- (7) Name of administrator or superintendent.
- (8) Telephone number of administrator or superintendent of the school district.
- (9) Name of transportation director of the school district.
- (10) Name of each third-party examiner employed by the certified school, if the application is for renewal of certification.
- (11) Statement of agreement to comply with rules of the Department and with the provisions of the appropriate memorandum of understanding and any subsequent contracts and memorandums.
- (12) Any other information the Department deems necessary to process the application.
- (13) Signature of the administrator or superintendent.

(b) Third-party examiner application. A driver training instructor shall request an application form from the Department to apply for certification as a third-party examiner. A third-party examiner shall request an application form from the Department to apply for renewal of certification as a third-party examiner. The application shall require the applicant to provide the following personal information:

- (1) Date of application.
- (2) Whether the application is an original or renewal application.
- (3) Full name of the applicant.
- (4) Complete home address and mailing address of the applicant.
- (5) Telephone numbers (residence and business) of the applicant.
- (6) Name of the employing school.
- (7) Name and number of the school district in which the employing school is located.
- (8) Date of birth of the applicant.
- (9) Social security number of the applicant.
- (10) Oklahoma commercial driver license number of the applicant.

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- (11) Any other information the Department deems necessary to process the application.
- (12) Signature of the applicant.
- (c) **Certified school certificate.** The certificate for a certified school shall include, but not limited to, the following information:
- (1) Official name and seal of the Department.
 - (2) Official name of the school.
 - (3) School district name and number or technology center school name.
 - (4) City (when applicable) and county where the school is located.
 - (5) Type of certification.
 - (6) Date of certification.
 - (7) Expiration date of certification.
 - (8) A unique certification number.
 - (9) Name and signature of the Commissioner of Public Safety.
- (d) **Third-party examiner certificate.** The certificate for a third-party examiner shall include, but not limited to, the following information:
- (1) Official name and seal of the Department.
 - (2) Full name of the third-party examiner.
 - (3) Name, school district name and number or technology center school name, city (when applicable), county, and certification number of the certified school employing the third-party examiner.
 - (4) Type of certification.
 - (5) Date of certification.
 - (6) Expiration date of certification.
 - (7) A unique certification number.
 - (8) Name and signature of the Commissioner of Public Safety.
- (e) **Oklahoma commercial driver license application.** Oklahoma commercial driver license application forms (DPS Form DL-18-CT) shall be provided to each certified school. Each portion of the application shall be completed by the appropriate person, as indicated on the application, using black ink only. The commercial driver license applicant shall complete the applicant's portion of the application form and submit the form to the third-party examiner. The third-party examiner shall document on the application form the gross vehicle weight rating (GVWR), the license plate number, as well as any other specific identifier pertinent to the commercial motor vehicle used in the skills examination. The third-party examiner shall also document on the form the results of the each skills examination, whether passed or failed administered to the applicant, verifying all the information on the application, and approving the application, if the applicant successfully passes the skills examination administered for the class of commercial motor vehicle and any endorsements. Upon approval by the third-party examiner and completion of all information required of the examiner, the examiner shall return the application form to the applicant. The applicant shall surrender the approved application to a Driver License Examiner of the Department to complete any required licensing procedures, including, but not limited to, the administration of written examinations.

- (f) **Where to obtain forms.** All forms are provided by the Department and can be obtained by a certified school or a third-party examiner by written request to: Department of Public Safety, CDL Program Administration, P.O. Box 11415, Oklahoma City, Ok 73136-1415.

595:11-5-14. Official seal

- (a) The Department will provide its official seal to each third-party examiner. The certified school shall provide its official seal to each third-party examiner it employs. The seals shall be imprinted upon each approved Oklahoma Commercial Driver License Application (DPS Form DL-18-CT) signed by the third-party examiner as a part of the examiner's verification of each skills examination, whether passed or failed, administered to the applicant whose name appears on the application form.
- (b) If the third-party examiner does not renew certification as a third-party examiner, or leaves the employment of or is terminated from employment by the certified school, the official seal of the Department shall be surrendered by the examiner to the school. The school shall ensure the official seal of the Department is surrendered to it by the third-party examiner. The school shall immediately notify the Department by telephone of the status of the third-party examiner and shall, within five (5) days, return the official seal of the Department along with written notification of the status of the examiner.

595:11-5-15. Prohibited acts; conduct

- (a) **Certified schools - prohibited acts.** A certified school shall not:
- (1) permit to be used any form of alcoholic beverage or drugs in, on or about the school premises, including the examination route, or in any commercial motor vehicle being used for the purpose of administering a skills examination.
 - (2) require or permit the administration of an examination to any commercial driver license applicant with any physical handicap.
 - (3) require or permit the administration of an examination to any person who has not enrolled in and successfully completed a course, as submitted to and approved by the Department, at the school.
 - (4) require or permit any person other than a third-party examiner employed by the school to administer any examination.
 - (5) require or permit the administration of an examination in a vehicle required to be placarded for hazardous materials, or
 - (6) commit or omit any act which constitutes a violation of any of the rules of this Subchapter or the laws of this state governing third-party examiner certification.
- (b) **Third-party examiner - prohibited acts.** A third-party examiner shall not:
- (1) use or permit to be used any form of alcoholic beverage or drugs in, on or about the school premises, including the examination route, or in any commercial motor vehicle being used for purpose of administering a skills examination.

- (2) administer an examination to any commercial driver license applicant with any physical handicap.
- (3) administer an examination to any person who has not enrolled in and successfully completed a course, as submitted to and approved by the Department, at the certified school employing the third-party examiner.
- (4) administer an examination to any person who has not been issued and does not possess an Oklahoma restricted commercial driver license for the class of vehicle in which the examination is to be given.
- (5) administer an examination in a vehicle required to be placarded for hazardous materials.
- (6) administer an examination to any person related by consanguinity (by blood relation) or affinity (by marriage) within the third degree.
- (7) accept any present or favor from an applicant or any other person who has or may have an interest in the outcome of an examination, or accept any employment which represents a conflict of interest to the examination process.
- (8) use the third-party examiner position for any personal advantage, or
- (9) commit or omit any act which constitutes a violation of any of the rules of this Subchapter or the laws of this state governing third-party examiner certification.

(c) Third-party examiner - conduct. A third-party examiner shall:

- (1) Recognize that his or her position is of the highest public trust and that, on the wisdom of his or her decision, the lives of many people may depend.
- (2) Impartially administer all official duties without regard to race, creed, position, or influence, according no applicant more favorable treatment than any other.
- (3) Conduct each examination in a manner which reflects:
 - (A) its importance to society,
 - (B) its seriousness to the individual, and
 - (C) the unquestioned competence of the examiner.
- (4) Exercise only the legal authority as has been duly vested in the position of a third-party examiner, and
- (5) Fully appreciate and fulfill the responsibilities of his or her certification in order to strengthen public confidence in the training and examination of commercial driver license applicants.

595:11-5-16. Termination of contracts and agreements

Contracts and agreements entered into by the State Board of Education, by the Oklahoma Board of Career and Technology Education, or by an individual certified school and the Department may be terminated by either party, by giving written notice to the other party, stating cause or reason for termination, as provided by the applicable memorandum of understanding.

595:11-5-17. Withdrawal or denial of certification

- (a) The Department may:

- (1) cancel, suspend, revoke, or refuse to renew the certification of a certified school or third-party examiner for failure to comply with any provisions of state law, federal regulation, or Department rule.
- (2) deny certification to a school district or technology center school applying for certification as a certified school for failure to meet the requirements prescribed by this Subchapter.
- (3) deny certification to any driver training instructor applying for certification as a third-party examiner for failure to meet the requirements prescribed by this Subchapter.
- (b) Where it is determined that a minor disqualification exists which may readily be rectified by the school or third-party examiner, the Department may informally notify the party by mail or telephone of the minor disqualification or violation, with a request for compliance within a specified period of time. If the party fails to rectify the disqualification or violation, the Department may proceed to deny, suspend, revoke or cancel certification.
- (c) The Department may deny or cancel certification of any applicant, certified school, or third-party examiner for not more than five (5) years when it is determined and good cause appears that the applicant, school, or examiner demonstrated wilful disregard of the rules established in this Subchapter or committed other negligent acts.

595:11-5-18. Hearings

Any party aggrieved under this Subchapter may request a hearing with the Department pursuant to OAC 595:1-3.

SUBCHAPTER 7. TRUCK DRIVER TRAINING

595:11-7-1. Purpose

The Department of Public Safety is charged with prescribing the procedures for the education and training of persons, either practically or theoretically, or both, to operate or drive motor vehicles and/or to prepare an applicant for an examination [47 O.S., § 801 et seq.], including, but not limited to, commercial motor vehicle or truck driving, adopting the course of study, defining student eligibility, and specifying commercial motor vehicle standards, insurance requirements and required reports.

595:11-7-2. Definitions

In addition to terms defined in 47 O.S., § 1-101 et seq., the following words or terms, when used in this Subchapter, shall have the following meaning unless the context clearly indicates otherwise. Use of the singular term includes the plural, and use of the plural term includes the singular.

"**Credential**" means endorsements, major and/or minor teaching areas, licenses, as well as professional, standard, provisional, temporary, and emergency certificates.

"**Commercial motor vehicle**" means a vehicle used for training students in Class A, B, or C commercial motor vehicles as defined in 47 O.S. §1-107.1, 1-107.2 1-107.3.

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"Course of study" means a course of study in truck driver training, including highway signs, signals, markings and design, rules of the road, state laws, local ordinances, basic driving maneuvers, and safe operation of commercial motor vehicles on streets and highways.

"Endorsements" means credentials placed on valid licenses or certificates, or both, to indicate that the holder is eligible to teach specific subjects. An endorsement qualifies the holder to teach a full day in the subject of the endorsement.

"Instructor" means a qualified commercial truck driver training instructor who instructs, at a commercial truck driver training school, students desiring to apply for a commercial truck driver license.

"School" means a business enterprise conducted as a commercial truck driver training school by an individual, association, partnership, or corporation for the purpose of education and training of students desiring to apply for a commercial driver license.

595:11-7-3. School licenses and instructor permits

(a) In general. A school license shall be required for schools who offer instruction to entry-level truck driver trainees who do not possess a valid commercial driver license. An instructor permit shall be required for instructors who teach truck driver training. [47 O.S. §6-105.2 and 47 O.S. § 801]

(1) **Schools - original application.**

(A) All applications for an original school license shall be made on a form provided by the Department. The term of each original school license shall be for a period of three (1) year.

(B) Each application for an original school license shall be accompanied by:

- (i) a fee of Twenty-five Dollars (\$25.00), which shall be paid to the Department by money order, cashier's check, or business/personal check,
- (ii) a schedule of fees and charges,
- (iii) a certificate of insurance from a company licensed to conduct business in this State certifying proper commercial insurance coverage,
- (iv) the make, model and vehicle identification number of each commercial motor vehicle used for training purposes, and
- (v) a sample copy of each type of contract or agreement which the school may enter into with students.

(C) No license fee shall be refunded in the event the license is rejected, suspended or revoked by the Commissioner of Public Safety.

(D) All applications shall be approved by the Department before a school shall be permitted to open for business.

(E) Every operator of a school shall be required to have an instructor permit.

(F) Application for a school license may be obtained:

- (i) upon request by mail from the Department of Public Safety, CDL Program Administration,

P.O. Box 11415, Oklahoma City, Oklahoma 73136-0415, or

(ii) on the world wide web at www.dps.state.ok.us/forms

(G) All schools shall meet the requirements of OAC 595:11-7-13.

(2) **Schools - renewal application.**

(A) All applications for a renewal school license shall be made on a form provided by the Department of Public Safety. The term of each renewal school license shall be for a period of three (1) year.

(B) Each application for a renewal school license shall be accompanied by:

- (i) a fee of Twenty-five Dollars (\$25.00), which shall be paid to the Department by money order, cashier's check, or business/personal check,
- (ii) a schedule of fees and charges, if any changes have been made since the last license issuance,
- (iii) a certificate of insurance from a company licensed to conduct business in this State certifying proper commercial insurance coverage,
- (iv) a current list of commercial motor vehicles used for training purposes, and
- (v) a sample copy of each type of contract or agreement which the school may enter into with students.

(C) All application forms for renewal school licenses shall be mailed by the Department to each school no later than October 1 of the expiration year. Each school desiring to renew shall submit an application to the Department no later than November 15 of the year of expiration. If application for renewal is not received by the required date and the Department is unable to process and approve the application by December 31 of the year of expiration, the commercial school shall cease operation on January 1 of the year following year of expiration and shall not resume operation until the application for renewal is processed and approved by the Department.

(3) **Instructors - original applications.**

(A) All applications for an original instructor permit shall be made on a form provided by the Department. The term of an original instructor permit shall be for a period of no more than three (1) year. An instructor shall make application for each school location where he or she will be instructing. An instructor permit for a particular school shall become invalid upon termination of employment with that school. If an instructor accepts employment with another school or schools, an instructor permit shall not be transferable, and the instructor shall apply for an original license for each school where he or she is a new employee.

(B) Each application for an original instructor permit shall be accompanied by:

- (i) documentation required by OAC 595:11-7-4, and

(ii) a fee of Five Dollars (\$5.00), which shall be paid to the Department by money order, cashier's check, or business/personal check. If the instructor is licensed at multiple schools with the same owner, only one fee of Five Dollars (\$5.00) shall be paid. If the instructor is licensed at multiple schools with different owners, a fee of Five Dollars (\$5.00) shall be paid for each school with a different owner.

(4) Instructors - renewal applications.

(A) All applications for a renewal instructor permit shall be made on a form provided by the Department. The term of each renewal instructor permit shall be for a period of three (1) year. An instructor shall make application for each school location where he or she will be instructing. An instructor permit for a particular school shall become invalid upon termination of employment with that school. If an instructor accepts employment with another school or schools, an instructor permit shall not be transferable, and the instructor shall apply for an original license for each school where he or she is a new employee.

(B) Each application for a renewal instructor permit shall be accompanied by:

(i) documentation required by OAC 595:11-7-4, and

(ii) a fee of Five Dollars (\$5.00), which shall be paid to the Department by money order, cashier's check, or business/personal check. If the instructor is licensed at multiple schools with the same owner, only one fee of Five Dollars (\$5.00) shall be paid. If the instructor is licensed at multiple schools with different owners, a fee of Five Dollars (\$5.00) shall be paid for each school with a different owner.

(C) Any instructor who allows his or her instructor permit to lapse or expire without renewal may reapply as if for an original instructor permit.

595:11-7-4. Qualifications for instructors

An instructors employed by a school shall submit to the Department of Public Safety, upon application, proof of the following:

- (1) being current employed by a school which offers a prescribed course of study;
- (2) possessing a valid Oklahoma commercial driver license, with proper class and endorsements commensurate with type or types of vehicles and endorsements which are the subject of instruction;
- (3) being at least twenty-one (21) years of age;
- (4) having never been convicted of a felony as evidenced by an Oklahoma State Bureau of Investigation criminal background check conducted within the immediately preceding thirty (30) days or, if the applicant has not lived in Oklahoma for the immediately preceding five (5) years, a criminal background check from the agency responsible for keeping criminal history in the state or states of residence for the immediately preceding five (5) years;

(5) if applicable, having driving privileges reinstated for at least twelve (12) months, if driving privileges were suspended, canceled, revoked, denied, or disqualified for a driving-related conviction or for Department action related to driving under the influence or driving while impaired. If driving privileges are suspended, canceled, revoked, denied, or disqualified only for a non-driving-related conviction or reason, the applicant shall be eligible immediately upon reinstatement of driving privileges;

(6) having not been convicted of misdemeanor possession or use of alcohol or drugs within the past twelve (12) months;

(7) having not more than five (5) point violations on the driving record;

(8) having no administrative action pending at the Department pursuant to 47 O.S. §§ 753, 754, or 754.1;

(9) having a high school diploma or general education diploma; and

(10) having five (5) years verifiable driving experience in the type of vehicle or vehicles used by the school for instructional purposes.

595:11-7-5. Review of permitted instructors and licensed schools

(a) Periodic review of all instructor permits shall and school licenses be conducted by the Department of Public Safety to determine whether both the instructor and the school remain in compliance with the rules of this Subchapter. Failure to remain in compliance will result in cancellation, suspension or revocation of instructor's permit or the school license, as applicable, by the Department.

(b) When an instructor's driving record reflects four (4) points, he or she may be issued a warning letter by the Department and instructed that additional entries may result in cancellation of his or her instructor permit.

595:11-7-6. Eligibility for re-issuance of instructor permits

An individual who was previously approved for and issued an instructor permit by the Department, but whose instructor permit was cancelled, suspended, or revoked, shall be eligible to apply for re-issuance of an instructor permit which by making application, after the end of the period of cancellation, suspension or revocation, as if for an original instructor permit.

595:11-7-7. Inspection of school premises and commercial motor vehicles

A school shall allow the Department, the Federal Motor Carrier Safety Administration, or their representatives, to conduct examinations, inspections and audits of premises and commercial motor vehicles without prior notice.

595:11-7-8. Written notice of denial, suspension, or revocation

Any applicant who is denied an instructor permit or whose permit is suspended by the Department of Public Safety shall

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receive written notice of reason for denial, suspension, or revocation and be given an opportunity for hearing pursuant to OAC 595:1-3. In accordance with the rules of this Subchapter, an instructor's permit shall be suspended or revoked upon failure to remain in compliance with driving record requirements or for other good cause as determined by the Department.

595:11-7-9. Prescribed course of study

(a) A prescribed course of study commercial truck driver training shall be designed to develop knowledge of those provisions of the Title 47 of the Oklahoma Statutes, other laws of this state, and federal laws and regulations relating to the operation of commercial motor vehicles; acceptance of personal responsibility in traffic; appreciation of the causes, seriousness, and consequences of traffic collisions; and to develop the knowledge, attitudes, habits, and skills necessary for the safe operation of motor vehicles. In addition, each course of study shall meet the minimum training requirements, as found in 49 CFR, Part 380:

(1) Commercial truck driver curriculum for entry-level instruction for novice truck drivers, including but not limited to:

- (A) Section 1 - Basic Operations
 - (i) Unit 1.1 - Orientation
 - (ii) Unit 1.2 - Control systems
 - (iii) Unit 1.3 - Vehicle inspection
 - (iv) Unit 1.4 - Basic control
 - (v) Unit 1.5 - Shifting
 - (vi) Unit 1.6 - Backing
 - (vii) Unit 1.7 - Coupling and uncoupling
 - (viii) Unit 1.8 - Proficiency development
- (B) Section 2 - Safe Operating Practices
 - (i) Unit 2.1 - Visual search
 - (ii) Unit 2.2 - Communication
 - (iii) Unit 2.3- Speed management
 - (iv) Unit 2.4- Space management
 - (v) Unit 2.5- Night operations
 - (vi) Unit 2.6- Extreme driving conditions
 - (vii) Unit 2.7- Proficiency development
- (C) Section 3 - Advanced Operating Procedures
 - (i) Unit 3.1-Hazard perception
 - (ii) Unit 3.2-Emergency maneuvers
 - (iii) Unit 3.3-Skid control and recovery
 - (iv) Unit 3.4-Special situations
- (D) Section 4 - Vehicle Maintenance
 - (i) Unit 4.1 - Vehicle systems
 - (ii) Unit 4.2 - Preventative maintenance and servicing
 - (iii) Unit 4.3 - Diagnosing malfunctions
- (E) Section 5 - Non-Driving Activities
 - (i) Unit 5.1 - Handling cargo
 - (ii) Unit 5.2 - Hours of service
 - (iii) Unit 5.3 - Crash procedures
 - (iv) Unit 5.4 - Trip planning
 - (v) Unit 5.5 - Miscellaneous topics

(2) Commercial truck driver curriculum for refresher and recertification classroom instruction for experienced truck drivers, including but not limited to:

- (A) Introduction
- (B) Defensive driving tactics
- (C) Uniform Vehicle Code (Title 47 of the Oklahoma Statutes)
- (D) Federal Motor Carrier Safety Regulations as prescribed by the United States Department of Transportation Federal Highway Administration, 49 C.F.R., Parts 383 and 390 through 399
- (E) Techniques of first aid (Instructor must have valid First Aid Instructor's Card)
- (F) Driver attitude
- (G) Fire prevention and fire fighting
- (H) Map reading and routing
- (I) Credentials, including:
 - (i) Cab cards
 - (ii) Port of entry
 - (iii) Size and weights permits
 - (iv) Elective of cargo handling
- (J) Training in preparation for written examination, pre-trip inspection and examination, and air brake examination.

595:11-7-10. Specification for commercial motor vehicles

(a) Commercial motor vehicles used in training shall meet the minimum safety standards in the most recent edition of the "North American Standard Out-of-service Criteria", as published annually by the Commercial Vehicle Safety Alliance. Vehicles found in violation of the these standards shall not be used for training or leased to an applicant for use in the commercial driver license skills examination.

(b) All students and instructors in shall shall comply with the Oklahoma Mandatory Seat Belt Use Act, 47 O.S., §§ 12-416 through 12-420, whenever the vehicle is in operation.

(c) Signs shall be placed on each vehicle used in training, as follows:

(1) Each truck-tractor and trailer shall be marked on each side and on the rear with a sign bearing the words: "TRUCK DRIVER TRAINING".

(2) Each trailer shall bear a sign plainly visible from the rear bearing the words: "NOT FOR HIRE".

(3) Each vehicle used for instruction of truck driver training shall be marked on each side and on the rear with the words "STUDENT DRIVER" with letters no less than two (2) inches in height.

(4) Any additional signs and markings shall not be placed on the vehicle without prior approval by the Department of Public Safety.

(d) All truck-tractors and trailers shall be used only for the purpose of driver training and no school shall accept payment in any way for services rendered from use of the vehicle; provided, the school may lease the truck-tractor or trailer, or both, for the sole purpose of use of the vehicle leased to allow the leasee to take the skills examination as part of the application process for a commercial driver license.

595:11-7-11. Insurance

(a) A school shall be insured, by an insurance company licensed to do business in this state, with a commercial liability insurance policy for each commercial motor vehicle used to conduct behind-the-wheel instruction. The minimum amount of insurance shall consist, for any one collision, of at least Fifty Thousand Dollars (\$50,000.00) for bodily injury to or death of one person; One Hundred Thousand Dollars (\$100,000.00) for bodily injury to or death of two or more persons; and Fifty Thousand Dollars (\$50,000.00) for damage to property. The above coverage shall be carried on each vehicle used by the school for driver training purposes.

(b) Each school shall send a copy of the certificate of insurance when applying for the school's original or renewal license. If insurance coverage expires between school renewal certification periods, the school shall send a current copy of the certificate of insurance to the Department.

(c) In the event the insurance coverage is canceled, a copy of the written notice of cancellation shall be forwarded immediately to the Department by registered or certified mail. Behind-the-wheel instruction shall be immediately suspended until proper verification of insurance coverage is provided to the Department of Public Safety.

595:11-7-12. Reports

(a) Schools shall provide to the Department of Public Safety on forms provided by the Department, the following:

(1) Prior to beginning behind-the-wheel instruction, a current list of all students enrolled in the school, including for each student the complete legal name, date of birth, and restricted commercial driver license number.

(2) Other reports as may be requested from time to time by the Department.

(b) A copy of the completed forms prescribed in (a) of this Section shall be kept on file in the office of the school.

595:11-7-13. Requirements for schools and classrooms

(a) **Location and classroom facility of schools.** An application for a school license shall not be approved if the school is located or driving instruction is conducted within one (1) mile, using the most direct driving route, of the Department of Public Safety or any district office of the Department. The school shall:

(1) have at least one (1) permanent classroom. Each classroom shall be used exclusively for classroom instruction during the time of instruction. A classroom shall not be located in:

(A) a residence or residential facility or complex,

(B) a motor vehicle, or converted motor vehicle,

(C) a hotel or motel, or

(D) any other facility which has a bar, lounge, or other business which sells alcohol for public consumption on the premises;

(2) display its current and valid school license in the licensee's principal place of business at all times when classes are in session. The license or a copy of the license

shall also be made available for inspection to students or prospective students;

(3) comply with local municipal ordinances regarding lighting, heating, ventilation, and restroom facilities; and

(4) have adequate room for equipment such as chalkboard, projector, tables and chairs for the number of students enrolled in the class being taught at the time.

(b) **Advertising.**

(1) No school shall use or conduct any business under any name other than its fully licensed name.

(2) A sign reading "This school is licensed by the Department of Public Safety, State of Oklahoma" or similar language may be displayed on the school premises.

(3) The school may place language such as "This school is licensed by the Department of Public Safety, State of Oklahoma" in any advertisements and publications of the school. However, a school may not use advertisement or publicity that states or implies that the school is specifically or uniquely recognized, recommended, or endorsed, or directly supervised by the Department of Public Safety.

(4) No fraudulent or deceptive statements, promotions, or fee incentives shall be used on any sign or in advertisement, whether written or oral.

(5) No school shall advertise, by any means, or otherwise state or imply that a commercial driver license or permit is guaranteed or assured to any student or individual who will take or complete any instruction offered by the school.

(c) **Agreements and schedule of fees.**

(1) A sample copy of each type of contract or agreement which the school may enter into with students shall be submitted to the Department with the application for an original or renewal license.

(2) Prior to enrollment or payment of fees, each prospective student shall be provided the following information, in writing:

(A) the type of instruction offered, whether classroom or behind-the-wheel, or both;

(B) the length of the course of study and the length of each lesson;

(C) the rate the course of study, or the rate per lesson, as applicable to the fee structure of the school;

(D) the rate for use of commercial motor vehicle leased from the school for the purpose of taking the skills examination, if extra charge is made;

(E) the terms of payment and disclosure of any interest charged;

(F) a statement indicating the specific date and time when instruction is to start.

(3) The complete schedule of fees shall be posted in easy view of students and prospective students.

(4) If any school fails to comply with the provisions of this Subchapter, the school shall refund, on a prorated basis, all monies collected from the student.

(d) **Records to be maintained.**

(1) Each school shall maintain a permanently bound book with pages consecutively numbered or a computer

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spreadsheet, setting forth the name of the school; the name of each student; the contract or agreement number for each student; the type and date of instruction given, whether classroom or behind-the-wheel, for each student. If written, all entries shall be made in ink.

(2) All student instruction records, including a duplicate copy of each contract or agreement entered into between the school and the student (the original shall be given to the student) shall be kept on file in the office of each school for a period of three (3) years after the student has concluded instruction at or with the school. Each school shall furnish the student, if requested, an exact copy of his or her instruction record when all of the contracted courses are completed or the student otherwise ceases taking instruction at or with the school. If a school discontinues doing business, the school shall send to the Department a roster of all students who attended the school during the immediately preceding three (3) years, with each student identified as to whether the student successfully completed or did not successfully complete the course of study.

(3) The student instruction record shall contain a copy of a receipt for any monies paid to the school by the student. The receipt shall contain:

- (A) The name of the school.
- (B) The name of the student.
- (C) The date of payment.
- (D) The amount of payment.
- (E) The signature of the person receiving the payment.

(4) The student instruction record file maintained by the school shall be available at all times for inspection or copying by an authorized representative of the Department of Public Safety.

(5) **Completion certificates.** A completion certificate, in a preprinted format prescribed by the Department, shall be provided and issued by the school to each student upon the successful completion of course work (both classroom and behind-the-wheel). The certificate shall contain, at a minimum, the following:

- (A) Name of the school;
- (B) Full legal name of student;
- (C) Number of total hours of instruction (optional)
- (D) Date of completion;
- (E) Signature of administrator (a stamped signature is acceptable).

595:11-7-14. Prohibited acts; conduct

- (a) No school owner, agent, instructor or employee shall:
- (1) instruct on or near the skills examination route used by the Department of Public Safety;
 - (2) distribute or use, for any purpose, any test or examination designed or used by the Department;
 - (3) use, or permit to be used, any form of alcoholic beverage or drugs in, on or about the premises of the school or a commercial motor vehicle being used for truck driver training;

(4) engage in any conduct involving moral turpitude; or

(5) commit or omit any act which constitutes a violation of any of the rules of this Subchapter or the laws of this state governing driver training.

(b) Instructors shall at all times be cognizant of their primary obligation to render impartial, efficient, and effective service to the public in the discharge of their duties and to always regard their position as a public trust.

595:11-7-15. Suspension or revocation of license

(a) The Commissioner of Public Safety may cancel, suspend, revoke, or deny a school license or an instructor permit, as prescribed in 47 O.S., § 806.

(b) Where it is determined that a minor disqualification or violation exists which may be readily rectified by the school or instructor, or by an applicant for a school license or instructor permit, the Department of Public Safety may informally notify the party by mail of the minor disqualification or violation, with a request for compliance within a specified period of time. If the party fails to rectify the minor disqualification or violation, the Department may proceed to deny, suspend, revoke or cancel the license.

595:11-7-16. Hearings

(a) In the event the Department has determined that a school's license or and instructor's permit should be denied, suspended, revoked, or canceled, notice shall be provided by mail to school or instructor, or to the applicant for a school license or instructor permit, of the facts or conduct which warrant the intended action, and an opportunity for hearing shall be offered. The aggrieved party may request a hearing within twenty (20) days of receipt of the notice. The request for a hearing shall be in writing and must:

- (1) state the name and address of the respondent,
- (2) state which allegations of violations, if any, are admitted,
- (3) state generally the issues to be raised by the respondent at the hearing, but issues not raised in the written request are not barred from presentation at the hearing, and
- (4) be addressed to the official who issued the notice.

(b) If the hearing is timely requested, such hearing shall be scheduled at the Department no less than fifteen (15) days nor more than thirty (30) days from the date the Department received the request. However, the parties may agree to schedule the hearing at another location or time.

(c) The Commissioner shall designate the hearing officer. Each party shall be afforded the opportunity to respond and present evidence and argument on all issues involved. Either party may make application for a continuance of the hearing. The granting or denial of a continuance is within the reasonable discretion of the hearing officer.

(d) The hearing officer shall render a decision based upon the law and the evidence presented. Each party shall be promptly notified of the decision either personally or by mail.

(e) Unless the hearing officer timely receives a written request for a rehearing, reopening, or reconsideration of the decision as provided by the Administrative Procedures Act [75 O.S. §317], the hearing officer shall, after twenty (20) days from the entry of the decision, enter an appropriate final order. Each party shall be notified of the final order personally or by mail.

(f) If the respondent fails to appear at the scheduled hearing without good cause, the hearing officer shall record the nonappearance and enter a final order.

(g) If the Department representative fails to appear without good cause, the hearing officer shall record the nonappearance and enter a final order dismissing the administrative penalty action, with prejudice. The parties shall be notified that the department action has been dismissed with prejudice.

(h) A party aggrieved with the hearing officer's decision may file an appeal with the Commissioner requesting reopening or reconsideration of the case [75 O.S. §317]. Such an appeal must:

- (1) be in writing,
- (2) be within twenty (20) days of the entry of the decision by the hearing officer, and
- (3) state the grounds for the appeal and include all arguments and information pertinent to the grounds for appeal.

SUBCHAPTER 9. DRIVER STATUS NOTIFICATION SYSTEM

595:11-9-1. Purpose

The purpose of this Subchapter is to establish procedures for the Driver Status Notification System which shall provide to approved employers a method of electronically inquiring or being notified of the status of employee drivers and prospective employee drivers and receiving automated notifications on changes in the status of records of employee drivers. [47 O.S., § 6-117(E)]

595:11-9-2. Applicability

The provisions of this Subchapter shall apply to commercial driver licensees described under the provisions of 47 O.S., § 6-101 and to individuals, organizations, companies, or other entities who employ drivers, as provided in 47 O.S., § 6-117(E), to operate commercial motor vehicles, as defined in 47 OS, §§ 1-107.1, 1-107.2, and 1-107.3, during the course of employment.

595:11-9-3. Definitions

In addition to terms defined in 47 O.S., § 1-101 et seq., the following words or terms, when used in this Subchapter, shall have the following meaning unless the context clearly indicates otherwise. Use of the singular term includes the plural, and use of the plural term includes the singular.

"Department" means the Department of Public Safety.

"Employer" means an individual, organization, company or other entity employing drivers to operate commercial motor vehicles, as defined in 47 OS, §§ 1-107.1, 1-107.2, and 1-107.3, during the course of employment.

"Driver" means a commercial driver licensee working for an employer as an operator of a commercial motor vehicle, or commercial driver licensee who has applied to an employer, as evidenced by a signed application for work on file with the employer, to work as an operator of a commercial motor vehicle.

"Driver Status Notification System" means the web-based system developed by the Department whereby an employer of a driver may be automatically notified, pursuant to a fee schedule established by the Department, should the driving record of a driver reflect a traffic conviction in any court or an administrative action by the Department which alters the status of the commercial driving privileges of the person [47 O.S., § 6-117(E)].

"Enrolled", "enrolling" or "enrollment" means participation of a driver, as requested by the employer of the driver, in the Driver Status Notification System of the Department.

"Subscribe", "subscribing" or "subscription" means participation by an employer in the Driver Status Notification System of the Department.

595:11-9-4. Employer application

(a) Information regarding subscribing to the Driver Status Notification System may be obtained by calling 405-425-2020, or online at www.dps.state.ok.us/dsns/. Inquiries may also be made by e-mail at dsns@dps.state.ok.us

(b) An employer desiring to subscribe to the Driver Status Notification System shall submit to the Department an application provided by the Department along with the following documentation:

- (1) For each motor carrier, an MCS150 (Motor Carrier Identification Report);
- (2) For public employers, (school district, state agency, or political subdivision) a letter from the administrator on the letterhead from public entity;
- (3) Any other employer of commercial motor vehicle drivers, a tax identification number or other documentation which provides proof of the legitimacy of the established business enterprise; or
- (4) For any employer, other documentation as requested by the Department which provides proof of the legitimacy of the established business enterprise.

(c) The applicant employer shall agree to maintain the security of any information received from the Department in accordance with the federal Driver's Privacy Protection Act (DPPA), 18 U.S.C., Sections 2721 through 2725.

(d) No employer shall participate in the Driver Status Notification System unless and until approved by the Department to receive information from the System.

(e) The annual subscription fee for each employer participating in the Driver Status Notification System shall be Fifty Dollars (\$50.00).

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595:11-9-5. Requirements for enrolling drivers by subscribing employers

- (a) A subscribing employer may enroll a driver into the system if:
- (1) The driver is an Oklahoma resident;
 - (2) The driver has an Oklahoma commercial driver license;
 - (3) The employer notifies the driver, in writing, of its participation in the system and the impending enrollment of the driver; and
 - (4) Maintains on file a signed release from the driver to obtain driving record information.
- (b) An enrolled driver shall be maintained by the Department in the Driver Status Notification System until removed by the employer.
- (c) The annual fee for each enrolled driver shall be Fifteen Dollars (\$15.00), payable immediately upon enrollment.
- (d) The employer shall receive from the Department a notification, via e-mail, to log in to the Driver Status Notification System and receive a current Motor Vehicle Report for the newly enrolled driver. The Motor Vehicle Report shall meet the federal requirement of the employer to obtain an annual driving record for the driver.
- (e) Enrollment of a driver entitles the employer to receive:
- (1) one copy of a Motor Vehicle Report for the driver, as provided in (d), and
 - (2) unlimited electronic notifications, via e-mail, related to the driver as described in OAC 595:11-9-8.

595:11-9-6. Renewing enrolled drivers

- (a) The enrollment of each enrolled driver of the subscribing employer shall be automatically renewed by the Department at the beginning of each calendar year.
- (b) An enrolled driver shall be maintained by the Department in the Driver Status Notification System until removed by the employer.
- (c) The annual fee for each renewal of an enrolled driver shall be Fifteen Dollars (\$15.00), payable immediately upon enrollment.
- (d) The employer shall receive from the Department a notification, via e-mail, to log in to the Driver Status Notification System and receive a current Motor Vehicle Report for the renewed driver. The Motor Vehicle Report shall meet the federal requirement of the employer to obtain an annual driving record for the driver.
- (e) Renewal of the enrollment of a driver entitles the employer to receive:
- (1) one copy of a Motor Vehicle Report for the driver, as provided in (d), and
 - (2) unlimited electronic notifications, via e-mail, related to the driver as described in OAC 595:11-9-8.

595:11-9-7. Removing drivers by subscribing employers.

- (a) Removing a driver from the Driver Status Notification System shall be the sole responsibility of the subscribing employer.

(b) Upon separation of the employment of a driver, if the employer does not remove the driver from the system, the employer shall be subject to any fees related to that driver.

(c) No refund shall be made by the Department to the employer for any fee charged for a driver no longer employed by the employer.

595:11-9-8. Methods of notification and content of information

(a) Upon posting any action to the driving record of an enrolled driver related to the driving status of the driver, the Department shall send electronic notification, via e-mail, to the subscribing employer giving the name of the driver and stating that information in which the employer may be interested is available.

(c) To receive a complete report of the information, the employer shall log in to the Driver Status Notification System and review an electronic copy of each record that initiated the notification to the employer. The content of the record may consist of notification of:

- (1) Commercial driver license expiration.
- (2) Posting of a conviction for a traffic-related offense.
- (3) Pending action by the Department which may result in disqualification, suspension, revocation, or cancellation of the commercial driver license driving privileges of the driver.
- (4) Actual withdrawal action by the Department by disqualification, suspension, revocation, or cancellation of the commercial driver license driving privileges of the driver, and
- (5) changes in status of medical certification, if available.

595:11-9-9. Fee schedule and payment

- (a) The fee schedule shall be:
- (1) The fee for an original application for subscription by an employer shall be \$50.
 - (2) The fee for a renewal subscription of an employer shall be \$50.
 - (3) The fee for an original enrollment of a driver by an employer shall be \$15.
 - (4) The fee for a renewal enrollment of a driver by an employer shall be \$15.
- (b) All fees are due and payable immediately application, enrollment, or renewal, as appropriate.
- (c) No fee shall be subject to refund or to prorating.
- (d) Payment shall be made to the Department by a nationally-recognized credit card. A credit card convenience fees shall apply.

595:11-9-10. Maintenance of subscription

- (a) Credit card information shall be maintained on file with the Department.
- (b) The credit card shall be billed, per written agreement between the employer and the Department, upon the employer

subscribing to the Driver Status Notification System, enrollment of each driver and any subsequent renewal to subscription and enrollment.

(c) In the event credit card information on file with the Department becomes invalid or is otherwise not accessible to the Department, the subscription shall be deemed inactive and the subscription shall be suspended until the transaction can be completed by the Department resubmitting the transaction to and the transaction being approved by the credit card company, or upon the employer providing the Department with new credit card information.

(d) The Department shall notify the employer of any problems with submitting a transaction to the credit card company of the employer.

(e) If a payment fails to be processed or is declined by the credit card company of the employer, availability to the system by the employer shall be suspended by the Department.

(f) An employer may cancel its subscription at any time upon written notice to the Department. No fees shall be refundable upon cancellation.

595:11-9-11. Prohibited acts

(a) No employer shall enroll a driver for purposes of providing information on that driver to any other party or for purposes not related to the employment of the driver by the employer.

(b) No employer shall divulge any information received from the subscription to the Driver Status Notification System to any party other than the driver or other employees of the employer who have need to know the information received.

(c) If the Department determines any employer is misusing the system, the subscription of the employer shall be cancelled by the Department.

[OAR Docket #09-1189; filed 6-23-09]

**TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 25. WRECKERS AND TOWING SERVICES**

[OAR Docket #09-1190]

RULEMAKING ACTION:
PERMANENT final adoption.

- RULES:**
- Subchapter 1. General Provisions
 - 595:25-1-2 [AMENDED]
 - Subchapter 3. Wrecker License
 - 595:25-3-4 [AMENDED]
 - Subchapter 5. All Wrecker Operators
 - 595:25-5-3 [AMENDED]
 - 595:25-5-4 [AMENDED]
 - Subchapter 9. Oklahoma Highway Patrol Rotation Log - Additional Requirements
 - 595:25-9-1 [AMENDED]
 - Subchapter 11. Denial, Suspension, Revocation or Cancellation of License; Denial or Removal of Class Aa Operators from Rotation Log of the Oklahoma Highway Patrol
 - 595:25-11-2 [AMENDED]

AUTHORITY:
Commissioner of Public Safety; 47 O.S. § 952

DATES:
Comment Periods:
February 17, 2009, through March 25, 2009
Public Hearing:
March 25, 2009
Adoption:
April 1, 2009
Submitted to Governor:
April 1, 2009
Submitted to House:
April 1, 2009
Submitted to Senate:
April 1, 2009
Gubernatorial approval:
May 4, 2009
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on May 23, 2009.
Final Adoption:
May 23, 2009
Effective:
July 25, 2009

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

Amendments to would clarify similar requirements of wrecker and towing services.

The proposed actions are amendments to existing rules.

The circumstances which created the need for these rules are to clarify procedures and improve the working environment of the wrecker and towing services as well as to ensure the safety and protect the property of the motoring public of Oklahoma.

The intended effect of this rule is to allow the Department of Public Safety to perform its duties as required or authorized by law.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 25, 2009:

SUBCHAPTER 1. GENERAL PROVISIONS

595:25-1-2. Definitions

Any reference to "this Act" means 47 O.S. § 951 et seq. unless otherwise specified. The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"**Call**" means each request for service of an operator resulting in an operator being able to receive compensation for these services.

"**Class AA wrecker operator**" means any wrecker operator who also meets all the requirements of 47 O.S. § 952(D) for towing for law enforcement agencies.

"**Class AA truck wrecker operator**" means any wrecker operator who also meets all the requirements of 47 O.S. § 952(D) for towing for law enforcement agencies.

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"Commissioner" means the Commissioner of Public Safety, as defined by 47 O.S. § 1-109 and as described in 47 O.S. § 2-102.

"Department" means the Department of Public Safety.

"Junk vehicle" means a vehicle which is ten (10) years old or older and worth less than three hundred dollars (\$300.00) [42 O.S. § 91].

"Law enforcement tow" means a tow of a vehicle made by an operator when a law enforcement officer compels a vehicle be towed or makes a request for a tow using a law enforcement rotation log and to which the rate fees as prescribed in 47 O.S. § 953.1 shall apply.

"Officer" means any peace officer.

"Operator" means any person or legal entity owning or operating a licensed wrecker vehicle or a licensed wrecker or towing service and any employee thereof.

"Owner request tow" means a tow of vehicle made by an operator at the request of the owner, or authorized agent of the owner and which is not compelled or required by a law enforcement officer.

"Place of business" means a permanent structure, not mounted on wheels, occupied by the wrecker operator at the physical address of the wrecker service, as shown on the wrecker license, with phone service and functioning utilities including but not limited to electricity and water, where normal business is transacted and all wrecker records are maintained. Effective January 1, 2005, the place of business ~~must~~ shall be located in Oklahoma.

"Private Property Tow" means a tow of a vehicle which is made from private property by an operator at the request of the owner, legal possessor, or authorized agent in control of the real property, which shall be towed under the provisions of 47 O.S. § 954A and to which the rate fees as prescribed in 47 O.S. § 953.1 shall apply.

"Rotation log" means a list for each Highway Patrol Troop of the Department of current Class AA wrecker operators whose places of business are within the geographical boundaries of the Troop and who have requested and been approved by the Department to be on the list. This list governs the alternation among approved Class AA wrecker operators meeting the qualification of various categories of Class AA wrecker services except Class AA-TL wrecker vehicles.

"Tow/Towing" *"means the use of a wrecker vehicle to lift, pull, move, haul or otherwise transport any other vehicle by means of: (a) attaching the vehicle to and pulling the vehicle with the wrecker vehicle, or (b) loading the vehicle onto and transporting the vehicle upon the wrecker vehicle"*. [47 O.S. § 951(3)]

"Traffic tie-up" means any situation in which any officer deems it necessary to control the orderly flow of traffic.

"Truck wreckers" means every motor vehicle properly designed and equipped according to Department of Public Safety specifications with wrecker body and winch or lifting apparatus suitably designed to safely move, pull or tow wrecked, damaged or disabled trucks, truck-tractors, road tractors, trailers, semi-trailers, buses and/or other vehicles and conveyances that use the highways of the state of Oklahoma.

The designation as a truck wrecker shall be used for Class AA-TL wrecker vehicles only.

"Truck wrecker rotation log" means a list for each Highway Patrol Troop of the Department of current Class AA wrecker operators, meeting the qualifications of Class AA truck wrecker services, whose places of business are within the geographical boundaries of the Troop and who have requested and been approved by the ~~Department~~ Department to be on the list. This list governs the alternation among approved Class AA-TL truck wrecker operators only.

"Wrecker dolly" means a wheeled device which is used to support one end of a motor vehicle for towing.

"Wrecker license" means the wrecker license as provided by 47 O.S. § 951, et. seq.

"Wrecker operator" means any operator who is licensed under this Chapter and the laws of this state and who meets all requirements of the rules of this Chapter, pertaining to wrecker vehicles as defined in this Chapter.

"Wrecker or towing service", "wrecker service", or "towing service" *means engaging in the business of or performing the act of towing or offering to tow any vehicle, except: (a) where the operator owns the towed vehicle and displays on both sides of the wrecker vehicle in plainly visible letters not less than two (2) inches in height the words "NOT FOR HIRE", (b) where the service is performed by a transporter as defined in [47 O.S.] section 1-181 of this title, (c) where service is performed in conjunction with the transportation of household goods and property, (d) where the wrecker vehicle is owned or operated by the United States government, the State of Oklahoma, or any department or political subdivision thereof, or (e) where the service is performed by an out-of-state wrecker service at the request of the vehicle owner or operator, and the vehicle is being towed: (1) in either direction across the border between Oklahoma and a neighboring state, or (2) through Oklahoma in transit to another state; provided, the out-of-state wrecker service shall comply with all other requirements regarding interstate commerce as set forth in law.* [47 O.S. § 951(6)]

"Wrecker" or "wrecker vehicle", as defined by 47 O.S. § 951, et. seq., means any vehicle, other than a transport as defined in 47 O.S. § 1-181, equipped with a winch, cable or other device designed to lift, pull or move a disabled vehicle incapable of self-propulsion. (Does not include a vehicle with a push bumper only.)

(A) Class AA -- Any wrecker vehicle not less than nine thousand pounds (9,000 lbs.) GVWR and meeting minimum requirements as established for Class AA Wreckers in this Chapter.

(B) Class AA-TM -- Any wrecker vehicle not less than twenty-four thousand pounds (24,000 lbs.) GVWR and meeting minimum requirements as established for Class AA-TM Wreckers in this Chapter.

(C) Class AA-TL -- Any wrecker vehicle not less than forty-four thousand pounds (44,000 lbs.) GVWR and meeting minimum requirements as established for Class AA-TL Wreckers in this Chapter.

(D) Class General -- All other wrecker vehicles as defined by 47 O.S. § 951, et. seq.

SUBCHAPTER 3. WRECKER LICENSE

595:25-3-4. Trade name

- (a) Each operator shall use a unique trade name, approved by the Department, which shall be printed and appear on the license and shall be clearly distinguishable from the trade name of any other operator. Provided, however, the Department shall approve any trade name which has been accepted and currently registered with Oklahoma's Secretary of State.
- (b) Upon written request by the operator, the Department may change the trade name of a wrecker or towing service if there is no change in ownership. The identifying number shall be retained and no license fee shall be assessed.
- (c) Any change in ownership due to sale, merger, dissolution, ~~death~~ or any other reason, except as provided in subsection (d), shall reserve the wrecker service trade name for a period of thirty (30) days, during which time the successor or owner may apply for a wrecker license using the same trade name or another trade name. However, the successor may not operate as a licensed wrecker service until the application has been accepted and approved by the Department.
- (d) When the owner of a sole-proprietorship wrecker service dies, the wrecker license shall be cancelled by the Department effective upon the date of the death of the owner. Upon the death of the wrecker service owner, the wrecker service shall be immediately removed from Oklahoma Highway Patrol rotation. The heirs shall have thirty (30) days to apply for a wrecker service license using the same name and the same Department-assigned number; provided, the application shall be treated by the Department as a new application, and all procedures and fees shall apply.

SUBCHAPTER 5. ALL WRECKER OPERATORS

595:25-5-3. Operation

- All operators using the public roads and highways within the State of Oklahoma shall comply with the following:
- (1) All operators shall require each driver of a wrecker vehicle be proficient in the operation thereof, and be properly licensed for the type vehicle operated.
 - (2) No operator shall knowingly permit any operator of a wrecker vehicle to consume beer, wine, intoxicating beverages, drugs or other stimulants or depressants while subject to call nor knowingly permit any operator to come on duty after having inhaled or consumed any such beverage, drug or other stimulants or depressants.
 - (3) No operator shall, within the previous five (5) years:
 - (A) have an unpardoned conviction for larceny or any felony nor knowingly employ any person with such record, or
 - (B) On or after July 15, 2007, any such person shall not be eligible for license until five (5) years from end of incarceration or supervised release, including parole.
 - (4) No operator shall proceed to the scene of a collision or traffic tie-up without being requested to do so by a law

- enforcement agency or the owner or driver of a vehicle involved.
- (5) Any operator traveling on the roads and highways of the State of Oklahoma during the normal course of his business may, upon arriving at the scene of a collision or traffic tie-up, stop and assist in rendering emergency aid. However, the operator shall not solicit business directly or indirectly from the owner or drivers at the scene.
- (6) An operator at the scene of a collision or traffic tie-up is subject to the same traffic-control directions issued by an officer to the motoring public.
- (7) An operator shall not use the rotating or flashing light while traveling on the roadway en route to any location. The use of the flashing or rotating light is authorized only in the vicinity of hook-up or at the scene of a collision to protect the scene and the vehicle involved.
- (8) Each operator must be a person of good moral character and reputation in his community, as determined by the Commissioner of Public Safety, and conduct the operation of the storage facilities and towing service in a responsible manner so as not to endanger the public safety of persons or property of others in the custody of the operator.
- (9) No operator shall tow a vehicle when the combined weight of the wrecker vehicle and the wrecker supported weight of the towed vehicle exceeds the factory gross vehicle weight rating of the wrecker vehicle, regardless of the weight for which the wrecker vehicle is licensed.
- (10) No wrecker service shall suspend or abandon said service without prior written notice to this Department of such intent and returning of all wrecker licenses issued.
- (11) Wrecker services shall comply with 47 O.S. § 11-1110(C).
- (12) Upon payment of the reasonable cost of removal, and storage of a stored vehicle, whether stored at the request of law enforcement or a private property owner and recorded by the wrecker service as provided in OAC 595:25-5-5(b), the vehicle shall be released to:
 - (A) the owner, upon presentation of evidence of ownership which is satisfactory to the wrecker operator and required by 47 O.S. § 904, such as a certificate of title or recent registration, or written verification from a local law enforcement agency as to the identity of the owner, or other documentation acceptable to the wrecker owner/operator. If unacceptable, the wrecker service shall explain why an ownership document is not acceptable;
 - (B) a person representing the owner, upon presentation of the certificate of title, a notarized letter from the owner permitting said person to act in behalf of the owner, and proper personal identification, such as a driver license, of the representative, or written verification from a local law enforcement agency as to the identity of the person representing the owner;
 - (C) an individual with possessory interest in the vehicle, upon presentation of an agreement with the owner of the vehicle giving that individual a present possessory interest in the vehicle;

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(D) a lienholder or a duly authorized agent of a lienholder, upon presentation to the wrecker operator a recent repossession title receipt issued by the Oklahoma Tax Commission and a hold-harmless letter; or

(E) the insurer of or the insurer accepting liability for or purchasing a motor vehicle as provided in 47 O.S., Section 904, 953.1, or 953.2.

(13) Personal property, which shall include everything in a stored vehicle except the vehicle and its attached or installed equipment, shall be released, upon request, to the owner or owner's representative, upon showing of proof as described in (12) of this section, without the requirement that the owner or owner's representative pay towing and storage fees owing the wrecker service as a condition of release of the personal property. The owner or owner's representative shall be required to comply with any city or county regulation or ordinance requiring the payment of fees due to the city or county. The wrecker service may assess and collect lawful fees, such as after hours fees or subcontractor fees but other than towing and storage fees, as a condition of release of personal property to the owner or owner's representative. Wrecker operators shall allow the vehicle owner or owner's representative to have access to the vehicle for the sole purpose of retrieving ownership documentation, such as title or registration.

(14) Wrecker operators shall not call hazardous materials remediation companies unless at the direction of the vehicle owner or a governmental agency.

(15) Each operator shall require each wrecker driver to maintain the appropriate driver license for the type vehicle being operated.

(16) Each operator shall prohibit any known thief or felon from loitering, visiting, or otherwise being on the premises of the place of business or any storage facility of the wrecker service.

(17) Each operator shall secure vehicles on roll back wreckers with four (4) point tie down. Other wrecker vehicles shall secure vehicles in accordance with wrecker vehicle chassis recommendations.

(18) A wrecker operator or driver responding to the scene of a motor vehicle collision in the capacity of a first responder, fireman, or volunteer fireman shall not respond to the scene in a wrecker vehicle.

(19) Each wrecker operator or driver shall wear high-visibility safety apparel, in compliance with 23 C.F.R., Section 634, when working in any highway right-of-way.

595:25-5-4. Insurance

(a) **Liability for operator's negligent acts.** Each operator, from the time of movement of or otherwise making contact with any vehicle to be towed, may be liable for injury to persons, damage to property, fire or theft resulting from the operator's negligent acts.

(b) **Insurance policy.** Each operator shall maintain a valid insurance policy issued by ~~a surety~~ or an insurance company currently authorized to issue policies of insurance covering risks in the State of Oklahoma. The insurance policy shall be issued for a period of at least six (6) months and shall

protect the public against loss of life, bodily injury to person, and damage to property in the following amounts:

(1) **Class General or Class AA.**

(A) Bodily Injury and Property Damage - Not less than One Hundred Thousand Dollars (\$100,000.00) combined single limit coverage for bodily injury and/or property damage as a result of the operation of the wrecker vehicle and/or as a result of the on-hook vehicle causing the bodily injury and/or property damage.

(B) Garagekeeper's Legal Liability - Not less than Fifty Thousand Dollars (\$50,000.00) in Garagekeeper's Legal Liability with a deductible no greater than five hundred dollars (\$500.00), which must include comprehensive perils to the towed vehicle while being stored by the wrecker operator. Any General class wrecker service which does not have storage facilities shall be exempt from the provisions of this subparagraph.

(C) On-Hook or In-Tow - Not less than Fifty Thousand Dollars (\$50,000.00) in On-Hook or In-Tow Coverage with a deductible no greater than Five Hundred Dollars (\$500.00), which must include comprehensive perils and collision to the towed vehicle while it is being towed by the wrecker operator.

(2) **Class AA-TM.**

(A) Bodily Injury and Property Damage - Not less than Two Hundred Thousand Dollars (\$200,000.00) combined single limit coverage for bodily injury and/or property damage as a result of the operation of the wrecker vehicle and/or as a result of the on-hook vehicle causing the bodily injury and/or property damage.

(B) Garagekeeper's Legal Liability - Not less than One Hundred Thousand Dollars (\$100,000.00) in Garagekeeper's Legal Liability with a deductible no greater than five hundred dollars (\$500.00), which must include comprehensive perils to the towed vehicle while being stored by the wrecker operator.

(C) On-Hook or In-Tow - Not less than One Hundred Thousand Dollars (\$100,000.00) in On-Hook or In-Tow Coverage with a deductible no greater than Five Hundred Dollars (\$500.00), which must include comprehensive perils and collision to the towed vehicle while it is being towed by the wrecker operator.

(3) **Class AA-TL.**

(A) Bodily Injury and Property Damage - Not less than Three Hundred Thousand Dollars (\$300,000.00) combined single limit coverage for bodily injury and/or property damage as a result of the operation of the wrecker vehicle and/or as a result of the on-hook vehicle causing the bodily injury and/or property damage.

(B) Garagekeeper's Legal Liability - Not less than One Hundred Fifty Thousand Dollars (\$150,000.00) in Garagekeeper's Legal Liability with a deductible no greater than five hundred dollars (\$500.00), which

must include comprehensive perils to the towed vehicle while being stored by the wrecker operator.

(C) On-Hook or In-Tow - Not less than One Hundred Fifty Thousand Dollars (\$150,000.00) in On-Hook or In-Tow Coverage with a deductible no greater than Five Hundred Dollars (\$500.00), which must include comprehensive perils and collision to the towed vehicle while it is being towed by the wrecker operator.

(4) **All Wrecker Classes.** Bailee Coverage - Not less than Two Thousand Five Hundred Dollars (\$2,500.00) for loss of contents of the vehicle with a deductible not greater than Five Hundred Dollars (\$500.00).

(c) **Judgment.** Any final judgment rendered by a court of competent jurisdiction against a wrecker service or an owner or employee thereof, arising out of any services provided by the operator of or any employee of the wrecker service, including towing or storage of towed vehicles, must be satisfied within thirty (30) days. If such judgment is not timely satisfied, the wrecker license shall be revoked and such revocation shall remain in effect until the judgment is satisfied. Provided, however, a release or written agreement signed by the judgment creditor and approved by the Department shall reinstate eligibility. Provided, if judgment is covered by insurance up to the amount and to the extent required in the rules, this Subsection shall not apply.

(d) **Carrier certification.** The insurance company of each wrecker service shall certify to the Department on a form prescribed by the Department that the insurance company will notify the Department in writing at least ten (10) days before the date the company cancels such policy.

(e) **Insurance information.** An operator shall provide contact and other pertinent information regarding the insurance company and policy covering the wrecker service to any person who might be eligible to file a claim against the operator's insurance policy.

(f) A notice from the insurance company to the Department of insurance cancellation for non-payment of the premium shall be sufficient reason for suspension of the wrecker service license.

SUBCHAPTER 9. OKLAHOMA HIGHWAY PATROL ROTATION LOG - ADDITIONAL REQUIREMENTS

595:25-9-1. Oklahoma Highway Patrol Rotation Log

(a) **Official Rotation Log.** The Department of Public Safety maintains two (2) official Oklahoma Highway Patrol Rotation Logs, a Class AA wrecker log and a Class AA-TL wrecker log, each of which shall consist of licensed wrecker services for the performance of services carried out pursuant to the request of or at the direction of any officer of the Department [47 O.S. §952(D)].

(b) **Request for placement on the Rotation Log.** A licensed Class AA wrecker service desiring to be placed on the Highway Patrol Rotation Log in the Highway Patrol Troop District in which the place of business and the primary storage

facility of the wrecker service is located shall file a written request with the Department, pursuant to (e) of this Section. [47 O.S. §952(D)]

(c) **Assignment to the Rotation Log.** If a request for placement on the Rotation Log is approved by the Department, the wrecker service shall be assigned by the Department to the Highway Patrol Troop District specified on the request. Both the Troop Commander of the Troop District and the wrecker service will be notified by the Department of the assignment of the wrecker service to the Rotation Log. [47 O.S. §952(D)]

(d) **Geographical areas of rotation.** [47 O.S. §955(B)]

(1) The Director of the Wrecker Services Division shall be responsible for establishing geographical areas of rotation within the Troop District to which wrecker services on the District's Rotation Log will be assigned for operation when responding to calls for service from the Rotation Log. The Director shall notify each wrecker service of the geographical area of rotation to which it is assigned.

(2) The Director will establish each geographical area of rotation based upon a reasonable radius from the primary storage facility of each wrecker service operating within the geographical area. The reasonable radius will be determined by the Director based upon:

- (A) the estimated time it will take the wrecker service to respond to calls for service,
- (B) the number of wrecker services available on the Rotation Log,
- (C) conformity with 47 O.S. §955(B),
- (D) consideration of the economic impact of the wrecker services fees and charges [see 47 O.S. §953.1 regarding maximum fees and charges for wrecker services] on the owner or lienholder of the vehicle; and
- (E) other factors within the Troop District as deemed appropriate by the Director.

(3) The Director may overlap geographical areas of rotation whenever necessary to ensure adequate response to requests for wrecker services.

(4) The Director may modify geographical areas of rotation for the Troop District at any time and for just cause, but shall notify as soon as practicable each wrecker service affected of such modifications.

(5) The Director may extend any geographical area of rotation by a reasonable radius beyond the boundaries of the Troop District to include on the rotation log of the District a wrecker service:

- (A) which is located outside of but in proximity to the boundary of the District, and
- (B) upon receiving notification from the Department of the approval of the wrecker service for placement on the rotation log for the District of the Commander.

(6) Nothing in this Section shall prohibit the Troop Commander from using the services of any licensed wrecker service:

- (A) outside of its assigned geographical area of rotation, or

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(B) which has not been assigned to the Rotation Log of the Troop District.

(e) **Forms.** A request for placement on any rotation log shall be filed by the wrecker service with the Department of Public Safety on a form prescribed and provided by the Department [47 O.S. §952(D)]. The When requesting placement on a rotation log, the wrecker service shall provide on the request one (1) telephone number to be used for request of services during the day and one (1) telephone number to be used for request of services during the night, specifying the time period of normal use; these numbers shall also be on file with the Wrecker Services Division. Any change in the telephone numbers shall be immediately transmitted to:

- (1) the Troop Commander(s) of the Oklahoma Highway Patrol Troop District(s) on whose Rotation Log the wrecker service has been assigned, and
- (2) the Wrecker Services Division of the Department of Public Safety.

(f) **Request for removal from the Rotation Log.** A licensed Class AA wrecker service desiring to be removed, whether temporarily or permanently, from the Highway Patrol Rotation Log on which it was placed, pursuant to this section, shall file a written request with the Department. The wrecker service shall not contact the Troop Commander(s) of the Troop District(s) for removal from the Rotation Log.

SUBCHAPTER 11. DENIAL, SUSPENSION, REVOCATION OR CANCELLATION OF LICENSE; DENIAL OR REMOVAL OF CLASS AA OPERATORS FROM ROTATION LOG OF THE OKLAHOMA HIGHWAY PATROL

595:25-11-2. Violation of rules

(a) The Department may deny, suspend, cancel, or revoke the license, and/or remove from the Rotation Log, as the case may be, any operator who has committed a violation of the rules of this Chapter or the laws of 47 O.S.

(b) The Department may institute, when circumstances warrant for offenses which occur within four (4) years of each other and as prescribed in OAC 595:25-11-3, a system of progressive discipline of any wrecker service which shall consist of:

- (1) for a first offense as provided in (a), a letter of reprimand,
- (2) for a second offense as provided in (a), a suspension of the wrecker service license from the OHP rotation log for ten (10) days if applicable, and
- (3) for a third offense as provided in (a), a suspension of at least thirty (30) days and no more than ninety (90) days.

[OAR Docket #09-1190; filed 6-23-09]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 30. SIZE AND WEIGHT PERMITS

[OAR Docket #09-1191]

RULEMAKING ACTION:

PERMANENT final adoption.

RULES:

Subchapter 3. Size and Weight Permit Load

595:30-3-3 [AMENDED]

595:30-3-4 [AMENDED]

595:30-3-5 [AMENDED]

595:30-3-7 [AMENDED]

595:30-3-8 [AMENDED]

595:30-3-13 [AMENDED]

595:30-3-16 [AMENDED]

595:30-3-17 [AMENDED]

595:30-3-17.1 [AMENDED]

595:30-3-19 [AMENDED]

595:30-3-21 [AMENDED]

595:30-3-22 [AMENDED]

Subchapter 5. Special Combination Vehicles

595:30-5-2 [AMENDED]

Subchapter 9. National and Regional Permits

595:30-9-1 [AMENDED]

Appendix A. Oversize Load Sign [REVOKED]

Appendix B. Troop Areas [REVOKED]

AUTHORITY:

Commissioner of Public Safety; 47 O.S. §§ 2-108 and 14-101 et seq

DATES:

Comment Periods:

February 17, 2009, through March 25, 2009

Public Hearing:

March 25, 2009

Adoption:

April 1, 2009

Submitted to Governor:

April 1, 2009

Submitted to House:

April 1, 2009

Submitted to Senate:

April 1, 2009

Gubernatorial approval:

May 4, 2009

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 23, 2009.

Final Adoption:

May 23, 2009

Effective:

July 25, 2009

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

Amendments to this subchapter would clarify requirements for driver training schools and instructors, and motor vehicle accident prevention courses.

The proposed actions are amendments to existing rules.

The circumstance which created the need for these rules is to ensure reliable service to the citizens of Oklahoma and to comply with federal laws and regulations.

The intended effect of these rules is to allow the Department of Public Safety to perform its duties as required or authorized by law.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 25, 2009:

SUBCHAPTER 3. SIZE AND WEIGHT PERMIT LOAD

595:30-3-3. Requesting, obtaining, and paying for a permit

(a) **Requesting and obtaining a permit.** A permit ~~may be requested shall be~~ applied for and obtained from the Size and Weight Permit Division of the Department of Public Safety, by contacting a permit office either in person, ~~or by telephone, or from the Department website.~~ A permit for movement of a manufactured home shall be ~~requested applied for~~ and obtained in accordance with 68 O.S. §2813 and 47 O.S. §14-103D. The permit office ~~will shall~~ make a determination as to whether ~~or not~~ the permit ~~will can~~ be issued based upon the size of load, the route to be traveled, the clearance of overhead ~~structure structures~~, weather conditions, and traffic conditions.

(b) ~~Location and hours of permit offices~~ **In-person permit application.** All permit offices are open Monday through Friday, except on state holidays. ~~Location, telephone numbers, and office hours of permit offices are.~~

- (1) Oklahoma City (main office), ~~3600 N. Martin Luther King Avenue, (877) 425-2390 (toll free) 2401 Northwest 23rd Street, Suite 45, Oklahoma City, OK 73107.~~ Office hours: 7:00 a.m. to ~~4:30~~ 6:30 p.m.
- (2) Offices at Oklahoma Highway Patrol district headquarters, ~~(877) 425-2390 (toll free):~~
 - (A) Enid, ~~5725 W. West~~ Garriott Road. Office hours: 7:30 a.m. to 12:00 p.m. (noon), and 1:00 p.m. to 3:45 p.m.
 - (B) Tulsa, ~~9191 E. East Skelly Dr Drive.~~ Office hours: 8:00 a.m. to 12:00 p.m. (noon), and 1:00 p.m. to 4:15 p.m.
- (3) Field Offices:
 - (A) Elk City, ~~JCT S.H. S.H. 66 and S.H. 6 at Merritt Road, (580) 243-0306 at the west junction of U.S. Highway 66 and State Highway 6.~~ Office hours: 8:00 a.m. to 12:00 p.m. (noon), and 1:00 p.m. to 4:15 p.m.
 - (B) ~~Pauls Valley, Court House, Room #2, (405) 238-5850 Ada, 615 West 33rd Street (Ada Technology Center).~~ Office hours: 8:00 a.m. to 12:00 p.m. (noon), and 1:00 p.m. to 4:15 p.m.
 - (C) Woodward, ~~102 Temple Houston Dr., (405) 256-3654 Drive.~~ Office hours: 7:00 a.m. to 11:00 a.m., and 12:00 p.m. (noon) to 3:15 p.m.

(c) **Telephone permit application.** Telephone applications may be made by calling, toll free, (877) 425-2390, Monday through Friday, except on state holidays, between 7:00 a.m. and 6:00 p.m.

(d) **Website permit application.** Website applications may be made through the Department's website between 7:00 a.m. and 6:00 p.m.: <http://www.dps.state.ok.us/swp/agreement.htm>

(e) **Payment for a permit.** Payment for a permit is to be made by one of the following methods:

- (1) Cash (exact change is required). Please do not mail cash.
- (2) Certified cashier's check. Make checks payable to "Oklahoma Department of Public Safety."
- (3) Money order. Make money orders payable to "Oklahoma Department of Public Safety."
- (4) Personal or company check. Make checks payable to "Oklahoma Department of Public Safety." If a personal or company check is not honored by the bank upon which it is drawn, the Department of Public Safety reserves the right to refuse all further checks from the person or company who issued the check.
- (5) Credit card. Discover, MasterCard, or Visa will be accepted for payment. ~~Permits paid for by credit card which are to be faxed to the permittee will be faxed only to private fax lines.~~
- (6) Monthly billing account. [See 595:30-3-7 regarding monthly billing accounts.]

595:30-3-4. Conditions and restrictions

The following conditions and restrictions shall apply to the issuance of permits for the operation of oversize and overweight vehicles:

- (1) **Travel time.** Movement shall be permitted in accordance with the dates and times provided in 47 O.S. §14-101 and in this Section.
 - (A) **Oklahoma County.** Movement of oversize permitted loads is not allowed on the National System of Interstate and Defense Highways in Oklahoma County from 7:00 a.m. to 9:00 a.m., and from 3:30 p.m. to 6:30 p.m., Monday through Friday.
 - (B) **Tulsa County.** Movement of oversize permitted loads is not allowed on the National System of Interstate and Defense Highways in Tulsa County from 7:00 a.m. to 9:00 a.m., and from 3:30 p.m. to 6:30 p.m., Monday through Friday.
 - (C) **Cleveland County.** Movement of oversize permitted loads is not allowed on the National System of Interstate and Defense Highways in Cleveland County ~~northbound~~ from 7:00 a.m. to 9:00 a.m., and ~~southbound~~ from 3:30 p.m. to 6:30 p.m., Monday through Friday.
- (2) **Required signs and flags.** All oversized equipment requires the regulation "Oversize Load" sign and flagging, as provided in 595:30-3-16 ~~{see Appendix A regarding signs}~~.
- (3) **Exceptions.** The restrictions in this paragraph shall not apply to special combination vehicles, longer combination vehicles, and vehicles which are overweight only.
- (4) **Weather, traffic, road and atmospheric conditions.** Extreme caution in the operation of permitted vehicles and loads shall be exercised during hazardous

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conditions, including, but not limited to, snow, ice, sleet, fog, mist, rain, dust, smoke, excessive wind, or any weather, traffic, or road condition which would adversely affect traction or braking capabilities. When conditions become dangerous, the company or the operator shall discontinue operations, and operations shall not resume until the vehicle and load can be moved with reasonable safety. The state may restrict or prohibit operations during periods, when, in the state's judgement, weather, traffic, road, or other conditions exist which make such operations unsafe or inadvisable. [See 730:30-9-14(2) regarding driving conditions.]

(5) **Overweight load route review.** Requests for permits for overweight loads which require a load route review ~~must~~ shall be submitted to ensure they are received by the Oklahoma Department of Transportation Bridge Division a minimum of five (5) working days prior to the date of movement [730:30-9-7(k)].

(6) **Brakes, drawbars, and lighting requirements.** Equipment requirements for this Paragraph are found in 47 O.S. §§12-201 through 12-415, and in the Federal Motor Carriers Safety Regulations, Part 393, Subchapters B, C, B, and H.

(7) **Accuracy of information.** It is the responsibility of the applicant to ensure accuracy of information contained in the application and permit. Permits will not be revised to alter the load description or the vehicle or load dimensions. Multi-trip, annual permits, or provisional permits cannot be changed. Permit revisions will be allowed to correct an error attributed to:

- (A) the issuing office, or
- (B) the permittee, if the error is discovered before the move has commenced.

595:30-3-5. Method of placing permit in suspension where conditions exist beyond the control of the permittee permit holder

(a) A permit may be placed in suspension by the permit holder for a maximum of two (2) weeks for inclement weather, road conditions due to weather and equipment breakdown. To place a permit in suspension the permit holder shall:

- (1) Contact the permit office within the trip dates. If the permit expires when the permit office is closed, contact the permit office the next working day;
- (2) Provide the permit number and trip dates;
- (3) State the reasons for wanting to suspend the permit and provide proper documentation to the Oklahoma City Permit Office by faxing it to (405) 522-9006.

(b) If the permit office is not contacted ~~again~~ by the permit holder to remove the suspension of the permit within ~~the two (2) week~~ weeks of placing the permit in suspension period, the permit ~~will~~ shall become void, and the permit shall be required to apply for a new permit must be applied for.

595:30-3-7. Establishing a monthly billing account

The Size and Weight Permit Division may authorize monthly billing accounts for individuals, companies, and

corporations to defer payment of special permits issued for oversize and overweight vehicles. A monthly billing account will be established in accordance with the following provisions:

(1) Posting of bond.

(A) A bond must be posted in an amount sufficient to cover the monthly billing. The minimum amount of such bond shall be Five Thousand Dollars (\$5,000.00).

(B) The bonding company must be approved by the Oklahoma Insurance Commissioner to do business in Oklahoma and maintain such approval during the term of the bond.

(C) The bond must be on a form prepared by the Department of Public Safety. The completed original form must be submitted to the Department for final approval. The form may be obtained by contacting the Size and Weight Permit Division ~~at~~ of the Department of Public Safety.

(D) The surety company must notify the Department by written notice a minimum of thirty (30) days prior to cancellation or reduction of the amount of coverage and state the effective date of the change in coverage. The surety company shall send the notice by certified mail to the Size and Weight Permit Division.

(E) It is the responsibility of the company holding the bond to give the monthly billing account number only to persons qualified to use the account. Establishing an account implies full agreement to the terms of the account and any related activities thereof. Once the bond has been approved by the Department of Public Safety, notification of the monthly billing account number will be given. Information concerning accounts may be obtained by calling ~~(405) 425-2208~~ 522-9004 or ~~(405) 425-2209~~ 522-9005.

(2) **Payment of account.** Each monthly billing account will be invoiced at the first of each month. Payment must be received by the Department of Public Safety at ~~its Oklahoma City address~~ 2401 Northwest 23rd Street, Suite 45, Oklahoma City, OK 73107 by the fifteenth (15th) day of the invoice month. Accounts which are not paid will not be used to issue permits until the account is paid. Accounts not paid by the twentieth (20th) day of the invoice month will be sent to the bonding company for collection. The Department may close any account for which the deferred payment is habitually delinquent.

595:30-3-8. Provisional permit book

(a) **Ordering a provisional permit book.** Once a monthly billing account has been established, a provisional permit book may be ordered from the Size and Weight Permit Division, as authorized by 47 O.S. §14-116(C)(3). When ordering a provisional permit book, include:

- (1) the monthly billing account number;
- (2) a self-addressed, stamped 12-inch by 15-inch envelope; and

(3) a list of the permit numbers of permits remaining in any previously issued provisional permit books. Orders will not be filled if there are ample unused permits.

(b) **Using provisional permits.**

(1) Provisional permits must be used only by the company or individual who established the monthly billing account.

(2) Provisional permits must not be destroyed or discarded.

(3) The Oklahoma City office of the Size and Weight Permit Division must receive a copy of every provisional permit removed from the book.

(4) The provisional permit holder shall not use the provisional permit to obtain a permit for another company or individual.

(5) Permits obtained by the provisional permit method are for single trips only.

(6) Before calling a permit office for authorization to use a provisional permit, have all information necessary for completing the provisional permit. Do not fill out the provisional permit before calling a permit office [see 595:30-3-3 regarding permit office locations and telephone numbers].

(7) Give the information to the permit clerk and, at the same time, fill out the provisional permit exactly the way the information is given to the permit clerk. The permit clerk will provide the authorization number to be written on the line provided. The permit clerk will also advise of any other information which must be on the permit. All special instructions which are given by the permit clerk to add to the permit must be written on the provisional permit.

(8) Write ~~the last three (3) digits of~~ the account number on the same line immediately following the company name.

(9) Mail the pink copy to the Size and Weight Permit Division in Oklahoma City on the day the provisional permit is ordered. If the pink copy is not received within three (3) days, further provisional permits will not be validated.

(10) The pink copy will be checked for the following items against the authorization:

- (A) Accuracy;
- (B) Completeness (all appropriate blanks filled in);
- (C) All restrictions and escort requirements, if any, written on the permit;
- (D) Current vehicle registration information.

(11) ~~Voiding of a~~ A provisional permit ~~can may be done only with the permission voiced, at the discretion of the permit clerk who issued the permit office, by calling (405) 522-9004.~~ Both copies (yellow and pink) of the voided provisional permit must be sent to the Oklahoma City office the same day it is voided.

(12) Authorized motor carriers using provisional permits during weekends, holidays, and other approved times, must have the certification statement attached to the provisional permit when in use and when faxed to the Oklahoma City main office. Prior to permitted movement,

a duplicate of the prepared permit and certification statement shall be faxed to the Size and Weight Permit Division at (405) 424-3890 522-9006. The certification statement shall be in lieu of the authorization number and certifies that all provisions for permitted movements have been met including, but not limited to, the required route study adherence as determined by the Oklahoma Department of Transportation. Certification statements shall be on a form prescribed by the Commissioner of Public Safety and shall be valid when signed by the motor carrier or an authorized agent of the carrier and filed with the Department of Public Safety.

(13) The provisions of 730:30-9-6, 730:30-9-7, and 730:30-9-9 relating to single trip movements shall apply to provisional permits, as provided by this Section, and shall be in accordance with the applicable provisions of this Section relating to single trip permits.

(c) **Information.** Information concerning provisional permits may be obtained by calling the Size and Weight Permit Division (405) ~~425-2207~~ 522-9003. The provisional permit book remains the property of the Oklahoma Department of Public Safety. The Department may suspend or terminate the privilege to use the book at any time with cause. The book must be returned to the Size and Weight Permit Division upon request.

595:30-3-13. Governmental agencies

(a) **Military moves.**

(1) **Special permission.** All movements by the Armed Forces and the National Guard must be in compliance with the size and weight limits contained in 47 O.S. §§ 14-103 and 14-109, unless an authorization has been issued by the Size and Weight Permit Division, or an emergency has been officially declared by the President or the Governor. In the event an official emergency is declared, telephone contact should be made with the Oklahoma City Size and Weight Permit Office ~~(405-425-2205)~~ by calling toll free (877) 425-2390 (select option 4) during regular office hours or the Oklahoma Highway Patrol Communications Center by calling (405-) 424-1616 at other times.

(2) **No-cost authorization.** If it is necessary to move a vehicle or load which cannot be reasonably dismantled or disassembled and transported within the legal size and weight limits, an application for authorization to make the movement must be submitted to the Oklahoma City Permit Office. Application may be on Department of Defense standard forms, by letter, or by electronic communications. If the Oklahoma City Permit Office determines the move can be made in safety without damaging the highway system, a no-cost authorization will be issued.

(3) **Blanket authorization.** The Oklahoma City Permit Office will review requests for routine military convoy movements, which are submitted on standard military forms, and issue a blanket no-cost authorization for all approved oversize and overweight vehicles and loads which are included. These authorizations do not relieve the Armed Forces or National Guard from overall responsibility for the convoy movement.

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(b) **City, county, state and federal agencies.**

(1) **Compliance.** City, county, state and federal agencies must comply with the provisions of 595:30-3-13(a)(1).

(2) **No-cost authorization.** If it is necessary to move a vehicle or load which cannot be reasonably dismantled or disassembled and transported within the legal size and weight limits, an application for authorization to make the movement must be submitted to the Oklahoma City Permit Office. Application may be by letter, or by electronic communication. If the Oklahoma City Permit Office determines the move can be made safely without damaging the highway system, a no-cost authorization will be issued.

595:30-3-16. "Oversize Load" sign and warning flags

(a) **"Oversize Load" sign.** All oversize vehicles and loads moving under permit must have the regulation "Oversize Load" sign attached to the front of the towing vehicle and on the rear of the load or towed vehicle, whichever extends the farthest. The "Oversize Load" signs shall not be displayed on a vehicle that is of legal dimensions. Regulation "Oversize Load" signs must meet the following requirements ~~[see Appendix A regarding sign requirements]:~~

(1) **Color.** The sign ~~must shall~~ consist of a yellow background with black lettering.

(2) **Size.** The sign ~~must shall be seven (7) at least five (5) feet long and eighteen (18) at least fourteen (14) inches high. The letters must shall legible from a distance of at least fifty (50) feet and shall be ten (10) at least eight (8) inches high using a one and one-half (1 1/2) one-eight (1 1/8) inch wide brush stroke.~~

(3) **Placement of sign.** The sign mounted on the rear of the load or the towed vehicle whichever extends the farthest must be as high as practicable from ground level. For manufactured homes, the sign must be no lower than five (5) feet from ground level. If an escort vehicle is required, the regulation "Oversize Load" sign ~~will shall be placed mounted either on the roof or on the front of the escort vehicle, if movement is on two-lane highways or super two-lane roadways, or on the rear of the escort vehicle, if movement is on multi-lane roadways.~~

(4) **Determining factors.** ~~Signs shall be placed at an appropriate location on the vehicle as determined by the load and the location of the escort vehicle.~~ **Wording.** The wording shall state "Oversize Load" or "Wide Load".

(5) **Sign material.** The sign ~~must shall~~ be made of a durable material.

(b) **Warning flags.** All overwidth and overlength vehicles and loads moving under permit, excluding extra-length vehicle combinations, shall be marked by warning flags. All loads which overhang the rear of the vehicle or trailer by four (4) feet or more shall be marked by warning flags. Warning flags must meet the following requirements:

(1) **Color.** Each flag ~~must shall~~ be a solid red or fluorescent orange.

(2) **Size.** Each flag ~~must shall be twelve (12) at least eighteen (18) inches by twelve (12) eighteen (18) inches.~~

(3) **Placement of flags.** Flags shall be placed at the four (4) corners of the vehicle or load and on the extremities of the vehicle or load, if applicable, in the following manner:

(A) **Front.** Two (2) flags required: a flag shall be fastened to each front corner or extremity of the vehicle or load, whichever extends the farthest, if the width requires the vehicle or load to be permitted.

(B) **Rear.**

(i) **Overwidth.** Two (2) flags required: a flag shall be fastened to each rear corner or extremity of the vehicle or load, whichever extends the farthest, if the width requires the vehicle or load to be permitted.

(ii) **Overlength.** If the rear overhang of the load extends beyond the end of the vehicle by four (4) feet or more:

(I) One (1) flag required: a flag shall be fastened at the extreme rear of the load if the width of the load projection is two (2) feet or less.

(II) Two (2) flags required: a flag shall be fastened to each rear corner of the load if the width of the load projection is more than two (2) feet.

(C) **Side.** Flags required: A flag shall be fastened in such a manner so as to mark any extremity of size which is wider than the front or rear of the vehicle or load, whichever is wider.

595:30-3-17. Requirements for escort vehicles and escort vehicle operators

(a) **General requirements for escort vehicles.** Any vehicle to be used as an escort vehicle must be either a pickup truck of not less than one-quarter (1/4) ton rated load capacity or an automobile of not less than 2,000 pounds. The escort vehicle must be properly licensed under the statutes of the State of Oklahoma [47 O.S. § 1101 et seq.] or properly licensed in another state. If commercially licensed, an escort for an intrastate move must obtain a temporary registration from the Oklahoma Tax Commission Motor Vehicle Registration Division.

(b) **Identification of escort vehicles.** The owner of an escort vehicle must have displayed on each side of the escort vehicle the name and city and state of the escort vehicle company or operator, or the owner of the escort vehicle, or both. ~~Well known company logos are acceptable.~~ Such identifying markings must be:

(1) Plainly legible and visible to the motoring public.

(2) Readily legible during daylight hours from a distance of fifty (50) feet while the vehicle is stationary.

(3) Kept and maintained in a manner to preserve legibility.

(4) In a color or colors which sharply contrast with the background on which they are placed.

(c) **Equipment of escort vehicles.** An escort vehicle must carry the following items of equipment at all times when escorting an oversize/overweight vehicle or load:

(1) **Flags.** Red flags, shall be at least twelve (12) inches square, ~~must and shall~~ be attached to standards angled upward to the left and right at forty-five (45) degrees and mounted on the top of the cab. No flags shall be displayed unless the escort vehicle is actually engaged in escorting.

(2) **Mirrors.** The vehicle shall be equipped with an outside rear-view mirror on each side of the vehicle.

(3) **Radio.** Escort and towing vehicles shall be equipped with a two-way radio which is capable of transmitting and receiving voice messages over a minimum distance of one-half (1/2) mile and which is compatible with radios in the escorted vehicle and any other escort vehicle(s).

(4) **Fire extinguisher.** One (1) ten-pound or two (2) five-pound ABC fire extinguishers. Extinguishers shall be checked annually to ensure they are operational.

(5) **Flares or reflectors.** Four (4) fifteen minute flares or three (3) portable triangle reflector units.

(6) **Sign.** The regulation "Oversize Load" sign, as provided in 595:30-3-16 ~~[see Appendix A of this Chapter regarding signs]~~, shall be placed mounted either on the front or the roof of front escort vehicles and on the rear of rear escort vehicles while escorting an oversize vehicle or load. The sign will be clearly visible without an obstruction. No signs shall be displayed unless the escort vehicle is actually engaged in escorting.

(7) **Warning lights.** One AAMVA-approved rotating or flashing amber beacon or a flashing amber light bar system shall be mounted on top of the escort vehicle and shall be of sufficient intensity when illuminated to be visible from five hundred (500) feet in normal sunlight. ~~The rotating beacon shall be at least ten (10) inches in diameter and eight (8) inches in height,~~ and shall rotate, oscillate or flash through 360 degrees. Blue, red, or white rotating lights are not authorized under Oklahoma statutes. In addition:

(A) Headlights of escort vehicles shall be lighted at all times during movement.

(B) Warning lights in conformance with 47 O.S. § 12-220(D) and § 12-227(C) may be used in conjunction with the headlights.

(C) No warning lights shall be displayed unless the escort vehicle is actually engaged in escorting.

(8) **Measuring pole.** A current height measuring pole made of non-conductive, flexible, non-fragile material when escorting a load or vehicle ~~exceeding which is~~ fifteen (15) feet and nine (9) inches or more in height.

(9) **Traffic control sign.** A standard eighteen (18) inch "STOP" and "SLOW" paddle sign.

(10) **Safety clothing.** A hard hat and a jacket or vest, both in safety orange color, for each person who may be assigned to traffic control, setting reflectors or any other duties conducted on or near a roadway.

(11) **Flashlight.** A flashlight equipped with and powered by at least two (2) D cell batteries.

(12) **Spare tire.** A full-size spare tire for the escort vehicle, tire jack and lug wrench.

(d) **Prohibitions when operating escort vehicles.** The escort vehicle shall not:

(1) Carry any item, equipment or load in or upon the vehicle which:

(A) Exceeds the height, length or width of the vehicle, overhangs the escort vehicle; or otherwise impairs its immediate recognition as an escort vehicle by the motoring public.

(B) Impairs the view of the operator of the escort vehicle or the escorted vehicle.

(C) Obstructs the view of signs or flags used by the escort vehicle or causes safety risks to the motoring public.

(D) Impairs the performance of the escort vehicle.

(2) Tow any trailer or other vehicle, except that an escort vehicle operator not required to be certified by the Department *may tow a trailer when escorting a manufactured home. Such trailer shall not exceed eight and one-half (8 1/2) feet in width and twenty (20) feet in length with siding not to exceed four (4) feet in height measured from the bed of the trailer. The trailer may only be used to transport supplies and equipment necessary to carry out the mission of escort vehicle operators* [47 O.S. § 14-120.1(C)] and shall not be used to carry other supplies, equipment, or cargo.

(3) The operator of the escort vehicle shall not perform as a tillerman while performing escort operations. For purposes of this paragraph, "tillerman" means a person who operates by remote control any axle of the escorted vehicle.

(e) **Duties of escort vehicle operators.**

(1) **Traffic control.** In the performance of duties as the operator of an escort vehicle, the operator is authorized to direct traffic to stop, slow down or proceed in situations where such direction is necessary to allow traffic or the escorted vehicle or load to continue moving safely, ~~except as provided below.~~

(A) The operator of the escort vehicle shall require the escorted vehicle or load to stop, and the escorted vehicle shall move as far off of the roadway as practicable and stop to allow other traffic to pass, under the following conditions:

(i) When the escorted vehicle or load becomes disabled.

(ii) When the movement of the escorted vehicle or load on a particular section of roadway presents a safety risk or unreasonable risk to or unreasonably interferes with the efficient movement of other traffic, based upon such factors as the widths of the escorted vehicle or load, roadway, volume of traffic, limited visibility or mountainous terrain.

(iii) When driving conditions for the escorted vehicle or load are hazardous for any reason including weather.

(B) When the escorted vehicle or load stops, the escort vehicle operator may direct other traffic past the escorted vehicle or load as necessary until such

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time as the escorted vehicle or load can reenter the roadway and continue moving without presenting a safety risk or unreasonably interfering with efficient movement of other traffic.

(2) **Escort vehicle operation.**

(A) The operator of an escort vehicle must comply with all applicable traffic laws of this state and with the requirements of this Chapter when escorting a vehicle on all routes of the state highway system, including but not limited to the Dwight D. Eisenhower National System for Interstate and Defense Highways, all turnpikes, and such other roads, streets, or public ways that the Commissioner of Public Safety and the Oklahoma Department of Transportation shall deem appropriate.

(B) On two-lane highways, the first escort vehicle will travel far enough to the front and the second escort vehicle, if required, will travel far enough to the rear of the escorted vehicle or load to timely warn approaching motorists. On multi-lane highways, the first escort vehicle will travel far enough to the rear of the escorted vehicle or load to timely warn motorists approaching from the rear.

(f) **Insurance.**

(1) Each certified escort vehicle operator who operates in interstate commerce, and on and after August 1, 2014, each certified escort vehicle operator, shall maintain a valid insurance policy issued by ~~a surety~~ or an insurance company currently authorized to issue policies of insurance covering risks in the State of Oklahoma, and proof of insurance shall be carried in the escort vehicle at all times. The insurance policy shall protect the public against loss of life, bodily injury to persons, and damage to property, and shall provide not less than One Million Dollars (\$1,000,000.00) combined single limit coverage for bodily injury and/or property damage as a result of the operation of the escort vehicle, the escorted vehicle, or both causing the bodily injury and/or property damage. ~~This~~

(2) Until July 31, 2014, paragraph (1) of this subsection shall not apply to any operator who operates only in intrastate commerce or in interstate commerce into or through states which do not have escort vehicle certification requirements for the type of vehicle and/or load being escorted and who applies for and is granted restricted certification as provided for in OAC 595:30-3-17.1(c)(3); provided, the operator shall meet all minimum requirements for compulsory liability insurance in this state, and proof of insurance shall be carried in the escort vehicle at all times.

(3) On and after August 1, 2014, paragraph (1) of this subsection shall apply to all certified escort vehicles. operators.

595:30-3-17.1. Certification of operators of escort vehicles for hire

(a) **Requirements.** Every person who drives an escort vehicle for hire to escort a permitted over-dimensional load

or vehicle in this state must be certified by the Department of Public Safety. To be certified, the person must meet the following requirements:

(1) Be at least eighteen (18) years of age.

(2) Possess a valid driver license from the state or jurisdiction in which the person is a resident.

(3) Submit an application for certification to the Size and Weight Permit Division of the Department of Public Safety on the form provided by the Department. The application must contain all required information including a driving record issued within the immediately preceding thirty (30) days.

(4) Attend a course in escort vehicle certification, as prescribed by the Department, and successfully pass the escort vehicle certification examination.

(b) **Course and examination.** The course will be taught by the Oklahoma State University Center for Local Government Technology (~~OSU Tech~~). Courses will be taught at locations throughout the state. Class size shall be determined by ~~OSU Tech~~ Oklahoma State University Center for Local Government Technology. Locations, times, and enrollment information ~~will be made~~ are available ~~after July 14, 2001,~~ by calling (405) 744-9905 ~~6049,~~ or online at www.clgt.ok.state.edu.

(c) **Certification.** The Department of Public Safety will grant a certification card to any person who completes an escort vehicle course prescribed by the Department ~~and,~~ passes the escort vehicle certification examination with a score of seventy-five percent (75%) or higher, and ~~satisfy~~ satisfies all other requirements.

(1) The term of the certification shall be for a maximum period of five (5) years, subject to subsection (d), and shall expire automatically five (5) years after the date of issuance. Upon expiration of the certification, the operator must again comply with the requirements in (a)(1), (a)(2), (a)(3), and (a)(4) of this Section before the Department of Public Safety will issue a new certificate.

(2) Operators must notify the Department of Public Safety, Size and Weight Permit Division in writing within thirty (30) days of any change of address or name.

(3) ~~Operators~~ Until July 31, 2014, operators who operate only in intrastate commerce or in interstate commerce into or through states which do not have escort vehicle certification requirements for the type of vehicle and/or load being escorted may apply for a restricted certification. Such certification shall be exempt from the insurance requirements of OAC 595:30-3-17(f). On and after August 1, 2014, each operator shall meet the insurance requirements of OAC 595:30-3-17(f).

(d) **Denial or withdrawal of certification.** The following circumstances shall result in denial or withdrawal of certification:

(1) Failure to satisfy the requirements of or failure to give required or correct information on the application for certification as an escort vehicle operator, or the commission of any fraud in making the application.

(2) Violation of rules established by the certifying state.

(3) Suspension, revocation, cancellation, or denial of the driver license of the certified operator. The certified

operator shall notify the Department of Public Safety, Size and Weight Permit Division, within five (5) days of any such suspension, revocation, cancellation, or denial, and shall provide the Division a copy of the Order of the Department.

(4) An accumulation of ten (10) points against the driver license on the driving record of the certified operator.

(e) **Hearing.** Any party aggrieved by the denial or withdrawal of certification under this Section may request a hearing, in writing, with the Department pursuant to OAC 595:1-3.

(f) **Certification by other states.** ~~Until and through June 30, 2006, Oklahoma shall recognize valid escort certifications issued by other states and in the possession of escort vehicle operators who are residents of other states. On and after July 1, 2006, an An~~ escort vehicle operator shall possess an Oklahoma certification, unless the escort vehicle operator is a resident of a state other than Oklahoma which has a reciprocal agreement with Oklahoma *recognizing escort vehicle operator certifications issued by that state* [47 O.S., § 14-120.1(E)] and is in possession of a current escort vehicle operator certification issued by that state. Under all circumstances, an escort vehicle operator who is an Oklahoma resident shall have an Oklahoma certification.

595:30-3-19. Manufactured homes and industrialized housing

(a) **General provisions for manufactured homes.** Permits for movement of manufactured homes and industrialized housing shall require the "Oversize Load" sign and flagging in accordance with 595:30-3-16, and the travel. Other requirements are:

- (1) Oversize movement is subject to the provisions of 47 O.S. § 14-101 and 595:30-3-4(1).
- (2) The towing vehicle must be at least fourteen (14) feet from bumper to bumper, or have a wheel base of at least one hundred eighteen (118) inches to tow a manufactured home or industrialized housing at least twelve (12) feet but not more than sixteen (16) feet in width. All towing vehicles must have dual wheels on the drive axles. If the manufactured home is less than twelve (12) feet wide, the towing vehicle must be a truck of at least three-quarter (3/4) ton capacity. If the manufactured home is twelve (12) feet wide or more, the towing vehicle must be of at least two (2) ton capacity.
- (3) Red flags and the "Oversize Load" sign are required as provided in 595:30-3-16.
- (4) Any combination length over eighty (80) feet will require an escort, except on multi-lane divided highways.
- (5) ~~A permit for an oversize manufactured home not exceeding ten (10) feet in width may be issued to a tourist wishing to travel in Oklahoma for a period not to exceed two (2) weeks.~~

(b) **Manufactured homes on turnpikes.**

- (1) **Cash lane.** Manufactured homes:
 - (A) ~~up to ten (10) feet in width will be permitted on the Cherokee, Chickasaw, Creek, Kilpatrick, H.E.~~

~~Bailey, and Turner Turnpikes through the cash lane for travel on the full length of the turnpike.~~

(B) ~~up to eleven (11) feet in width will be permitted on the Will Rogers Turnpike through the cash lane for travel on the full length of the turnpike.~~

(2) **PikePass lane.** Manufactured homes:

(A) ~~up to twelve (12) feet in width will be permitted on the Chickasaw, Cimarron, Creek, H.E. Bailey, Indian Nation, Kilpatrick, Muskogee, Turner, and Will Rogers Turnpikes with a PikePass for travel on the full length of the turnpike.~~

(B) ~~up to fourteen (14) feet in width will be permitted on the Cherokee Turnpike with a PikePass for travel on the full length of the turnpike.~~

(c) **Manufactured homes not more than ten (10) feet wide.** Manufactured homes not more than ten (10) feet wide and with an overall length which exceeds seventy (70) feet are required to have an overlength permit. The towing vehicle must ~~have a truck with~~ a rated capacity of three-quarter (3/4) ton or more. The regulation "Oversize Load" sign and flagging are required, as provided in 595:30-3-16. An "Oversize Load" sign shall be placed on the front of the towing vehicle and the rear of the manufactured home.

(d) **Manufactured homes twelve (12) feet wide.** For manufactured homes twelve (12) feet wide, the towing vehicle must be a truck of at least two (2) ton rated capacity, with dual rear wheels. The regulation "Oversize Load" sign and flagging are required, as provided in 595:30-3-16. An "Oversize Load" sign shall be placed on the front of the towing unit and on the rear of the manufactured home. The towing vehicle must maintain a minimum speed of 40 mph on all multi-lane highways, if conditions are favorable.

(e) **Manufactured homes more than twelve (12) feet wide but not more than fourteen (14) feet wide.** For manufactured homes more than twelve (12) feet wide but not more than fourteen (14) feet wide, the towing vehicle must be a truck of at least two (2) ton rated capacity, with dual rear wheels. A front escort is required on all two-lane and super two-lane roads and highways. The regulation "Oversize Load" sign and flagging are required, as provided in 595:30-3-16. An "Oversize Load" sign shall be placed on the front of the towing unit and the rear of the manufactured home. The towing vehicle must maintain a minimum speed of 40 mph on all multi-lane highways, if conditions are favorable. The load must not extend more than one foot on each side at the eaves.

(f) **Manufactured homes more than fourteen (14) feet wide but not more than sixteen (16) feet wide.** Manufactures homes more than fourteen (14) feet wide but not more than sixteen (16) feet wide will be issued permits in accordance with 47 O.S. § 14-103A. The towing vehicle must be a truck of at least two (2) ton rated capacity, with dual rear wheels. Both front and rear escorts are required on all two-lane and super-two lane roads and highways. A rear escort is required on all multi-lane highways. The regulation "Oversize Load" sign and flagging are required, as provided in 595:30-3-16. An "Oversize Load" sign shall be placed on the front of the towing unit and the rear of the manufactured home. Manufactured homes of this width will not be permitted to travel on any turnpike but will be

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permitted on the Dwight D. Eisenhower System of Interstate and Defense Highways. The towing vehicle must maintain a minimum speed of 40 mph on all multi-lane highways, if conditions are favorable. The load must not extend more than one foot on each side at the eaves.

~~(g)~~ **Manufactured homes more than sixteen (16) feet wide.** Manufactured homes more than sixteen (16) feet will be issued permits in accordance with 47 O.S. § 14-103A. Manufactured homes more than ~~eighteen (18)~~ sixteen (16) feet shall not be permitted for movements on the Dwight D. Eisenhower System of interstate and defense highways. The towing vehicle must be a ~~truck of at least two (2) ton rated capacity, with dual rear wheels tandem-axle truck of not less than two hundred twenty (220) horsepower.~~ Both front and rear escorts are required on all two-lane and super two-lane roads and highways. A rear escort is required on all multi-lane highways. The regulation "Oversize Load" sign and flagging are required on the front of the towing unit and the rear of the manufactured home. Manufactured homes of this width will not be permitted to travel on any turnpike. The towing vehicle must maintain a minimum speed of 40 mph on all multi-lane highways, if conditions are favorable. The load must not extend more than one foot on each side at the eaves.

~~(h)~~ **Oversize permits for manufactured homes during harvest.** There is a need to expedite the movement of manufactured homes during the wheat harvest season, as numerous short moves will be made during that time. This includes all oversize mobile homes up to twelve (12) feet wide. ~~Fourteen (14) feet wide mobile homes will be required to have a permit each time they are moved. The regulation "Oversize Load" sign and flagging are required, as provided in 595:30-3-16. An "Oversize Load" sign shall be placed on the front of the towing vehicle and on the rear of the manufactured home. The following procedure will be in effect during the harvest season:~~

~~(1) A single trip permit will be issued to the operator from the beginning move to the first destination within the state, or through the state.~~

~~(2) A second permit will be issued for the duration of the harvest season for the western half of the state. The permits issued for the duration of the harvest season may be issued for mobile homes with out of state license plates, as the Tax Commission does not issue temporary permits for mobile homes. The towing vehicle (whether a pick up or truck) must have either an Oklahoma registration or a temporary registration permit before an oversize permit can be issued for a manufactured home from point to point within the State. Oklahoma residents must have a current mobile home tag on the mobile home. Permits for trucks and mobile homes will not be issued when the truck is loaded with a combine. Combines can become entangled in bridge super structures. If it should become necessary to maneuver the truck to get through the bridge, and a mobile home is attached to the truck, this prevents the clearing of the bridge with any expediency.~~

595:30-3-21. Industrialized housing, houses, and buildings

Permits for house or building movement will be issued in accordance with 47 O.S. §14-103C.

~~(1) Movement of industrialized housing.~~ For industrialized housing:

~~(A) Permitted movement will be allowed on certain highways, as specified on the permit.~~

~~(B) For structures which are eighteen (18) feet or less in width at the base or the top, a maximum traveling distance shall not apply, and travel will be routed accordingly.~~

~~(C) The maximum width will not exceed twenty six (26) feet at the base and thirty (30) feet at the top on state and federal highways.~~

~~(2) Houses and buildings.~~ For houses and buildings:

~~(A) 1) The maximum width will not exceed thirty-two (32) feet at the base and thirty-four (34) feet at the top. The height shall not exceed twenty-one (21) feet on any state or federal highway.~~

~~(B) 2) Travel shall be on highways and at times and dates determined by the Department and consistent with public convenience and safety, as specified on the permit. Permits will be issued in accordance with 47 O.S. §14-101 et seq.; provided, the structures shall not be moved on Saturday or Sunday.~~

~~(C) 3) Loads which are fourteen (14) feet or more in width, or in excess of eighty (80) feet in overall length must have two escorts with a flag person.~~

~~(D) 4) House movers will be required to notify any railroad company across whose railroad a house or building is to be moved of the date, time of the anticipated crossing and obtain the train schedule. In all cases when overhead lines are present and the load is fifteen (15) feet and nine (9) inches or more in height, the house mover will be required to notify any affected utility or railroad company in advance of the anticipated move, so overall safety measures can be taken and flag person(s) can be provided.~~

~~(5) Any structure in excess of sixteen (16) feet, the towing unit shall be a tandem-axle truck of no less than two hundred twenty (220) horsepower.~~

595:30-3-22. Agriculture permits

Agriculture permits shall be governed by 47 O.S. §14-118(e).

(1) Transporting of raw forest products ~~requires~~ shall not be permitted on the National System of Interstate and Defense Highways and shall require:

(A) An annual permit with a fee of Twenty-five Dollars (\$25.00)

(B) Truck and trailer information and the route to be used shall be given to the Size and Weight Permit Division of the Department.

(C) The regulation "Oversize Load" sign and flagging are required, as provided in 595:30-3-16.

(2) Transporting of round baled hay requires:

(A) An annual permit with a fee of Twenty-five Dollars (\$25.00).

- (B) Truck and trailer information shall be given to the Size and Weight Permit Division of the Department.
- (C) The regulation "Oversize Load" sign and flagging are required, as provided in 595:30-3-16.
- (3) Transporting of soil conservation equipment requires:
 - (A) An annual permit with a fee of Twenty-five Dollars (\$25.00).
 - (B) Travel on the National System of Interstate and Defense Highways shall not be permitted.
 - (C) The regulation "Oversize Load" sign and flagging are required, as provided in 595:30-3-16.

SUBCHAPTER 5. SPECIAL COMBINATION VEHICLES

595:30-5-2. Issuance of permits

The requirements for issuance of special combination vehicle permits are the following:

- (1) **Where to apply.** Application shall be made to the Director of the Size and Weight Permit Division, Department of Public Safety, ~~3600 N. King Ave~~ 2401 Northwest 23rd Street, Suite 45, Oklahoma City, Oklahoma, 73111-4223 73107, on a form prescribed by the Department.
- (2) **Cost.** A completed and signed application will be accompanied by a tender of an annual fee of one hundred twenty dollars (\$120.00) for each permit issued. ~~The annual fee may be prorated where required.~~
- (3) **Number.** One permit is required for each ~~Special Combination Vehicle~~ special combination vehicle.
- (4) **Expiration.** Permits will expire ~~with current vehicle registration. The Department of Public Safety may prorate, on a monthly basis, any permit issued on a vehicle which has registration that will expire in periods less than one year. Proration will be calculated on a ten dollar (\$10.00) a month fee. Any portion of a month will be counted as a full month. A temporary letter of authority issued by the Oklahoma Tax Commission, Motor Vehicle Division will be acceptable. Permit will then be issued on a monthly basis one year from the date of issuance.~~

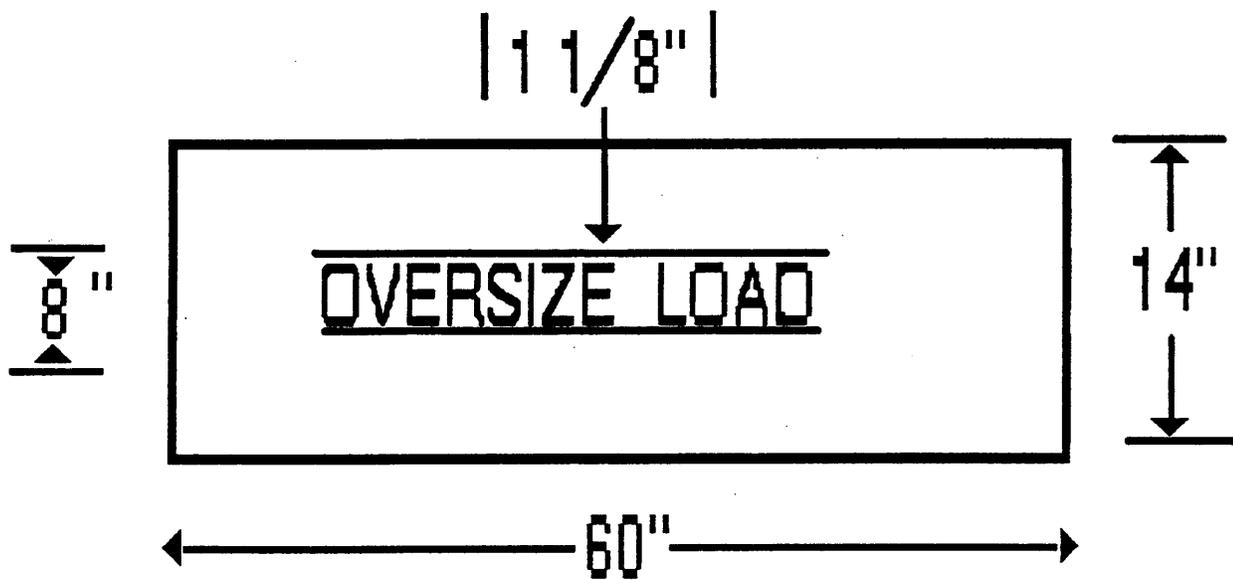
- (5) **Refunds.** Refunds for unused portions of issued permits will not be made.
- (6) **Renewal.** The filing of an application for permit or renewal of same does not authorize operation. Operation may only commence after the issuance of a permit by the Department of Public Safety.

SUBCHAPTER 9. NATIONAL AND REGIONAL PERMITS

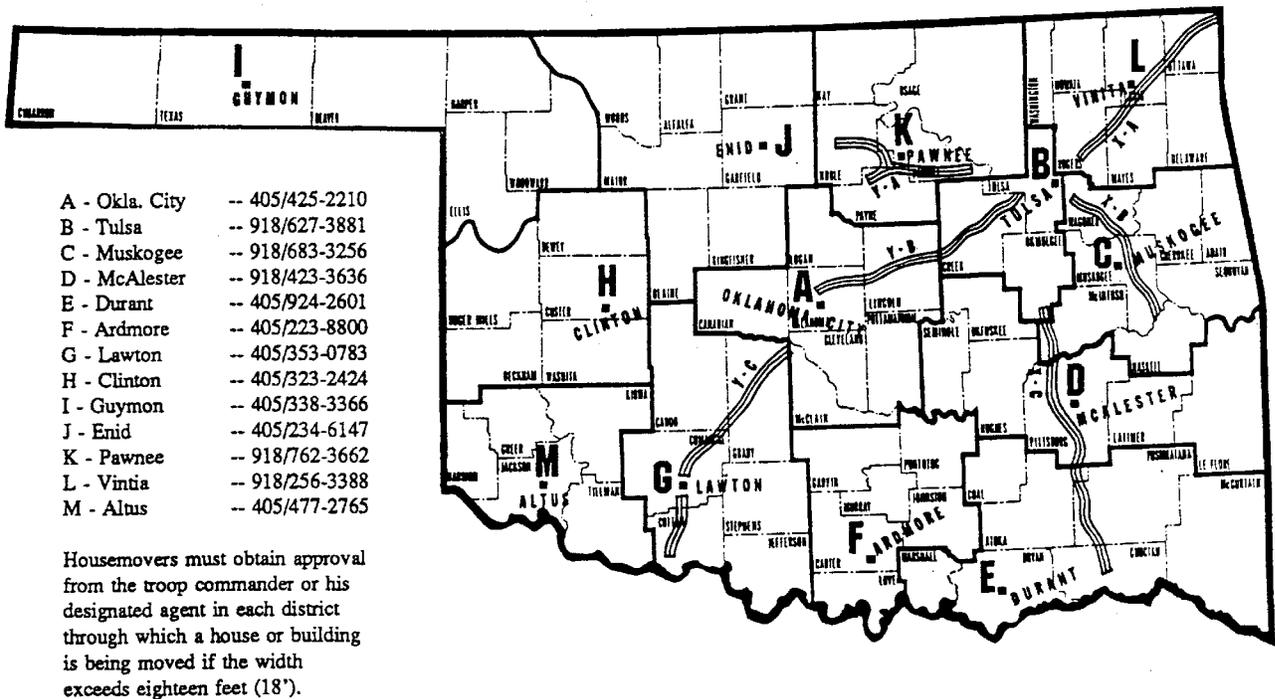
595:30-9-1. Regional Permits

- (a) The Department of Public Safety adopts by reference the agreement entered into between the Department of Transportation and the Western Association of State and Highway Transportation Officials (WASHTO), as well as the Guide for Uniform Laws and Regulations Governing Truck Size and Weight Among the WASHTO States, for the future issuance of multi-state permits for single-trip nondivisible loads in accordance with said agreement. A summary of procedures and restrictions within the current WASHTO agreement is available at the Department of Public Safety Size and Weight Permit Division, ~~3600 North King Avenue~~ 2401 Northwest 23rd Street, Suite 45, Oklahoma, Oklahoma City, Oklahoma, (405) 425-2206 or by calling toll free (877) 425-2390 (select option 4).
- (b) The Department of Public Safety adopts by reference the agreement entered into between the Department of Transportation and SASHTO, as well as the Agreement on Multi-State Permitting of Oversize and Overweight Vehicles to ~~provide~~ consider a single, routine, uniform mechanism for processing multi-state single trip permits for oversize and/or overweight vehicle combinations which are within the standards and specifications of the agreement. A summary of procedures and restrictions within the current SASHTO agreement is available at the Department of Public Safety Size and Weight Permit Division, ~~3600 North King Avenue~~ 2401 Northwest 23rd Street, Suite 45, Oklahoma City, Oklahoma, (405) 425-2206 or by calling toll free (877) 425-2390 (select option 4).
- (c) Regional permits may be obtained only at the Oklahoma City Office described in OAC 595:30-3-3.

APPENDIX A. OVERSIZE LOAD SIGN [REVOKED]



APPENDIX B. TROOP AREAS [REVOKED]



[OAR Docket #09-1191; filed 6-23-09]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 40. DRIVER TRAINING AND IMPROVEMENT

[OAR Docket #09-1192]

RULEMAKING ACTION:
 PERMANENT final adoption.

- RULES:**
- Subchapter 1. Driver Education Instruction
 - 595:40-1-1 [AMENDED]
 - 595:40-1-2 [AMENDED]
 - 595:40-1-3 [AMENDED]
 - 595:40-1-4 [AMENDED]
 - 595:40-1-9 [AMENDED]
 - 595:40-1-11 [AMENDED]

- 595:40-1-13 [AMENDED]
- 595:40-1-15 [AMENDED]
- AUTHORITY:**
 Commissioner of Public Safety; 47 O.S. §§ 6-105 and 802.
- DATES:**
- Comment Periods:**
 February 17, 2009, through March 25, 2009
- Public Hearing:**
 March 25, 2009
- Adoption:**
 April 1, 2009
- Submitted to Governor:**
 April 1, 2009
- Submitted to House:**
 April 1, 2009
- Submitted to Senate:**
 April 1, 2009
- Gubernatorial approval:**
 May 4, 2009

Permanent Final Adoptions

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 23, 2009.

Final Adoption:

May 23, 2009

Effective:

July 25, 2009

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

Amendments to this subchapter would clarify requirements for driver training schools and instructors, and motor vehicle accident prevention courses.

The proposed actions are amendments to existing rules.

The circumstance which created the need for these rules is to ensure reliable service to the citizens of Oklahoma.

The intended effect of these rules is to allow the Department of Public Safety to perform its duties as required or authorized by law.

CONTACT PERSON:

David W. Beatty, Administrative Rules Liaison, Department of Public Safety, 3600 N. M.L. King Ave., P.O. Box 11415, Oklahoma City, OK 73136-0415. Phone: (405) 425-2024. Email: dbeatty@dps.state.ok.us.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 25, 2009:

SUBCHAPTER 1. DRIVER EDUCATION INSTRUCTION

595:40-1-1. Purpose

The Department of Public Safety is charged with prescribing the procedures for obtaining Driver Education Instructor Licenses; establishing the qualifications for instructors of private, parochial, commercial driver education, ~~commercial truck driving~~, commercial motorcycle training and other non public schools; adopting the course of study, defining student eligibility, and specifying driver education vehicle standards, insurance requirements and required reports.

595:40-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Credential" means endorsements, major and/or minor teaching areas, licenses, as well as professional, standard, provisional, temporary, and emergency certificates.

"Commercial driver education course" means a course of study including highway signs, signals, markings and design, rules of the road, state laws, local ordinances, basic driving maneuvers, and safe operation of motor vehicles on streets and highways.

"Commercial driver education school" means a business enterprise conducted by an individual, association, partnership, or corporation for the education and training of fifteen year old high school sophomores and fifteen and a

half year old or older students for a class D driver license and charging a consideration or tuition for such services.

"Commercial motorcycle driver training instructor" means a qualified instructor of Motorcycle Safety Foundation curriculum as adopted by OAC 595:40-5-1.

"Commercial motorcycle driver training schools" means a business enterprise conducted by an individual, partnership, or corporation for the education and training of motorcycle drivers.

~~**"Commercial truck driver training schools"** means a business enterprise conducted by an individual, association, partnership, or corporation for the education and training of students for a Class A, B, or C commercial driver license.~~

"Driver Education Instructor" means a qualified instructor who instructs students seeking a driver license according to the rules set forth in this chapter.

"Endorsements" means credentials placed on valid licenses/certificates to indicate that the holder is eligible to teach specific subjects. An endorsement qualifies the holder to teach a full day in the subject of the endorsement.

"High School or Secondary School" means a school offering continuous programs of general education for regularly enrolled full-time students including grades nine through twelve.

"Private, parochial and non-public high school" means any high school or secondary school which is not a public school supported with public funds and/or does not meet the definition of a Commercial School under Title 47, Chapter 69.

595:40-1-3. Driver education instructor permit/license

(a) **Requirement of Driver Education Instructor Permit/license.** A Driver Education Instructor Permit/license is required for instructors who teach Driver Education as prescribed under 47 O.S. §6-105 (D) and 47 O.S. § 801, who offer behind the wheel instruction to students who do not possess a valid Oklahoma driver license.

(b) **Application for Driver Education Instructor permit/license.**

(1) **Public schools.** The State Department of Education, Comprehensive Health/Driver and Traffic Safety Section, shall provide an application for Driver Education instructor permits/licenses and renewal permit/licenses for public schools upon request.

(A) The instructor shall make application to the State Department of Education by mail to: State Department of Education, Comprehensive Health/Driver Education, Room 314, 2500 Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

(B) The State Department of Education shall review the application as to teacher qualification and prescribed course of study and forward the application to the Department of Public Safety.

(2) **Commercial schools - original application.**

(A) All applications for an original school license shall be made on a form provided by the Department. The term of each original school license shall be for a period of three (3) years. Each place of business

and/or location shall be considered a separate school and require a separate license.

(B) Each application for an original school license shall be accompanied by:

- (i) a fee of Twenty-five Dollars (\$25.00), which shall be paid to the Department by money order, cashier's check, or business/personal check,
- (ii) a schedule of fees and charges,
- (iii) certificates of insurance from a company licensed to conduct business in this State certifying proper commercial insurance coverage, and
- (iv) the make, model, vehicle identification number, and registration number of each vehicle used for training purposes, except motorcycles used for motorcycle training.

(C) No license fee shall be refunded in the event the license is rejected, suspended or revoked by the Commissioner of Public Safety.

(D) All applications must be approved by the Department before a school will be permitted to open for business.

(E) Every operator of a Commercial Driver school shall be required to have a Commercial Instructor License.

(F) Application for Driver Education Instructor license for non-public schools may be obtained from the Department of Public Safety, at: Driver Examining Division, P.O. Box 11415, Oklahoma City, Oklahoma 73136-0415.

(G) All schools shall meet the requirements of OAC 595:40-1-15.

(3) Commercial schools - renewal application.

(A) All applications for a renewal school license shall be made on a form provided by the Department of Public Safety. The term of each renewal school license shall be for a period of three (3) years. Each place of business and/or location shall be considered a separate school and require a separate license.

(B) Each application for a renewal school license shall be accompanied by:

- (i) a fee of Twenty-five Dollars (\$25.00), which shall be paid to the Department by money order, cashier's check, or business/personal check, and
- (ii) a schedule of fees and charges, if any changes have been made since the last license issuance.

(C) All application forms for renewal licenses shall be mailed by the Department to each licensee no later than October 1 of the expiration year. Each licensee desiring to renew shall submit an application to the Department no later than November 15 of the year of expiration. If application for renewal is not received by the required date and the Department is unable to process and approve the application by December 31 of the year of expiration, the commercial school shall cease operation on January 1 of the year following year of expiration and shall not resume operation until

the application for renewal is processed and approved by the Department.

(4) Commercial, ~~truck,~~ and motorcycle instructors - original applications.

(A) All applications for an original instructor license shall be made on a form provided by the Department. The term of each original instructor license shall be for a period of no more than three (3) years. An instructor shall make application for each Commercial School location where he or she will be instructing. An instructor license shall become invalid upon termination of employment with the school or schools of a single owner. If an instructor accepts employment with another school or schools of a different owner, the instructor license is not transferrable, and the instructor shall apply for an original license as a new employee of the other school.

(B) Each application for an original instructor license shall be accompanied by:

- (i) documentation required by OAC 595:40-1-4, and
- (ii) a fee of Five Dollars (\$5.00), which shall be paid to the Department by money order, cashier's check, or business/personal check.

(5) Commercial, ~~truck,~~ or motorcycle instructors - renewal applications.

(A) All applications for a renewal instructor license shall be made on a form provided by the Department. The term of each renewal instructor license shall be for a period of three (3) years. An instructor shall make application for each Commercial School location where he or she will be instructing. An instructor license shall become invalid upon termination of employment with the school or schools of a single owner. If an instructor accepts employment with another school or schools of a different owner, the instructor license is not transferrable, and the instructor shall apply for an original license as a new employee of the other school.

(B) Each application for a renewal instructor license shall be accompanied by:

- (i) a certified criminal history report from the Oklahoma State Bureau of Investigation certified within the immediately preceding thirty (30) days, and
- (ii) a fee of Five Dollars (\$5.00), which shall be paid to the Department by money order, cashier's check, or business/personal check. If the instructor is licensed at multiple schools with the same owner, only one fee of Five Dollars (\$5.00) shall be paid. If the instructor is licensed at multiple schools with different owners, a fee of Five Dollars (\$5.00) shall be paid for each school with a different owner.

595:40-1-4. Qualifications for instructors

(a) **All driver education instructors.** Instructors of public, private, commercial driver education schools and other

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non-public schools shall submit to the Department of Public Safety, upon application, proof of the following:

- (1) current employment by a school which offers a prescribed course of study;
 - (2) a valid and unexpired Oklahoma driver license;
 - (3) at least twenty-one (21) years of age;
 - (4) never been convicted of a felony as evidenced by an Oklahoma State Bureau of Investigation criminal background check conducted within the immediately preceding thirty (30) days or, if the applicant has not lived in Oklahoma for the immediately preceding five (5), a criminal background check from the agency responsible for keeping criminal history in the state or states of residence for the immediately preceding five (5) years;
 - (5) if applicable, have driving privileges reinstated for at least twelve (12) months, if driving privileges were suspended, canceled, revoked, denied, or disqualified for a driving-related conviction or for Department action related to driving under the influence or driving while impaired. If driving privileges are suspended, canceled, revoked, denied, or disqualified only for a non-driving-related conviction or reason, the applicant shall be eligible immediately upon reinstatement of driving privileges;
 - (6) not been convicted of misdemeanor possession or use of alcohol or drugs within the past twelve (12) months;
 - (7) not more than five (5) point violations on the driving record;
 - (8) no administrative action pending pursuant to 47 O.S. §§ 753, 754, or 754.1; and
 - (9) a high school diploma or general education diploma.
- (b) **All commercial school instructors.** Every three (3) years, all commercial school instructors shall take, at a minimum, the vision and written examinations given by the Department for the purposes of driver licensing and, for continued licensing as a commercial school instructor, shall be required:
- (1) to receive a score of at least eighty percent (80%) on driver license written examination. Should the applicant fail to achieve the required score after three (3) attempts, the applicant shall be denied certification and may reapply after one (1) year.
 - (2) to pass standard driver license road test, if applicable, with a passing score of at least eighty percent (80%). Should the applicant fail to achieve the required passing score after (three) attempts, the applicant shall be denied certification and may reapply after one (1) year.
- (c) **Public school instructors only.** Qualifications for public driver education instructors are set out in the rules for Oklahoma High School Driver and Traffic Safety Education by the Oklahoma State Board of Education.
- (d) **Non-public school instructors.** Instructors of driver education for non-public schools, except commercial schools, shall submit to the Department of Public Safety proof of the following:
- (1) a valid Oklahoma secondary, elementary-secondary, library media specialist, speech-language pathology or technology center school license/certificate,

- (2) credentials in Driver and Traffic Safety Education, and
- (3) a valid and unexpired Oklahoma driver license.

(e) **Commercial school instructors other than ~~truck and motorcycle training instructors.~~** Commercial driver education school instructors, other than ~~truck and motorcycle training instructors,~~ shall submit to the Department of Public Safety proof of the following:

- (1) a minimum of six (6) semester hours of Driver Education I and Driver Education II, and a minimum of three (3) semester hours of General Safety Education from an accredited college or university;
- (2) a course equivalent to that described in paragraph (1) offered by a nationally recognized commercial driver instructor course approved by the Department of Public Safety; or
- (3) certification by the State Department of Education as a driver education instructor, which certification shall be for at least five (5) years immediately preceding application and approval as a commercial driver education school instructor in conjunction with having taught driver education for at least five (5) years in public, private, or parochial school.

(f) **~~Commercial truck driver training school instructors.~~**

~~(1) Commercial truck driver training school instructors shall submit to the Department of Public Safety proof of a high school diploma, or equivalent, and a minimum of five (5) years verifiable experience in the type of vehicle used by the school for instruction purposes.~~

~~(2) The Department of Public Safety shall provide all schools a form which shall be presented to the prospective student prior to enrollment and payment of fees to the school. The form shall inform the student applicant as to the physical qualifications required for truck drivers. These qualifications are adopted from the Federal Motor Carrier Safety Regulations Pocketbook as prescribed by the United States Department of Transportation Federal Highway Administration, Subpart E Physical Qualifications and Examinations, Section 391.41. This form shall be signed by the applicant and shall become a part of his school record.~~

(g) **Commercial motorcycle training school instructor qualifications.** Commercial motorcycle training school instructors shall submit to the Department of Public Safety proof of the following:

- (1) a high school diploma, or equivalent,
- (2) an instructor's certificate issued by the Motorcycle Safety Foundation, and
- (3) current employment by a motorcycle training school.

595:40-1-9. Prescribed course of study

(a) A prescribed course of study of Driver Education shall be designed to develop knowledge of those provisions of the Oklahoma Vehicle Code and other laws of this state relating to the operation of motor vehicles, acceptance of personal responsibility in traffic, appreciation of the causes, seriousness, and consequences of traffic collisions, and to develop the

knowledge, attitudes, habits, and skills necessary for the safe operation of motor vehicles.

(b) Public Schools must be in compliance with Oklahoma State Board of Education rules and regulations. Non public/Commercial schools must meet the following requirements:

- (1) Students must be at least fifteen (15) years of age and regularly enrolled and certified by the instructor as taking a prescribed driver education course, certified by the Department of Public Safety.
- (2) Private and Parochial students shall receive a minimum of thirty (30) hours of classroom instruction and a minimum of six (6) hours of actual driving in the Driver Education vehicle, while accompanied by and under the supervision of a qualified Driver Education instructor.
- (3) Each commercial student, except for commercial truck and motorcycle students, shall receive a minimum of ten (10) hours of classroom instruction and a minimum of six (6) hours of actually driving the Driver Education vehicle, while accompanied by and under the supervision of a qualified Driver Education instructor who is occupying the front seat of the vehicle.
- (4) Instruction shall include, but not be limited to, the following:
 - (A) Signs, signals, highway markings and highway design.
 - (B) Rules of the road, state laws, and local ordinances.
 - (C) Driving attitude toward motorcyclists, bicyclists, and pedestrians.
 - (D) Basic driving maneuvers.
 - (E) Operation of motor vehicle on streets and highways.
 - (F) Familiarity with the Oklahoma Driver's Manual, distributed by the Oklahoma Department of Public Safety. Copies of this manual have been deposited with the Publications Clearinghouse of the Oklahoma Department of Libraries are available at motor license agencies or online at www.dps.state.ok.us/dls/.
 - (G) Insurance laws of the State.
 - (H) Financial responsibility.
 - (I) Seat belt use and laws.
 - (J) Effects of natural laws on driving.
 - (K) Alcohol and drug substance abuse and the effect on driving.
 - (L) Basic vehicle maintenance including fluid levels, tire pressure and lighting systems.
 - (M) Skills:
 - (i) Starting.
 - (ii) Backing.
 - (iii) Parallel parking.
 - (iv) Hill parking.
 - (v) Starting on hill.
 - (vi) Intersection movement and observance.
 - (vii) Lane observance and changing.
 - (viii) Left and right turns.
 - (ix) Pedestrian and vehicle right-of-way.
 - (x) Proper use of automatic and/or standard transmission.

- (xi) Use of brake and accelerator.
- (xii) Traffic lights or signals.

(5) All passengers, students and instructors in the driver education vehicle shall comply with the Oklahoma Mandatory Seat Belt Use Act, 47 O.S. §§ 12-416 through 12-420, whenever the vehicle is in operation.

(6) A student roster list must be filed on forms provided for this purpose and approved by the Department of Public Safety before behind-the-wheel instruction begins.

(7) Driving instruction shall not be conducted within a one mile radius of the Department of Public Safety or any district office thereof.

(e) In addition to the requirements in (a) and (b) of this Section, commercial truck driver training schools must offer the following curriculum:

- (A) Commercial truck driver curriculum:
 - (A) Classroom Instruction including but not limited to:
 - (i) Introduction.
 - (ii) Defensive Driving Tactics.
 - (iii) Uniform Vehicle Code.
 - (iv) Federal Motor Carrier Safety Regulations as prescribed by the United States Department of Transportation Federal Highway Administration, Parts 380, 382, 383, 390-399.
 - (v) Techniques of First Aid (Instructor must have valid First Aid Instructor's Card).
 - (vi) Driver attitude.
 - (vii) Fire Prevention & Fire Fighting (Instructor must have been accepted by the State Fire Marshal).
 - (viii) Map reading and routing.
 - (ix) Credentials, including:
 - (I) Cab cards.
 - (II) Port of Entry.
 - (III) Size and Weights permits.
 - (x) Elective of Cargo Handling.
 - (B) Skill and off street instruction:
 - (i) Every student shall be properly licensed before receiving behind the wheel instruction.
 - (ii) Instruction shall include practice time and observation time on the following basic truck driving skills:
 - (I) Basic handling of vehicle.
 - (II) Pre-trip inspection.
 - (III) Hook and unhook of trailer.
 - (IV) Position on roadway.
 - (V) Shifting of transmission gears.
 - (iii) Upon satisfactory completion of the skills listed in (ii) of this subparagraph, each student must complete actual driving time and observation time conducted on two-lane roadways (urban), multi-lane roadway (urban), and city driving for each of the following truck driving skills:
 - (I) Skip-shifting.
 - (II) Off track driving.
 - (III) Intersection movement.
 - (IV) Right and left turns.

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- (V) Railroad crossings.
 - (VI) Overhead clearances.
 - (VII) Slowing for curves.
 - (VIII) Passing and being passed.
 - (IX) Stop signs and traffic signals.
- (2) Commercial truck driver curriculum for a refresher and recertification course for experienced truck drivers shall include the following:
- (A) Classroom instruction including but not limited to:
 - (i) Introduction.
 - (ii) Defensive driving tactics.
 - (iii) Uniform Vehicle Code.
 - (iv) Federal Motor Carrier Safety Regulations as prescribed by the United States Department of Transportation Federal Highway Administration, Parts 383, 390-399.
 - (v) Techniques of First Aid (Instructor must have valid First Aid Instructor's Card).
 - (vi) Driver attitude.
 - (vii) Fire Prevention & Fire Fighting (Instructor must have been accepted by the State Fire Marshal).
 - (viii) Map reading and routing.
 - (ix) Credentials, including:
 - (I) Cab cards.
 - (II) Port of Entry.
 - (III) Size and Weights permits.
 - (IV) Elective of cargo handling.
 - (x) CDL training for written test, pre trip inspection and air brake test.
 - (B) Skill and off street instruction:
 - (i) Every student in a Commercial Truck Driver Training School shall be properly licensed before receiving behind the wheel instruction.
 - (ii) Instruction shall include practice time and observation time on the following basic truck driving skills:
 - (I) Basic handling of vehicle.
 - (II) Pre trip inspection.
 - (III) Hook and unhook of trailer.
 - (IV) Position on roadway.
 - (V) Shifting of transmission gears.
 - (iii) Upon satisfactory completion of the skills listed in (ii) of this subparagraph, each student must complete actual driving time conducted on two lane roadways (urban), multi lane roadway (urban), and city driving for each of the following truck driving skills:
 - (I) Skip shifting.
 - (II) Off track driving.
 - (III) Intersection movement.
 - (IV) Right and left turns.
 - (V) Railroad crossings.
 - (VI) Overhead clearances.
 - (VII) Slowing for curves.
 - (VIII) Passing and being passed.
 - (IX) Stop signs and traffic signals.

(3) The following provisions relating to vehicle equipment apply to Commercial Truck Driving Schools only:

(A) Tractor shall meet the minimum standards established by the Commercial Vehicle Safety Alliance.

(B) All students and instructors in driver education shall comply with the Oklahoma Mandatory Seat Belt Use Act, 47 O.S. §§ 12-416 through 12-420, whenever the vehicle is in operation.

(C) Tractor and trailer shall be marked on each side and behind with sign bearing the words, "COMMERCIAL DRIVER TRAINING", or as required by the law.

(D) All tractors and trailers shall be used only for the purpose of driver training and no school shall accept payment in any way for services rendered from such vehicle. All trailers used shall bear a sign plainly visible from the rear with words, "NOT FOR HIRE". This sign is in addition to other signs as required in this Subchapter. An exception to this prohibition is that the school shall be allowed to lease tractor and/or trailer to the general public for the sole purpose of Commercial Driver testing only.

(E) Signs shall appear on vehicle as follows:

(i) All vehicles used for instruction of driver training shall be marked on each side and on the rear with the words "Student Driver" with letters no less than two (2) inches in height.

(ii) Any additional markings must be approved by the Department of Public Safety.

(4c) The Motorcycle Safety Foundation Curriculum is hereby adopted by reference which shall be the only course of instruction used by motorcycle education instructors certified by the Department of Public Safety.

(1) A copy of the curriculum is available at the Department of Public Safety Driver License Examining Division.

(2) Every school shall develop written and skills test driving examinations to determine the students knowledge and performance in accordance with the prescribed curriculum.

595:40-1-11. Specification for vehicles other than motorcycles

Specification for vehicles other than motorcycles for use in public schools is set forth in the Oklahoma State Board of Education rules. For non-public/commercial schools:

(1) The vehicle must be equipped with dual controls, side view mirrors (right and left), and front and rear seat belts.

(2) The vehicle shall be clearly identified "STUDENT DRIVER" at the front and back of the vehicle, with letters at least two inches (2") high, in a clearly visible place and legible from a distant of at least one hundred (100) feet.

(3) All vehicles which are used for the purpose of demonstration or practice of driving lessons shall be equipped with:

(A) dual controls on foot brakes, clutch on vehicles with manual transmissions, and otherwise be

equipped in accordance with Title 47, Chapter 12 of the Oklahoma Statutes;

(B) extra inside rear view mirror on the instructor's side on Class D vehicles ~~only~~; provided the mirror used shall not be the vanity or visor mirror;

(C) applicable mechanical devices when used in the training of physically handicapped students.

(4) No more than three (3) students may be in a Class D vehicle during behind-the-wheel instruction.

(5) When adding or dropping vehicles used for instruction, the school shall be responsible for notifying the Department of Public Safety, Driver License Examining Division, in writing within one (1) week of the change. If adding a vehicle the Division will schedule an appointment with the school for inspection of the new vehicle. Use of this vehicle shall be prohibited until inspection is complete and the vehicle is approved by the Department.

595:40-1-13. Reports

(a) The Comprehensive Health/Driver and Traffic Safety Education section of the State Department of Education will furnish all forms for the required reports for public schools. These reports are addressed in the rules of the State Department of Education. For private, parochial, Commercial, and other non-public schools, the Department of Public Safety, Driver Examining Division, will provide the following report forms which must be completed and filed with the Department of Public Safety:

(1) A current list of all students enrolled in Driver Education shall be submitted to the Department of Public Safety prior to beginning behind the wheel instruction, listing the complete legal name, date of birth and grade of those students who will be receiving instruction.

(2) A copy of the forms prescribed in (a) of this Section, must be on file in the office of the school ~~and a readable approved copy must be in the vehicle at all times while the students are receiving instruction.~~

(3) While conducting instruction of the students one of the following must be in the vehicle:

(A) A readable approved copy of the roster, or

(B) A daily student roster (form provided by DPS), which includes a list of students being instructed on a given day and must have the instructors signature that will be in the vehicle, or

(C) Students receiving instruction must carry the original or a copy of the school contract.

(4) At the discretion of the Commissioner of Public Safety, an affidavit may be required from the principal of the school, or one of equivalent authority verifying that the curriculum offered the Driver Education student meets the requirements of these rules.

(4~~5~~) Other reports may be requested by the Department of Public Safety.

(b) Driver Education schools must furnish the Department of Public Safety, Driver Examining Division, with a copy of an official collision report on any driver education vehicle which is involved in an collision while used for training purposes. This is in addition to the collision report required by law.

595:40-1-15. Requirements for all commercial driver education schools and classrooms

(a) **Location and classroom facility of commercial driver education schools.** An application for a Commercial Driver Training School license shall not be approved if the school is located or driving instruction is conducted within one (1) mile, using the most direct driving route, of the Department of Public Safety or any district office thereof. The school shall:

(1) have at least one (1) permanent classroom. Each classroom shall be used exclusively for classroom instruction during the time of such instruction. A classroom shall not be located in:

(A) a residence or residential facility or complex,

(B) a motor vehicle, or converted motor vehicle,

(C) a hotel or motel, or

(D) any other facility which has a bar, lounge, or other business which sells alcohol for public consumption on the premises;

(2) display its current and valid Commercial Driver Training License in the licensee's principal place of business at all times when classes are in session. The license or a copy of the license shall also be made available for inspection to students, or prospective students and their parents;

(3) comply with local municipal ordinances regarding lighting, heating, ventilation, and restroom facilities. Separate restroom facilities shall be provided for males and females, shall be fully plumbed with at least one toilet and one sink in each restroom, and shall be located in the same building as the classroom. The requirement for separate restroom facilities may be waived if a single restroom facility is provided that has a door which is capable of being locked from the inside; ~~and~~

(4) have adequate room for equipment such as chalkboard, projector, tables and chairs for the number of students enrolled in the class being taught at the time;

(5) when moving locations the school shall be responsible for notifying the Department of Public Safety Driver License Examining Division in writing no later than two (2) weeks prior to the relocation. The Division shall schedule with the school an appointment for inspection of the new location. Use of the new facility will not be allowed until the inspection is complete; and

(6) if the commercial school is located in a public school, the commercial school shall present to the Department upon application and upon every renewal a current contract with the school district signed by the superintendent of the district. The contract shall stipulate that:

(A) the presence of the commercial school on the public school property is in compliance with state law and specifically in compliance with 70 O.S., Section 5-130, and

(B) any public school in the school district, including the public school where the commercial school named in the contract is located, is available on an

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equal and non-discriminatory basis to any other commercial school desiring to conduct business on public school property in the school district on the same terms and at the same time as the commercial school named in the contract as required by *Hennessey v. ISD No. 4, 552 P.2d 1141 (Okla. 1976)*, and (C) should the school district refuse to allow another commercial school to conduct business on public school property within the school district, whether at the same public school as the commercial school named in the contract or any other school in the district, the contract shall be null and void upon the date of the refusal, and the school district and the commercial school named in the contract shall both agree to notify the Department of Public Safety of the voiding of the contract.

(b) **Advertising.**

- (1) No Commercial Driver Training School shall use or conduct any business under any name other than its fully licensed name.
- (2) A sign reading "This school is licensed by the Department of Public Safety, State of Oklahoma" or similar language may be displayed on the school premises.
- (3) The school may place language such as "This school is licensed by the Department of Public Safety, State of Oklahoma" in any advertisements and publications of the school. However, a school may not use advertisement or publicity that states or implies that the school specifically or uniquely recognized, recommended, or endorsed, or directly supervised by the Department of Public Safety.
- (4) No fraudulent or deceptive statements, ~~promotions, or fee incentives~~ shall be used on any sign or in advertisement, whether written or oral. If a promotion or fee incentive is used for an applicant, the school shall attach a copy of the promotion or fee incentive to the contract.
- (5) No school shall advertise, by any means, or otherwise state or imply that a driver license or permit is guaranteed or assured to any student or individual who will take or complete any instruction offered by the school.

(c) **Agreements and schedule of fees.**

- (1) A sample copy of all contracts or agreements with students must be submitted to the Department with the application for licensing.
- (2) Prior to enrollment or payment of fee all prospective students shall be provided the following information, in writing:
 - (A) the type of instruction offered, whether classroom or behind the wheel;
 - (B) length of each lesson;
 - (C) rate per lesson;
 - (D) rate for use of school vehicle for road test, if extra charge is made;
 - (E) terms of payment and disclosure of any interest charged;

(F) a statement indicating the specific date and time when instruction is to start.

(3) The schedule of fees shall be posted in easy view of students and prospective students.

(4) If any school fails to comply with the provisions, the school shall refund, on a prorated basis, all monies collected from the student.

(d) **Records to be maintained.**

(1) Each school shall maintain a permanently bound book with pages consecutively numbered or a computer spreadsheet, setting forth the name of the school; the name of the student; the contract or agreement number; the type and date of instruction given, whether classroom or behind-the-wheel. All entries shall be made in ink.

(2) All student instruction records, including a duplicate copy of each contract or agreement entered into between the school and the student (the original must be given to the student) must be kept on file in the office of each school for a period of (1) calendar year after the student has concluded instruction at or with the school. Each school shall furnish the student, if requested, a duplicate of his/her instruction record when all of the contracted courses are completed or the student otherwise ceases taking instruction at or with the school.

(3) The student instruction record shall contain a copy of a receipt for any monies paid to the school by the student. The receipt, in a format prescribed by the Department, shall contain:

- (A) The name of the school.
- (B) The name of the student.
- (C) The date of payment.
- (D) The amount of payment.
- (E) The signature of the person receiving the payment.

(4) The student instruction record file maintained by the school shall be available at all times for inspection or copying by an authorized representative of the Department of Public Safety.

(5) **Completion certificates.** A completion certificate, in a preprinted format prescribed by the Department, shall be provided and issued by the Commercial School to each student upon the successful completion of course work (both classroom and behind the wheel). The certificate shall contain the following:

- (1) Name of the provider;
- (2) Full legal name of student;
- (3) Number of total hours of instruction (optional)
- (4) Date of completion;
- (5) Signature of administrator (a stamped signature is acceptable).

[OAR Docket #09-1192; filed 6-23-09]

**TITLE 650. OKLAHOMA CENTER FOR
THE ADVANCEMENT OF SCIENCE AND
TECHNOLOGY
CHAPTER 18. OKLAHOMA
NANOTECHNOLOGY APPLICATIONS
PROJECT**

[OAR Docket #09-1168]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- 650:18-1-1 [NEW]
- 650:18-1-2 [NEW]
- 650:18-1-3 [NEW]
- 650:18-1-4 [NEW]
- 650:18-1-5 [NEW]
- 650:18-1-6 [NEW]
- 650:18-1-7 [NEW]
- 650:18-1-8 [NEW]
- 650:18-1-9 [NEW]
- 650:18-1-10 [NEW]
- 650:18-1-11 [NEW]
- 650:18-1-12 [NEW]
- 650:18-1-13 [NEW]
- 650:18-1-14 [NEW]
- 650:18-1-15 [NEW]

AUTHORITY:

Powers of Oklahoma Science and Technology Research and Development Board, Title 74 O.S., Section 5060.9.

DATES:

Comment period:

February 2, 2009 through March 4, 2009

Public hearing:

March 4, 2009

Adoption:

March 24, 2009

Submitted to Governor:

March 30, 2009

Submitted to House:

March 30, 2009

Submitted to Senate:

March 30, 2009

Gubernatorial approval:

May 6, 2009

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 21, 2009

Final adoption:

May 21, 2009

Effective:

July 25, 2009

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

- 650:18-1-1 [NEW]
- 650:18-1-2 [NEW]
- 650:18-1-3 [NEW]
- 650:18-1-4 [NEW]
- 650:18-1-5 [NEW]
- 650:18-1-6 [NEW]
- 650:18-1-7 [NEW]
- 650:18-1-8 [NEW]
- 650:18-1-9 [NEW]
- 650:18-1-10 [NEW]
- 650:18-1-11 [NEW]
- 650:18-1-12 [NEW]
- 650:18-1-13 [NEW]
- 650:18-1-14 [NEW]
- 650:18-1-15 [NEW]

Gubernatorial approval:

October 7, 2008

Register publication:

26 OkReg 122

Docket number:

08-1282

INCORPORATIONS BY REFERENCE:

NA

ANALYSIS:

The Oklahoma Nanotechnology Applications Project Rules and Regulations are intended for compliance by the Oklahoma Center for the Advancement of Science and Technology (OCAST) with the Administrative Procedures Act, 75 O. S., Section 250 et seq. House Bill No. 2356 of the 2006 Legislative Session enacted the Oklahoma Nanotechnology Applications Project, amending 74 O.S. 2001, Sections 5060.43, creating a program with components in applied nanotechnology research. The Oklahoma Nanotechnology Applications Project is designed to assist Oklahoma companies, universities, and non-profit organizations who are developing new nanotechnology applications as well as those with existing applications. The Project requires that the research lead to innovation, new knowledge or technology, have a high probability of leading to commercially successful products, processes or services within a reasonable period of time, are technically sound and will produce a measurable result, and have a reasonable probability to enhance employment opportunities within Oklahoma.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 25, 2009:

650:18-1-1. Purpose

The rules of this Chapter have been adopted for the purpose of complying with the provisions of the Administrative Procedures Act, 75 O.S., Section 250 et seq. This project, known as the Oklahoma Nanotechnology Applications Project, shall assist in the accelerated development of technology in the State by supporting nanotechnology research activities in new and existing applications in nanotechnology whose results:

- (1) are technically sound and will produce a measurable result
- (2) lead to innovation, new knowledge or technology and have a high probability of leading to commercially successful products, processes or services within a reasonable period of time
- (3) have reasonable probability to enhance employment opportunities within Oklahoma
- (4) enhance services to Oklahoma manufacturers or Oklahoma for-profit companies that are in the process of applying nanotechnology.

650:18-1-2. Statutory citations

Citations to statutes in this Chapter refer to the most recent codification of the statute.

650:18-1-3. Statutory definitions

The following terms are defined in 74 O.S., Section 5060.43:

- (1) applied research,
- (2) enterprise,
- (3) institutions of higher education.

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- (4) investigator.
- (5) nanotechnology.
- (6) new technology.
- (7) nonprofit research institution.
- (8) product.
- (9) professional service contract and
- (10) technology transfer.

650:18-1-4. Additional definitions

The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Applicant organization(s)" means the employer of the investigator(s) preparing the application.

"Application" means the proposal for an Oklahoma Nanotechnology Applications Project award and all completed required forms from the solicitation as submitted to The Oklahoma Center for the Advancement of Science and Technology (OCAST).

"Contractor(s)" means the institution(s) or enterprise(s) that is awarded an OCAST Nanotechnology Applications Project contract.

"Solicitation" means a request containing the detailed information concerning the specifications of the Oklahoma Nanotechnology Applications Project.

650:18-1-5. Project administration

(a) **OSTRaD Board.** OCAST shall administer the Oklahoma Nanotechnology Applications Project under the governance of the statutorily created Oklahoma Science and Technology Research and Development Board (OSTRaD Board) [74 O.S., Section 5060.6]. OSTRaD will approve all funding awards.

(1) The OSTRaD Board shall approve all specifications of the Oklahoma Nanotechnology Applications Project and any changes made thereto.

(2) All information regarding these projects shall be available at the principal offices of OCAST, as referenced in 650:1-3-1.

(b) **Oklahoma Nanotechnology Applications Committee.** The OSTRaD Board shall establish an Oklahoma Nanotechnology Applications Committee (ONAC). The ONAC shall act in an advisory capacity to the OSTRaD Board and OCAST staff in the development of project specifications, organization and evaluation of peer reviews, awarding of contracts and on-going evaluation of contract performance.

650:18-1-6. Project description

The Oklahoma Nanotechnology Applications Project shall provide funds for nanotechnology applications projects recommended by the ONAC and approved by the OSTRaD Board and described in the solicitation.

650:18-1-7. Eligibility

(a) **Applicants.** Eligible applicants for funding under the Oklahoma Nanotechnology Applications Project shall be:

(1) Oklahoma public or private colleges and universities, when the project involves an Oklahoma for-profit business or manufacturer.

(2) Oklahoma nonprofit research organizations, when the project involves an Oklahoma for-profit business or manufacturer or.

(3) Oklahoma for-profit businesses or manufacturers [74 O.S., Section 5060.19].

(b) **Preference.** The OSTRaD Board may assign preference to a class(es) of applicants for any funding competition.

(c) **Investigators.** The investigator(s) submitting applications shall be employed by or affiliated with an eligible applicant organization(s) and must be a resident of the State of Oklahoma.

650:18-1-8. Funding terms

(a) **Competition dates.** Dates for funding competitions shall be announced in the solicitation.

(b) **Allocations.**

(1) The ONAC shall recommend, and the OSTRaD Board approve, the amount allocated for each funding competition.

(2) If minimum and maximum levels for Oklahoma Nanotechnology Applications Projects are established, they shall be approved by the OSTRaD Board and announced in the solicitation.

(c) **Contract periods.** The length of a contract shall not be less than one (1) year. The maximum contract period shall be recommended by the ONAC and approved by the OSTRaD Board.

650:18-1-9. Application process

(a) **Solicitations.** The Oklahoma Nanotechnology Applications Project solicitation shall be used to apply for funding under this project. Solicitations shall be available at the OCAST principal office. No application fee shall be required.

(1) **Application deadlines.** Application submission date(s) and time(s), shall be listed in the solicitation. Any application not submitted by the designated submission date and time shall be returned without consideration.

(2) **Completion/submission requirements.** Requirements for application completion and submission shall be included in the solicitation.

(b) **Applications.**

(1) **Matching funding.** The application shall specify the total amount of matching funds the organization will provide to meet the requirements of the matching funding.

(2) **Required information.** The application shall include:

(A) a description of the potential commercial application of the Oklahoma Nanotechnology Applications Project and plan for commercialization strategy.

(B) a recommendation from the applicant organization, and

(C) other information that may be required by the OSTRaD Board.

(3) **Documentation.** It shall be the responsibility of the investigator(s) and the applicant organization(s) to ascertain and certify compliance with all applicable state and federal requirements or regulations as specified in the application in order to engage in the proposed research.

(4) **Returned applications.** Incomplete or inappropriately completed applications may be returned without review.

650:18-1-10. Review process

(a) **Peer review.** Applications for funding shall be reviewed by peer reviewers, a majority of whom reside outside of the State of Oklahoma, who are nominated and approved by the ONAC.

(b) **Evaluation criteria.** The peer review panel shall review and rank all applications for funding according to evaluation criteria specified in the solicitation.

650:18-1-11. Award provisions

(a) **Funding subject to availability.** Funding of applications recommended for approval by the ONAC shall be subject to availability of resources and approval of the OSTRaD Board.

(b) **Matching funds; documentation.** All applications shall include:

(1) **Higher education or nonprofit institutions.** Documentation, if the proposal is from an institution of higher education or nonprofit research institutions that not less than fifty percent (50%) of the total direct cost of the proposed project will be provided by sources other than OCAST and other than state-appropriated money. Machinery or equipment may be considered as part of the matching funds [74 O.S., Section 5060.19]. If machinery or equipment serves as part of the matching requirement, the applicant organization(s) shall provide documentation as specified in 74 O.S., Section 5060.19.

(2) **Private enterprises.** Documentation, if the proposal is from a private enterprise, that not less than fifty percent (50%) of the total direct cost of the proposed project will be provided by sources other than OCAST and other than state-appropriated money [74 O.S., Section 5060.19]. No portion of the matching funds from a private enterprise may be provided by in-kind services performed by the enterprise. [74 O.S., Section 5060.19]

(3) **Funds from grants or contracts.** Funds received from federal or private grants or contracts, to be used as matching funds, shall be allowed throughout the life of the contract.

(c) **Additional award provisions.** Any additional award provisions shall be approved by the OSTRaD Board and announced in the solicitation.

650:18-1-12. Contract provisions

(a) **Professional service contract.** The mechanism for funding approved applications shall be a professional service contract between OCAST and the applicant organization(s).

(b) **Verification of matching funds.** Professional service contracts shall be awarded contingent upon documentation that the matching funds and/or machinery or equipment to be matched by OCAST has been received by the applicant organization(s). The period of time allowed for verification of receipt of matching funds shall be approved by the OSTRaD Board and announced in the solicitation.

(c) **Fiscal agent.** If more than one applicant organization participates in a contract, one organization shall be designated as the fiscal agent.

(d) **Contractor obligations.**

(1) **Records and accounts.** The contractor, or designated fiscal agent, shall maintain records and accounts that properly document and account for the source and application of all project funds, and all such records and accounts shall be made available on demand by OCAST for inspection and use in carrying out its responsibilities for administration of the funds.

(2) **Access and examination.** The contractor, or designated fiscal agent, shall as OCAST deems necessary, permit authorized representatives of OCAST and the State of Oklahoma full access, and the right to fully examine, all projects records and accounts.

(3) **Audits.** The contractor, or designated fiscal agent, shall comply with the audit policy of OCAST. The contractor, or designated fiscal agent, shall provide OCAST timely reports on any audits that include funds received from OCAST. In the event an audit results in the determination that the contractor, or designated fiscal agent, has expended contract funds on unallowable costs, the contractor, or designated fiscal agent, shall reimburse OCAST in full for all such costs.

650:18-1-13. Confidentiality

(a) **Applications.** OCAST will treat all records in accordance with applicable OCAST statutes. There shall be no guarantee that the contents of any application will remain confidential.

(b) **Intent to Submit Forms; Abstracts.** Unless specifically requested otherwise by the applicant organization, OCAST may use the contents from Intent to Submit Forms and Abstracts from the proposal or subsequent annual progress reports, for the required OCAST Annual Report or other publications without obtaining permission from the investigator(s) or applicant organization(s).

650:18-1-14. Notification process

OCAST may announce funding solicitations through various means to disseminate notice to possible funding applicants.

650:18-1-15. Appeals process

Appeals related to this Chapter shall be processed in accordance with the procedures referenced in OAC 650:1-3-4.

[OAR Docket #09-1168; filed 6-10-09]

**TITLE 360. OKLAHOMA STATE
AND EDUCATION EMPLOYEES
GROUP INSURANCE BOARD
CHAPTER 1. ADMINIS-
TRATIVE OPERATIONS**

FILING AND PUBLICATION ERROR:

Amendments to several Sections in Title 360, Chapter 1 (360:1-1-2, 360:1-1-3, 360:1-3-8, 360:1-3-13, and 360:1-5-2) were published in the 6-1-09 issue of the *Register* [see 26 Ok Reg 1518; Docket #09-847]. However, after publication in the *Register*, the agency discovered they had inadvertently submitted amendments that had been promulgated last year, instead of the amendments that were adopted, reviewed, and approved for promulgation this year. On 6-10-09, the agency submitted a filing with this year's amendments, and that filing has been published in this issue of the *Register*, with an effective date of 1-1-10.
