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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 5. OKLAHOMA ABSTRACTORS BOARD CHAPTER 11. ADMINISTRATION OF ABSTRACTORS ACT

[OAR Docket #10-364]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Abstract Licenses, Certificates of Authority, and Permits

5:11-3-1 [AMENDED]

5:11-3-8 [AMENDED]

5:11-3-9 [AMENDED]

5:11-3-10 [NEW]

Subchapter 5. Regulation of Licensees, Certificate Holders, and Permit Holders

5:11-5-3 [AMENDED]

Subchapter 7. Application for Permit to Develop Abstract Plant

5:11-7-2 through 5:11-7-4 [NEW]

Subchapter 13. Application for Abstractor License [NEW]

5:11-3-1 [NEW]

SUBMITTED TO GOVERNOR:

March 16, 2010

SUBMITTED TO HOUSE:

March 16, 2010

SUBMITTED TO SENATE:

March 16, 2010

[OAR Docket #10-364; filed 3-16-10]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #10-381]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 9. Individual Procedures

35:1-9-3 [AMENDED]

Subchapter 10. Requirements for Department Programs [NEW]

35:1-10-1 through 35:1-10-5 [NEW]

Subchapter 11. Licensing Procedures

35:1-11-2 [AMENDED]

35:1-11-5 [AMENDED]

35:1-11-7 [AMENDED]

SUBMITTED TO GOVERNOR:

March 17, 2010

SUBMITTED TO HOUSE:

March 17, 2010

SUBMITTED TO SENATE:

March 17, 2010

[OAR Docket #10-381; filed 3-23-10]

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

[OAR Docket #10-382]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Fee Schedules

35:2-3-12 [AMENDED]

SUBMITTED TO GOVERNOR:

March 17, 2010

SUBMITTED TO HOUSE:

March 17, 2010

SUBMITTED TO SENATE:

March 17, 2010

[OAR Docket #10-382; filed 3-23-10]

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

[OAR Docket #10-383]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Fee Schedules

35:2-3-23 [AMENDED]

SUBMITTED TO GOVERNOR:

March 17, 2010

SUBMITTED TO HOUSE:

March 17, 2010

Submissions for Review

SUBMITTED TO SENATE:

March 17, 2010

[OAR Docket #10-383; filed 3-23-10]

**TITLE 35. OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 13. FUEL ALCOHOL**

[OAR Docket #10-384]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

35:13-1-6 [NEW]

SUBMITTED TO GOVERNOR:

March 17, 2010

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March 17, 2010

SUBMITTED TO SENATE:

March 17, 2010

[OAR Docket #10-384; filed 3-23-10]

**TITLE 35. OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 15. ANIMAL INDUSTRY**

[OAR Docket #10-385]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions

35:15-1-2 [AMENDED]

Subchapter 9. Livestock Dealers and Livestock Special
Sales

Part 3. Livestock Special Sales

35:15-9-8 [AMENDED]

35:15-9-9 [AMENDED]

35:15-9-11 [REVOKED]

Subchapter 11. Importation of Livestock, Poultry, and Pets

Part 7. Livestock

35:15-11-20 [AMENDED]

Subchapter 13. Testing and Inspection for Disease and
Release of Livestock at Auction Markets

35:15-13-1 [AMENDED]

35:15-13-3 [AMENDED]

35:15-13-5 through 35:15-13-7 [AMENDED]

Subchapter 15. Equine Infectious Anemia (EIA)

Part 5. Change of Ownership of Equidae

35:15-15-51 [AMENDED]

Part 7. Requirements for Approved Markets

35:15-15-71 [AMENDED]

35:15-15-72 [AMENDED]

Part 9. Equine Exhibitions

35:15-15-91 [AMENDED]

Part 11. Requirements for Equidae Entering Oklahoma

35:15-15-111 [AMENDED]

Subchapter 22. Swine Pseudorabies

Part 1. General Provisions

35:15-22-2 [AMENDED]

Part 3. Requirements for Swine Entering Oklahoma

35:15-22-31 [AMENDED]

35:15-22-32 [AMENDED]

Part 7. Requirements for Swine Exhibitions

35:15-22-71 [AMENDED]

Part 9. Requirements for Approved Markets

35:15-22-91 [AMENDED]

Subchapter 24. Swine Brucellosis

Part 1. General Provisions

35:15-24-3 [AMENDED]

Subchapter 34. Feral Swine

35:15-34-3 [AMENDED]

SUBMITTED TO GOVERNOR:

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[OAR Docket #10-385; filed 3-23-10]

**TITLE 35. OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 15. ANIMAL INDUSTRY**

[OAR Docket #10-386]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 17. Bovine and Bison Brucellosis
[AMENDED]

Part 1. Definitions

35:15-17-1 through 35:15-17-4 [AMENDED]

35:15-17-5 [REVOKED]

Part 3. Rules Adopted from USDA Uniform Methods and
Rules (UM&R) for Brucellosis Eradication

35:15-17-32 [AMENDED]

35:15-17-33 [AMENDED]

35:15-17-35 through 35:15-17-44 [AMENDED]

35:15-17-46 [REVOKED]

35:15-17-47 through 35:15-17-54 [AMENDED]

35:15-17-55 [REVOKED]

35:15-17-56 [AMENDED]

35:15-17-57 [REVOKED]

Part 5. Brucella Vaccine

35:15-17-59 [AMENDED]

35:15-17-60 [AMENDED]

Part 7. Certified Brucellosis-Free Herds of Cattle or Bison
35:15-17-64 through 35:15-17-66 [AMENDED]
Part 11. Entry Permit and Retest Requirements
35:15-17-73 through 35:15-17-78 [AMENDED]
35:15-17-80 [AMENDED]
35:15-17-81 [AMENDED]
Part 13. Community Pastures
35:15-17-83 [AMENDED]
Part 15. Depopulation Payment
35:15-17-87 [AMENDED]
Part 17. Blood Typing
35:15-17-91 [AMENDED]

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**TITLE 35. OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 15. ANIMAL INDUSTRY**

[OAR Docket #10-387]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 38. Bovine Trichomoniasis
35:15-38-1 [AMENDED]
35:15-38-2 [AMENDED]
35:15-38-2.1 [NEW]
35:15-38-3 [AMENDED]
35:15-38-4 [REVOKED]

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**TITLE 35. OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 15. ANIMAL INDUSTRY**

[OAR Docket #10-388]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 40. Bovine Tuberculosis

Part 1. Definitions
35:15-40-1 [AMENDED]
Part 3. Rules Adopted from USDA Uniform Methods and
Rules for Bovine Tuberculosis Eradication
35:15-40-31 through 35:15-40-43 [AMENDED]
35:15-40-45 through 35:15-40-49 [AMENDED]
35:15-40-49.1 [AMENDED]
35:15-40-50 [AMENDED]
Part 5. Herd Status Requirements
35:15-40-71 [AMENDED]
35:15-40-72 [AMENDED]
Part 7. Import Requirements
35:15-40-90 [AMENDED]
35:15-40-90.1 [AMENDED]
35:15-40-91 through 35:15-40-93 [AMENDED]

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March 17, 2010

[OAR Docket #10-388; filed 3-23-10]

**TITLE 35. OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 30. CONSUMER PROTECTION**

[OAR Docket #10-389]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 17. Combined Pesticide
Part 2. Pesticide Rule Advisory Committee [NEW]
35:30-17-3.4 [NEW]
Part 9. Minimum Standards for Contracts and Keeping of
Records
35:30-17-20 [AMENDED]
Part 15. Minimum Standards for Termite Work for Existing
Structures
35:30-17-55 through 35:30-17-59 [AMENDED]
35:30-17-60 through 35:30-17-64 [REVOKED]
35:30-17-65 through 35:30-17-69 [AMENDED]
35:30-17-69.1 [NEW]
35:30-17-69.2 [NEW]
Part 16. Minimum Standard for the Performance of
Spot/Partial Treatments of Termite Work for Existing
Structures (Spot Treatments) [REVOKED]
35:30-17-70 [REVOKED]
Part 22. Wood Infestation Reports
35:30-17-105 [AMENDED]

SUBMITTED TO GOVERNOR:

March 17, 2010

Submissions for Review

SUBMITTED TO HOUSE:

March 17, 2010

SUBMITTED TO SENATE:

March 17, 2010

[OAR Docket #10-389; filed 3-23-10]

**TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 30. CONSUMER PROTECTION**

[OAR Docket #10-390]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 36. Weed Free Hay Certification [NEW]

35:30-36-1 through 35:30-36-14 [NEW]

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SUBMITTED TO SENATE:

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[OAR Docket #10-390; filed 3-23-10]

**TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 30. CONSUMER PROTECTION**

[OAR Docket #10-421]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 17. Combined Pesticide

Part 1. Commercial and Non-Commercial Categories of Pesticide Application

35:30-17-1.2 [NEW]

Subchapter 25. Seed

35:30-25-15 [NEW]

Subchapter 27. Feed

Part 1. Commercial Feed

30-30-27-11 [AMENDED]

Subchapter 29. Fertilizer

Part 5. Licenses and Complaints

35:30-29-51 [AMENDED]

Subchapter 31. Lime

35:30-31-4 [NEW]

Subchapter 37. Nursery Stock Sales

35:30-37-12 [NEW]

Subchapter 38. Apiaries

35:30-38-13 [NEW]

SUBMITTED TO GOVERNOR:

January 25, 2010

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January 25, 2010

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January 25, 2010

[OAR Docket #10-421; filed 3-25-10]

**TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 44. AGRICULTURE POLLUTANT DISCHARGE ELIMINATION SYSTEM**

[OAR Docket #10-426]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. Agriculture Environmental Permitting and AGPDES [NEW]

Part 1. Incorporation by Reference [NEW]

35:44-1-1 [NEW]

35:44-1-2 [NEW]

Part 2. The Process [NEW]

35:44-1-2 [NEW]

35:44-1-3 through 35:44-1-19 [NEW]

Part 3. Tiers and Time Lines [NEW]

35:44-1-31 through 35:44-1-5 [NEW]

Subchapter 3. ~~Concentrated Animal Feeding Operations~~
Discharge Permit Requirements

35:44-3-1 [AMENDED]

35:44-3-2 [AMENDED]

35:44-3-3 [AMENDED]

35:44-3-4 through 35:44-3-35:44-3-8 [NEW]

SUBMITTED TO GOVERNOR:

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SUBMITTED TO SENATE:

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[OAR Docket #10-426; filed 3-25-10]

**TITLE 160. DEPARTMENT OF CONSUMER CREDIT
CHAPTER 5. FEES**

[OAR Docket #10-365]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

160:5-1-2 [AMENDED]

SUBMITTED TO GOVERNOR:

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SUBMITTED TO SENATE:

March 16, 2010

[OAR Docket #10-365; filed 3-17-10]

**TITLE 160. DEPARTMENT OF CONSUMER CREDIT
CHAPTER 45. TRUTH IN LENDING RULES**

[OAR Docket #10-366]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 9. Special Rules for Certain Home Mortgage Transactions

160:45-9-2 [AMENDED]

Appendix H. Closed-End Model Forms and Clauses [REVOKED]

Appendix H. Closed-End Model Forms and Clauses [NEW]

SUBMITTED TO GOVERNOR:

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March 16, 2010

[OAR Docket #10-366; filed 3-17-10]

**TITLE 160. DEPARTMENT OF CONSUMER CREDIT
CHAPTER 55. MORTGAGE BROKERS AND MORTGAGE LOAN ORIGINATORS**

[OAR Docket #10-367]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions

160:55-1-2 [AMENDED]

Subchapter 3. Licensing

160:55-3-1.1 [AMENDED]

160:55-3-1.2 [REVOKED]

160:55-3-1.3 [REVOKED]

160:55-3-1.4 [REVOKED]

160:55-3-3 [REVOKED]

160:55-3-3.1 [AMENDED]

160:55-3-4 [AMENDED]

160:55-3-8 [AMENDED]

160:55-3-9 [REVOKED]

160:55-3-9.1 [AMENDED]

160:55-3-10.1 [REVOKED]

160:55-3-12 [NEW]

160:55-3-13 [NEW]

Subchapter 5. Advisory Committee [REVOKED]

160:55-5-1 [REVOKED]

160:55-5-2 [REVOKED]

160:55-5-3 [REVOKED]

Subchapter 7. Records

160:55-7-1 [AMENDED]

Subchapter 9. Enforcement

160:55-9-10 [AMENDED]

SUBMITTED TO GOVERNOR:

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[OAR Docket #10-367; filed 3-17-10]

**TITLE 165. CORPORATION COMMISSION
CHAPTER 30. MOTOR CARRIERS**

[OAR Docket #10-375]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions

165:30-1-1. Purpose [AMENDED]

165:30-1-2. Definitions [AMENDED]

Subchapter 3. Intrastate Motor Carriers

Part 1. Applying For A License

165:30-3-1. Obtaining a license [AMENDED]

165:30-3-3. License and certificate renewals [AMENDED]

Part 3. License Requirements

165:30-3-11. Insurance [AMENDED]

Part 5. Conducting Operations

165:30-3-32. Shipping documentation [AMENDED]

165:30-3-34. Minimum standards [AMENDED]

Part 9. Violations

165:30-3-71. Loading capacity - Safety compliance [AMENDED]

Subchapter 7. Procedural Rules

165:30-7-2. Notice [REVOKED]

165:30-7-5. Forms [AMENDED]

165:30-7-8. Review of Applicants for safety fitness [AMENDED]

165:30-7-11. USDOT number [AMENDED]

Subchapter 10. Interstate Motor Carriers

Part 1. Compliance

165:30-10-9. Minimum standards [NEW]

Part 3. Conducting Operations

165:30-10-13. Shipping documentation [AMENDED]

Submissions for Review

Subchapter 13. Intrastate Household Goods Certificates ~~or Permits~~

Part 1. ~~Applying For~~ Obtaining Authority

165:30-13-1. Reissuance of certificate [NEW]

165:30-13-2. Obtaining a household goods certificate ~~or permit~~ [AMENDED]

165:30-13-3. Temporary authority [REVOKED]

Part 3. Household Goods Certificate ~~Or~~ Permit Requirements

165:30-13-11. Insurance [AMENDED]

165:30-13-12. Identification device [AMENDED]

165:30-13-13. Annual report [REVOKED]

165:30-13-14. COD shipments [REVOKED]

165:30-13-15. Markings [AMENDED]

165:30-13-16. Current address requirement [AMENDED]

165:30-13-17. Adoption of interstate tariff - filing of affidavit [REVOKED]

Part 5. Conducting Operations

165:30-13-20. Estimates [NEW]

165:30-13-22. Consumer protection information [NEW]

165:30-13-24. Valuation and liability [NEW]

165:30-13-26. Bill of Lading [NEW]

165:30-13-27. Blank or incomplete documents [NEW]

165:30-13-28. Additional services [NEW]

165:30-13-31. Compliance with laws and regulations [AMENDED]

165:30-13-32. Shipping documentation [REVOKED]

165:30-13-33. Records [AMENDED]

165:30-13-34. Minimum standards [AMENDED]

165:30-13-35. Credit [REVOKED]

165:30-13-36. Loss, damage and concealed claims [AMENDED]

165:30-13-37. Leasing of equipment [AMENDED]

Part 7. Name Changes ~~And Transfer~~

165:30-13-51. ~~Mergers and name~~ Name changes [AMENDED]

165:30-13-52. Transfer of certificate or permit [REVOKED]

165:30-13-53. Transfer upon death of holder of certificate or permit [REVOKED]

Part 9. Violations

165:30-13-71. Loading capacity-Safety compliance [AMENDED]

165:30-13-72. Leasing of authority [AMENDED]

165:30-13-73. Advertising [AMENDED]

165:30-13-74. Contempt complaint [AMENDED]

Part 11. Suspension Or Cancellation Of Authority

165:30-13-91. Voluntary suspension or discontinuance of service [REVOKED]

165:30-13-92. Involuntary suspension or revocation of a household goods certificate ~~or permit~~ [AMENDED]

165:30-13-93. Reinstatement of certificate ~~or permit~~ [AMENDED]

165:30-13-94. Violations [AMENDED]

Subchapter 15. Intrastate Private Carriers

Part 5. Conducting Operations

165:30-15-14. ~~Legal possession of cargo~~ Shipping documentation [AMENDED]

Subchapter 19. Registration Pursuant To The International Registration Plan

165:30-19-19. Trip permits and hunters permits [AMENDED]

Subchapter 25. Harvest Permits [NEW]

165:30-25-1. Harvest permits [NEW]

SUBMITTED TO GOVERNOR:

March 22, 2010

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March 22, 2010

[OAR Docket #10-375; filed 3-23-10]

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

[OAR Docket #10-431]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Priority Academic Student Skills

Part 25. Technology Education Engineering

210:15-3-196. Overview of technology education engineering for grades 6-10 [AMENDED]

210:15-3-197. Technology education engineering for grades 6-10 [AMENDED]

SUBMITTED TO GOVERNOR:

March 2, 2010

SUBMITTED TO HOUSE:

March 2, 2010

SUBMITTED TO SENATE:

March 2, 2010

[OAR Docket #10-431; filed 3-26-10]

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

[OAR Docket #10-432]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Priority Academic Student Skills

Part 3. Pre-Kindergarten and Kindergarten [AMENDED]

210:15-3-5.4. Mathematics for Pre-Kindergarten and Kindergarten [AMENDED]

SUBMITTED TO GOVERNOR:

March 1, 2010

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March 1, 2010

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March 1, 2010

[OAR Docket #10-432; filed 3-26-10]

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

[OAR Docket #10-433]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Priority Academic Student Skills

Part 3. Pre-Kindergarten and Kindergarten [AMENDED]

210:15-3-5.3. Language arts for pre-kindergarten and kindergarten [AMENDED]

Part 5. Language Arts

210:15-3-12. Language arts for grade 1 [AMENDED]

210:15-3-13. Language arts for grade 2 [AMENDED]

210:15-3-14. Language arts for grade 3 [AMENDED]

210:15-3-15. Language arts for grade 4 [AMENDED]

210:15-3-16. Language arts for grade 5 [AMENDED]

210:15-3-17. Language arts for grade 6 [AMENDED]

210:15-3-18. Language arts for grade 7 [AMENDED]

210:15-3-19. Language arts for grade 8 [AMENDED]

210:15-3-20. Language arts for grade 9 [AMENDED]

210:15-3-21. Language arts for grade 10 [AMENDED]

210:15-3-22. Language arts for grade 11 [AMENDED]

210:15-3-23. Language arts for grade 12 [AMENDED]

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**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF**

[OAR Docket #10-434]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 9. Professional Standards: Teacher Education and Certification

Part 1. General Teaching Certificate Requirements

210:20-9-10.1. Competency-based teacher licensure and certification system [AMENDED]

Part 17. Full (Subject Matter) Competencies for Licensure and Certification

210:20-9-172. Full (subject matter) competencies for licensure and certification [AMENDED]

Subchapter 11. Professional Standards: Accreditation Standards for Approved Teacher Education Programs

210:20-11-3. General education and professional education [AMENDED]

SUBMITTED TO GOVERNOR:

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March 2, 2010

[OAR Docket #10-434; filed 3-26-10]

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF**

[OAR Docket #10-435]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 9. Professional Standards: Teacher Education and Certification

Part 9. Teacher Certification

210:20-9-95. Effective date of teaching certificates and licenses [AMENDED]

SUBMITTED TO GOVERNOR:

March 2, 2010

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March 2, 2010

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March 2, 2010

[OAR Docket #10-435; filed 3-26-10]

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 40. GRANTS AND PROGRAMS-IN-AID**

[OAR Docket #10-436]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

Submissions for Review

RULES:

Subchapter 52. Advanced Placement Incentive Program
210:40-52-5. Equipment and materials grants and vertical
teaming grants [AMENDED]

SUBMITTED TO GOVERNOR:

March 2, 2010

SUBMITTED TO HOUSE:

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March 2, 2010

[OAR Docket #10-436; filed 3-26-10]

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**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #10-316]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 17. Incinerators
Part 1. General Provisions
252:100-17-1. Purpose [AMENDED]
252:100-17-1.1. Reference to 40 CFR [AMENDED]
252:100-17-1.2. Terminology related to 40 CFR
[REVOKED]
252:100-17-1.3. Incinerators and fuel-burning equipment
or units [NEW]
Part 3. General Purpose Incinerators
252:100-17-2. Applicability [AMENDED]
252:100-17-2.1. Exemptions [AMENDED]
252:100-17-2.2. Definitions [AMENDED]
252:100-17-4. Particulate matter [AMENDED]
252:100-17-5. Incinerator design and operation
requirements [AMENDED]
252:100-17-5.1. Alternative incinerator design
requirements [AMENDED]
252:100-17-7. Test methods [AMENDED]
Appendix A. Allowable Emissions for Incinerators with
Capacities of 100 Lb/hr or Greater [REVOKED]
Appendix A. Allowable Particulate Matter Emission Rate
for Incinerators [NEW]
Appendix B. Allowable Emissions for Incinerators with
Capacities less than 100 Lbs/hr [NEW]
Appendix Q. Incorporation By Reference [REVOKED]
Appendix Q. Incorporation By Reference [NEW]

SUBMITTED TO GOVERNOR:

March 8, 2010

SUBMITTED TO HOUSE:

March 8, 2010

SUBMITTED TO SENATE:

March 8, 2010

[OAR Docket #10-316; filed 3-10-10]

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**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #10-317]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Appendix Q. Incorporation By Reference [REVOKED]
Appendix Q. Incorporation By Reference [NEW]

SUBMITTED TO GOVERNOR:

March 8, 2010

SUBMITTED TO HOUSE:

March 8, 2010

SUBMITTED TO SENATE:

March 8, 2010

[OAR Docket #10-317; filed 3-10-10]

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**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 515. MANAGEMENT OF SOLID WASTE**

[OAR Docket #10-318]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions
252:515-1-2. Definitions [AMENDED]
252:515-1-8. Special considerations [AMENDED]
Supchapter 3. Permit Provisions and Applications
Part 3. Permit Applications and Modifications
252:515-3-42. Permits for transfer stations [NEW]
Supchapter 15. Methane Gas Monitoring and Control
252:515-15-1. Applicability, ~~with~~ ~~exceptions~~
[AMENDED]
Supchapter 19. Operational Requirements
Part 3. Operational Requirements for all Disposal Facilities
252:515-19-31. Prohibited wastes [AMENDED]
Supchapter 29. Exclusion of Prohibited Wastes
252:515-29-1. Applicability [AMENDED]

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March 8, 2010

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March 8, 2010

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March 8, 2010

[OAR Docket #10-318; filed 3-10-10]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 515. MANAGEMENT OF SOLID WASTE**

[OAR Docket #10-319]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 39. Oklahoma E-Waste Recycling [NEW]
- 252:515-39-1. Purpose, authority and applicability [NEW]
- 252:515-39-2. Definitions [NEW]
- 252:515-39-3. General provisions [NEW]
- 252:515-39-4. Annual fees [NEW]
- 252:515-39-5. Records [NEW]

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[OAR Docket #10-319; filed 3-10-10]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 606. OKLAHOMA POLLUTANT DISCHARGE ELIMINATION SYSTEM (OPDES) STANDARDS**

[OAR Docket #10-320]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 1. Introduction
- 252:606-1-4. Date of federal regulations incorporated [AMENDED]

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**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 645. SEPTAGE TANK PUMPER AND TRANSPORTERS**

[OAR Docket #10-321]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 1. General Provisions [NEW]
- 252:645-1-1. Purpose, authority and applicability [AMENDED]
- 252:645-1-2. Definitions [AMENDED]
- 252:645-1-3. Septage pumping and ~~hauling~~ transporting licenses [AMENDED]
- 252:645-1-4. Vehicle requirements [AMENDED]
- 252:645-1-6. Licensee's duties [AMENDED]
- 252:645-1-7. Disposal ~~locations~~ options [AMENDED]
- 252:645-1-7.1. Land application permits [AMENDED AND RENUMBERED TO 252:645:5-1]
- 252:645-1-8. Land application requirements [AMENDED AND RENUMBERED TO 252:645:5-2]
- 252:645-1-9. Fees [AMENDED AND RENUMBERED TO 252:645:9-1]
- Subchapter 3. Septage Storage Facility [NEW]
- 252:645-3-1. Septage storage facility authorizations [NEW]
- 252:645-3-2. General requirements for septage storage facilities [NEW]
- 252:645-3-3. Septage storage tank requirements [NEW]
- Subchapter 5. Land Applications [NEW]
- 252:645-5-1. Land application permits [NEW]
- 252:645-5-2. Land application requirements [NEW]
- Subchapter 7. Septage Treatment Facility [NEW]
- 252:645-7-1. Septage treatment permits [NEW]
- 252:645-7-2. Septage treatment requirements [NEW]
- Subchapter 9. Fees [NEW]
- 252:645-9-1. Fees [NEW]
- 252:645-9-2. Fee escalator based on Consumer Price Index (CPI) [NEW]

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Submissions for Review

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 690. WATER QUALITY STANDARDS IMPLEMENTATION

[OAR Docket #10-322]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 1. Introduction
- 252:690-1-3. Technical Acronyms [AMENDED]
- 252:690-1-4. Incorporation of USEPA regulations by reference [AMENDED]

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[OAR Docket #10-322; filed 3-10-10]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 2. PROCEDURES OF THE STATE DEPARTMENT OF HEALTH

[OAR Docket #10-408]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 21. Rules of Procedure Governing Individual Proceedings [AMENDED]
- Subchapter 23. Requests for Declaratory Relief and Rulemaking [NEW]
- Subchapter 25. Discovery [AMENDED]

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[OAR Docket #10-408; filed 3-24-10]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 9. HEALTH CARE INFORMATION

[OAR Docket #10-407]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 1. General Provisions
- 310:9-1-3 [AMENDED]

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TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 96. ADVANCE DIRECTIVE REGISTRY

[OAR Docket #10-409]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Chapter 96. Advance Directive Registry [NEW]

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[OAR Docket #10-409; filed 3-24-10]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 233. BODY PIERCING AND TATTOOING

[OAR Docket #10-410]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 3. Body Piercing Artist and Tattoo Artist Requirements and Professional Standards
- 310:233-3-2 [AMENDED]
- 310:233-3-3 [AMENDED]

Subchapter 7. Requirements for Premises
310:233-7-2 [AMENDED]
Subchapter 9. License Requirements
310:233-9-1 [AMENDED]
310:233-9-2 [AMENDED]
310:233-9-4 [REVOKED]

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**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 234. MEDICAL
MICROPIGMENTATION**

[OAR Docket #10-411]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 9. Standards for Medical Micropigmentation
310:234-9-2 [AMENDED]

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**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 281. DIAGNOSTIC X-RAY
SYSTEMS**

[OAR Docket #10-412]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 11. Use of X-Rays in the Healing Arts and
Veterinary Medicine
310:281-11-13 [AMENDED]

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**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 400. LICENSED MARITAL AND
FAMILY THERAPISTS**

[OAR Docket #10-413]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 7. Application for Licensure
310:400-7-2 [AMENDED]
Subchapter 13. Fees
310:400-13-4 [AMENDED]

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**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 403. LICENSED BEHAVIORAL
PRACTITIONERS**

[OAR Docket #10-414]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 5. Forms
310:403-5-2 [AMENDED]
Subchapter 17. Fees
310:403-17-2 [AMENDED]

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Submissions for Review

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 405. LICENSED PROFESSIONAL COUNSELORS

[OAR Docket #10-415]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 7. Application Procedures

310:405-7-2 [AMENDED]

Subchapter 13. Fees

310:405-13-4 [AMENDED]

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TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 406. LICENSED GENETIC COUNSELORS

[OAR Docket #10-393]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 7. Application for Licensure

310:406-7-2 [AMENDED]

Subchapter 15. Fees

310:406-15-2 [AMENDED]

Subchapter 17. Continuing Education Requirements

310:406-17-3 [AMENDED]

310:406-17-4 [AMENDED]

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TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 512. CHILDHOOD LEAD POISONING PREVENTION RULES

[OAR Docket #10-394]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Specimen

310:512-3-6 [NEW]

310:512-3-7 [NEW]

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TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 515. COMMUNICABLE DISEASE AND INJURY REPORTING

[OAR Docket #10-395]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. Disease and Injury Reporting Requirements

310:515-1-1.1 [AMENDED]

310:515-1-2 [AMENDED]

310:515-1-3 [AMENDED]

310:515-1-4 [AMENDED]

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TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 526. DENTAL SERVICES

[OAR Docket #10-396]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 1. General Provisions
310:526-1-3. [AMENDED]
- Subchapter 3. Oklahoma Dental Loan Repayment Program
310:526-3-2. [AMENDED]
- 310:526-3-3. [AMENDED]

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**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 531. VISION SCREENING**

[OAR Docket #10-397]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 1. General Provision
310:531-1-1 [AMENDED]
- 310:531-1-3 [AMENDED]
- Subchapter 5. Vision Screening Standards for Children
310:531-5-1 [AMENDED]
- 310:531-5-2 [AMENDED]
- 310:531-5-3 [AMENDED]
- 310:531-5-5 [NEW]
- 310:531-5-6 [NEW]
- 310:531-5-7 [NEW]
- 310:531-5-8 [NEW]
- 310:531-5-9 [NEW]
- Subchapter 7. Registry Enforcement for Vision Screening
Providers
310:531-7-1 [AMENDED]
- 310:531-7-2 [AMENDED]
- 310:531-7-3 [AMENDED]
- 310:531-7-4 [AMENDED]
- 310:531-7-5 [AMENDED]
- 310:531-7-6 [AMENDED]
- 310:531-7-7 [NEW]
- Subchapter 9. Sports Eye Safety Resource [NEW]
310:531-9-1 [NEW]
- 310:531-9-2 [NEW]

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**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 535. IMMUNIZATIONS**

[OAR Docket #10-398]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 1. Childhood Immunizations
310:535-1-2 [AMENDED]

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**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 551. ADVANCEMENT IN STEM
CELL CURES AND THERAPIES ACT**

[OAR Docket #10-399]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 3. Required Information for Reporting
310:551-3-2 [NEW]
- 310:551-3-3 [NEW]
- Subchapter 5. Confidentiality of Information and
Responsibilities of Information Providers [NEW]
310:551-5-1 [NEW]
- 310:551-5-2 [NEW]
- 310:551-5-3 [NEW]
- 310:551-5-4 [NEW]

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Submissions for Review

**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 615. AMBULATORY SURGICAL
CENTER REGULATIONS CENTERS**

[OAR Docket #10-400]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions

310:615-1-2.2 [NEW]

310:615-1-3.1 [NEW]

310:615-1-3.2 [NEW]

Subchapter 3. Administration and Organization

310:615-3-8 [AMENDED]

Subchapter 5. Minimum Standards

310:615-5-1 [AMENDED]

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**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 642. OKLAHOMA EMERGENCY
RESPONSE SYSTEMS STABILIZATION AND
IMPROVEMENT REVOLVING FUND**

[OAR Docket #10-401]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions [NEW]

310:642-1-1 [NEW]

310:642-1-2 [NEW]

310:642-1-3 [NEW]

Subchapter 3. Applications [NEW]

310:642-3-1 [NEW]

310:642-3-2 [NEW]

Subchapter 5. Scoring [NEW]

310:642-5-1 [NEW]

Subchapter 7. Disbursement [NEW]

310:642-7-1 [NEW]

310:642-7-2 [NEW]

Subchapter 9. Evaluation [NEW]

310:642-9-1 [NEW]

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**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 663. CONTINUUM OF CARE
AND ASSISTED LIVING**

[OAR Docket #10-402]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 19. Administration, Records and Policies

310:663-19-4 [NEW]

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**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 667. HOSPITAL STANDARDS**

[OAR Docket #10-403]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 59. Classification of Hospital Emergency Services

310:667-59-20 [AMENDED]

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**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 669. TRAUMA CARE
ASSISTANCE REVOLVING FUND**

[OAR Docket #10-404]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions
310:669-1-3 [AMENDED]

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**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 675. NURSING AND
SPECIALIZED FACILITIES**

[OAR Docket #10-405]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 9. Resident Care Services
310:675-9-5.1. [AMENDED]
Subchapter 13. Staff Requirements
310:675-13-5 [AMENDED]

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**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 680. RESIDENTIAL CARE
HOMES**

[OAR Docket #10-406]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Licensure Requirements

310:680-3-6 [AMENDED]
310:680-3-14 [NEW]
Subchapter 9. Dietary Requirements
310:680-9-1 [AMENDED]

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

[OAR Docket #10-329]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 3. General Provider Policies
Part 3. General Medical Program Information
317:30-3-59. [AMENDED]
317:30-3-60. [AMENDED]
Subchapter 5. Individual Providers and Specialties
Part 1. Physicians
317:30-5-2. [AMENDED]
317:30-5-9. [AMENDED]
Part 3. Hospitals
317:30-5-42.17. [AMENDED]
(Reference APA WF # 09-28)

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

[OAR Docket #10-330]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 5. Individual Providers and Specialties
Part 4. Long Term Care Hospitals

Submissions for Review

317:30-5-65. [AMENDED]

Part 17. Medical Suppliers

317:30-5-211.17. [NEW]

(Reference APA WF # 09-32)

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

[OAR Docket #10-331]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 5. Individual Providers and Specialties

Part 1. Physicians

317:30-5-20. [AMENDED]

Part 7. Certified Laboratories

317:30-5-100. [AMENDED]

(Reference APA WF # 09-52)

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

[OAR Docket #10-335]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 5. Individual Providers and Specialties

Part 63. Ambulatory Surgical Centers (ASC)

317:30-5-566. [AMENDED]

317:30-5-567. [AMENDED]

(Reference APA WF # 09-59)

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

[OAR Docket #10-336]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 5. Individual Providers and Specialties

Part 1. Physicians

317:30-5-24. [AMENDED]

Part 3. Hospitals

317:30-5-42.1. [AMENDED]

(Reference APA WF # 09-60)

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

[OAR Docket #10-337]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 5. Individual Providers and Specialties

Part 6. Inpatient Psychiatric Hospitals

317:30-5-96.3. [AMENDED]

(Reference APA WF # 09-61)

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[OAR Docket #10-337; filed 3-12-10]

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

[OAR Docket #10-338]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

- Subchapter 5. Individual Providers and Specialties
- Part 65. Case Management Services for Over 21
- 317:30-5-585. [REVOKED]
- 317:30-5-586. [REVOKED]
- Part 67. Behavioral Health Case Management Services for ~~Individuals Under 21 Years of Age~~
- 317:30-5-595. [AMENDED]
- 317:30-5-596. [AMENDED]
- 317:30-5-596.1. [AMENDED]
- 317:30-5-596.2. [REVOKED]
- Part 97. Case Management Services for Under Age 18 At Risk of or in the Temporary Custody or Supervision of Office of Juvenile Affairs
- 317:30-5-972. [AMENDED]
- Part 99. Case Management Services for Under Age 18 In Emergency, Temporary or Permanent Custody or Supervision of the Department of Human Services
- 317:30-5-992. [AMENDED]
- (Reference APA WF # 09-64)**

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

[OAR Docket #10-339]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

- Subchapter 5. Individual Providers and Specialties
- Part 85. ADvantage Program Waiver Services
- 317:30-5-764. [AMENDED]
- Part 95. Agency Personal Care Services
- 317:30-5-950. [AMENDED]
- (Reference APA WF # 09-65A)**

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

[OAR Docket #10-341]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

- Subchapter 5. Individual Providers and Specialties
- Part 6. Inpatient Psychiatric Hospitals
- 317:30-5-95.33 [AMENDED]
- (Reference APA WF # 09-68)**

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

[OAR Docket #10-342]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

- Subchapter 5. Individual Providers and Specialties
- Part 1. Physicians
- 317:30-5-14. [AMENDED]
- (Reference APA WF # 09-70)**

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Submissions for Review

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

[OAR Docket #10-343]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 3. General Provider Policies
Part 3. General Medical Program Information
317:30-3-40. [AMENDED]
Subchapter 5. Individual Providers and Specialties
Part 51. Habilitation Services
317:30-5-482. [AMENDED]
(Reference APA WF # 09-72A)

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

[OAR Docket #10-345]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 3. General Provider Policies
Part 1. General Scope and Administration
317:30-3-5. [AMENDED]
(Reference APA WF # 09-73)

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

[OAR Docket #10-346]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 3. General Provider Policies
Part 3. General Medical Program Information
317:30-3-57. [AMENDED]
Subchapter 5. Individual Providers and Specialties
Part 5. Pharmacies
317:30-5-72. [AMENDED]
(Reference APA WF # 09-74)

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

[OAR Docket #10-347]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 5. Individual Providers and Specialties
Part 17. Medical Suppliers
317:30-5-211.10. [AMENDED]
317:30-5-211.12. [AMENDED]
317:30-5-211.15. [AMENDED]
317:30-5-218. [AMENDED]
Part 61. Home Health Agencies
317:30-5-547. [AMENDED]
(Reference APA WF # 09-76)

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

[OAR Docket #10-348]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 3. General Provider Policies
Part 3. General Medical Program Information
317:30-3-62. [NEW]
317:30-3-63. [NEW]

(Reference APA WF # 09-77)

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

[OAR Docket #10-326]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 15. Personal Care Services
317:35-15-8.1. [AMENDED]
Subchapter 17. ADvantage Waiver Services
317:35-17-12. [AMENDED]
317:35-17-14. [AMENDED]
317:35-17-17. through 317:35-17-18. [AMENDED]
317:35-17-20. [REVOKED]
317:35-17-21.1. [AMENDED]

(Reference APA WF # 09-02B)

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

[OAR Docket #10-327]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 5. Eligibility and Countable Income
Part 1. Determination of Qualifying Categorical Relationships
317:35-5-2. [AMENDED]
317:35-5-7. [AMENDED]
Part 5. Countable Income and Resources
317:35-5-43. [AMENDED]
317:35-5-44. [AMENDED]
Subchapter 10. Medical Aid to Families with Dependent Children Other Eligibility Factors for Families with Children and Pregnant Women

Part 5. Income
317:35-10-26. [AMENDED]
Subchapter 17. ADvantage Waiver Services
317:35-17-3. [AMENDED]
Subchapter 21. Breast and Cervical Cancer Treatment Program
317:35-21-11. [AMENDED]
(Reference APA WF # 09-20)

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

[OAR Docket #10-328]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 5. Eligibility and Countable Income
Part 5. Countable Income and Resources
317:35-5-42. [AMENDED]
(Reference APA WF # 09-22)

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Submissions for Review

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

[OAR Docket #10-333]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 5. Eligibility and Countable Income

Part 3. Non-Medical Eligibility Requirements

317:35-5-25. [AMENDED]

Subchapter 6. SoonerCare ~~Health~~ ~~Benefits~~ for
Categorically Needy Pregnant Women and Families
with Children

Part 7. Certification, Redetermination and Notification

317:35-6-60. [AMENDED]

317:35-6-61. [AMENDED]

(Reference APA WF # 09-55)

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

[OAR Docket #10-334]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 1. General Provisions

317:35-1-2. [AMENDED]

Subchapter 5. Eligibility and Countable Income

Part 1. Determination of Qualifying Categorical
Relationships

317:35-5-6. [AMENDED]

317:35-5-6.1. [AMENDED]

Subchapter 6. SoonerCare ~~Health~~ ~~Benefits~~ for
~~Categorically Needy~~ Pregnant Women and Families
with Children

Part 3. Application Procedures

317:35-6-15. [AMENDED]

Part 5. Determination of Eligibility for SoonerCare
~~Health~~ ~~Benefits~~ for Pregnant Women and Families
with Children

317:35-6-38. [AMENDED]

Part 7. Certification, Redetermination and Notification

317:35-6-62. [AMENDED]

317:35-6-63. [AMENDED]

317:35-6-64. [AMENDED]

317:35-6-64.1. [AMENDED]

Subchapter 7. Medical Services

Part 3. Application Procedures

317:35-7-15. [AMENDED]

Part 7. Certification, Redetermination and Notification

317:35-7-60.1. [AMENDED]

317:35-7-63. [AMENDED]

317:35-7-64. [AMENDED]

317:35-7-65. [AMENDED]

Subchapter 22. Pregnancy Related Benefits Covered Under
Title XXI

317:35-22-9. [AMENDED]

317:35-22-11. [AMENDED]

(Reference APA WF # 09-56)

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

[OAR Docket #10-340]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 15. Personal Care Services

317:35-15-13.2. [AMENDED]

Subchapter 17. ADvantage Waiver Services

317:35-17-22. [AMENDED]

(Reference APA WF # 09-65B)

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

[OAR Docket #10-344]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

- Subchapter 5. Member Services
 - Part 1. Agency Companion Services
 - 317:40-5-3. [AMENDED]
 - 317:40-5-8. [AMENDED]
 - 317:40-5-11. [AMENDED]
 - Part 5. Specialized Foster Care
 - 317:40-5-64. [AMENDED]
 - Part 9. Service Provisions
 - 317:40-5-101. [AMENDED]
 - 317:40-5-102. [AMENDED]
 - 317:40-5-104. [AMENDED]
 - 317:40-5-110. [AMENDED]
 - 317:40-5-111. [AMENDED]
 - 317:40-5-113. [AMENDED]
 - Part 11. Other Community Residential Supports
 - 317:40-5-150. [AMENDED]
 - 317:40-5-152. [AMENDED]
 - 317:40-5-153. [AMENDED]
 - Subchapter 7. Employment Services Through Home and Community- Based Services Waivers
 - 317:40-7-12. [AMENDED]
 - 317:40-7-21. [AMENDED]
- (Reference APA WF # 09-72B)**

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

[OAR Docket #10-332]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

- Subchapter 11. Insure Oklahoma/O-EPIC IP
 - Part 5. Insure Oklahoma/O-EPIC IP Member Eligibility

317:45-11-20. [AMENDED]

317:45-11-27. [AMENDED]

(Reference APA WF # 09-53)

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**TITLE 340. DEPARTMENT OF HUMAN
SERVICES
CHAPTER 2. ADMINISTRATIVE
COMPONENTS**

[OAR Docket #10-379]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

- Subchapter 13. Contracts and Purchasing Unit
 - Part 1. Contracts and Purchasing Unit [REVOKED]
 - 340:2-13-10 through 340:2-13-14.11 [REVOKED]
 - 340:2-13-14.13 through 340:2-13-14.15 [REVOKED]
 - 340:2-13-14.17 through 340:2-13-14.18 [REVOKED]
 - Part 5. Products and Nonprofessional Services [REVOKED]
 - 340:2-13-47 through 340:2-13-48 [REVOKED]
 - 340:2-13-50 [REVOKED]
 - 340:2-13-53 through 340:2-13-59 [REVOKED]
 - Part 7. Contracts and Purchasing [NEW]
 - 340:2-13-75 through 340:2-13-104 [NEW]
 - Appendix K. Professional Service Contract Affidavit Form [REVOKED]

(Reference APA WF 10-04)

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**TITLE 340. DEPARTMENT OF HUMAN
SERVICES
CHAPTER 2. ADMINISTRATIVE
COMPONENTS**

[OAR Docket #10-380]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

Submissions for Review

RULES:

Subchapter 1. Human Resources Management Division
(HRMD)

Part 1. General Provisions

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

340:2-1-6 [AMENDED]

Part 3. Internal Human Resources

340:2-1-25 [REVOKED]

340:2-1-26 through 340:2-1-29 [AMENDED]

Part 5. Administrative Procedures

340:2-1-56 through 340:2-1-57 [AMENDED]

Part 7. Recruitment, Selection, and Placement

340:2-1-75 through 340:2-1-80 [AMENDED]

340:2-1-82 through 340:2-1-85 [AMENDED]

340:2-1-86 [REVOKED]

340:2-1-88 [AMENDED]

340:2-1-93 [AMENDED]

(Reference APA WF 10-01)

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

[OAR Docket #10-378]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 3. Conditions of Eligibility - Need

Part 3. Income

340:10-3-40 [AMENDED]

Subchapter 10. Conditions of Eligibility - Deprivation

340:10-10-5 [AMENDED]

340:10-10-7 [AMENDED]

Subchapter 15. Conditions of Eligibility - Citizenship and Alienage

340:10-15-1 [AMENDED]

(Reference APA WF 09-12 and WF 10-03)

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

[OAR Docket #10-377]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 1. General Provisions of Child Welfare Services

Part 1. Scope and Applicability

340:75-1-9 [AMENDED]

340:75-1-12 [AMENDED]

340:75-1-12.2 [AMENDED]

340:75-1-12.6 [AMENDED]

340:75-1-14 [AMENDED]

340:75-1-16 through 340:75-1-18.1 [AMENDED]

340:75-1-18.2 [REVOKED]

340:75-1-18.3 through 340:75-1-18.4 [AMENDED]

340:75-1-20 through 340:75-1-22

340:75-1-23 [AMENDED]

340:75-1-23.1 [NEW]

340:75-1-29 [AMENDED]

Part 3. Child Welfare Confidentiality

340:75-1-42 [AMENDED]

340:75-1-44 through 340:75-1-46 [AMENDED]

Part 10. Oklahoma Children's Services (OCS)

340:75-1-151 through 340:75-1-152 [AMENDED]

340:75-1-152.3 through 340:75-1-152.9 [AMENDED]

340:75-1-154 [AMENDED]

Subchapter 3. Child Protective Services

340:75-3-1 through 340:75-3-2 [AMENDED]

340:75-3-4 through 340:75-3-7.1 [AMENDED]

340:75-3-7.2 [REVOKED]

340:75-3-7.3 [AMENDED]

340:75-3-7.4 through 340:75-3-7.5 [NEW]

340:75-3-8 through 340:75-3-8.4 [AMENDED]

340:75-3-8.5 through 340:75-3-8.6 [REVOKED]

340:75-3-9.1 [AMENDED]

340:75-3-10.1 through 340:75-3-10.3 [AMENDED]

340:75-3-11 through 340:75-3-13 [AMENDED]

Subchapter 4. Family-Centered and Community Services

Part 1. Voluntary Family-Centered Services

340:75-4-9 [AMENDED]

340:75-4-12.1 [AMENDED]

340:75-4-12.2 [REVOKED]

340:75-4-13 through 340:75-4-14 [AMENDED]

Subchapter 6. Permanency Planning

Part 1. General Provisions

340:75-6-1 [AMENDED]

340:75-6-4 [AMENDED]

Part 5. Permanency Planning Services

340:75-6-30 through 340:75-6-31.5 [AMENDED]

Part 7. Case Plans Family and Child Individualized Service Planning Components

340:75-6-40 through 340:75-6-40.6 [AMENDED]

340:75-6-40.7 [REVOKED]
 340:75-6-44 through 340:75-6-46 [AMENDED]
 Part 8. Role of the Child Welfare Worker
 340:75-6-48 through 340:75-6-48.3 [AMENDED]
 340:75-6-49 through 340:75-6-50 [AMENDED]
 Part 11. Permanency Planning and Placement Services
 340:75-6-85 through 340:75-6-85.6 [AMENDED]
 340:75-6-88 [AMENDED]
 340:75-6-91 [AMENDED]
 Part 13. Independent Living
 340:75-6-110 [AMENDED]
 340:75-6-114 through 75-6-115.1 [REVOKED]
 340:75-6-115.3 through 340:75-6-115.10 [REVOKED]
 Subchapter 7. Foster Home Care
 Part 1. General Provisions
 340:75-7-2 [AMENDED]
 Part 2. Development of Resources
 340:75-7-12 [AMENDED]
 340:75-7-14 [AMENDED]
 340:75-7-15 [AMENDED]
 340:75-7-18 [AMENDED]
 340:75-7-24 [AMENDED]
 Part 4. Roles and Responsibilities
 340:75-7-37 through 340:75-7-37.1 [AMENDED]
 340:75-7-41 [AMENDED]
 Part 5. Eligibility and Payments
 340:75-7-52 [AMENDED]
 Part 6. Foster Home Care Support Services
 340:75-7-65 [AMENDED]
 Part 8. Continuous Quality Assessment of a Resource Home
 340:75-7-94 [AMENDED]
 Subchapter 8. Therapeutic Foster Care and Developmental Disabilities Services
 Part 1. Therapeutic Foster Care
 340:75-8-1 [AMENDED]
 340:75-8-6 through 340:75-8-7 [AMENDED]
 340:75-8-9 through 340:75-8-10 [AMENDED]
 340:75-8-13 through 340:75-8-14 [AMENDED]
 Part 3. DDS Services for Children in Custody
 340:75-8-40 [AMENDED]
 Subchapter 11. Child Welfare Community-Based Residential Care
 Part 17. Contracted Community-Based Residential Care Providers
 340:75-11-230 [AMENDED]
 340:75-11-233 through 340:75-11-233.1 [AMENDED]
 340:75-11-237 [AMENDED]
 340:75-11-239 through 340:75-11-240 [AMENDED]
 Part 19. Residential Diagnostic and Evaluation Services
 340:75-11-250 [AMENDED]
 Part 21. Residential Intensive Treatment Services
 340:75-11-265 [AMENDED]
 Part 23. Specialized Community Homes
 340:75-11-287 [AMENDED]

Part 25. Non-funded and Funded Contracted Level B Placements
 340:75-11-301 [AMENDED]
 Part 29. Non-funded and Funded Level C Placements
 340:75-11-330 [AMENDED]
 Subchapter 13. Other Child Welfare Services and Medical Services for Children in Out-of-Home Care
 Part 7. Medical Services
 340:75-13-65 [AMENDED]
 Subchapter 15. Adoptions
 Part 2. Legal Base and Scope of the Adoption Program
 340:75-15-6 [AMENDED]
 340:75-15-8 [REVOKED]
 Part 6. Adoption Process
 340:75-15-41 [REVOKED]
 340:75-15-41.1 [NEW]
 340:75-15-43 [REVOKED]
 Part 8. Adoptive Placement Process
 340:75-15-59 [REVOKED]
 340:75-15-61 through 340:75-15-62 [REVOKED]
 Part 10. Integrated Family Assessment and Preparation Process
 340:75-15-85 [REVOKED]
 340:75-15-92 [REVOKED]
 Part 12. Post Placement Services
 340:75-15-103 [AMENDED]
 340:75-15-106 through 340:75-15-108 [REVOKED]
 Part 14. Post Adoption Services
 340:75-15-128.1 [AMENDED]
 340:75-15-128.2 [AMENDED]
 340:75-15-128.5 [AMENDED]
 Subchapter 16. Mental Health Treatment Services
 Part 1. Inpatient Mental Health Treatment
 340:75-16-28 through 340:75-16-30 [AMENDED]
 340:75-16-34 [REVOKED]
 340:75-16-37 through 340:75-16-38 [AMENDED]
(Reference APA WF 09-06, 09-08, 09-10, 09-19)

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**TITLE 340. DEPARTMENT OF HUMAN SERVICES
 CHAPTER 110. LICENSING SERVICES**

[OAR Docket #10-376]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

Submissions for Review

RULES:

Subchapter 1. General Provisions
Part 1. Licensing Services - Child Care
340:110-1-4.1 [AMENDED]
340:110-1-6 [AMENDED]
340:110-1-8 through 340:110-1-8.1 [AMENDED]
340:110-1-8.3 [AMENDED]
340:110-1-9 [AMENDED]
340:110-1-9.2 through 340:110-1-9.3 [AMENDED]
340:110-1-10 [AMENDED]
340:110-1-10.1 [NEW]
340:110-1-13 through 340:110-1-15 [AMENDED]
Part 3. Licensing Services - Residential Care and Agencies
340:110-1-43.1 [AMENDED]
340:110-1-45 through 340:110-1-47.1 [AMENDED]
340:110-1-51 through 340:110-1-52 [AMENDED]
340:110-1-54 through 340:110-1-55 [AMENDED]
Subchapter 3. Licensing Standards for Child Care Facilities
Part 1. Requirements for Child Care Centers
340:110-3-2 through 340:110-3-3 [AMENDED]
340:110-3-5 through 340:110-3-6
340:110-3-7.1 [AMENDED]
Part 2. Requirement for Part-day Children's Programs
340:110-3-36 through 340:110-3-37 [AMENDED]
340:110-3-39 through 340:110-3-42 [AMENDED]
Part 5. Requirements for Family Child Care Homes and Large Family Child Care Homes
340:110-3-81 through 340:110-3-82 [AMENDED]
340:110-3-85 [AMENDED]
340:110-3-88 [AMENDED]
340:110-3-89.1 [AMENDED]
Part 9. Requirements for Residential Child Care Facilities
340:110-3-146 through 340:110-3-147 [AMENDED]
340:110-3-153 [AMENDED]
340:110-3-153.1 [AMENDED]
340:110-3-168 [AMENDED]
Part 14. Requirements for School-Age Programs
340:110-3-221 through 340:110-3-226 [AMENDED]
Subchapter 5. Requirements for Child-Placing Agencies
Part 1. Requirements for Child-Placing Agencies
340:110-5-3 through 340:110-5-4 [AMENDED]
340:110-5-6 through 340:110-5-8 [AMENDED]
340:110-5-12 [AMENDED]

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TITLE 375. OKLAHOMA STATE BUREAU OF INVESTIGATION CHAPTER 30. OKLAHOMA STATE BUREAU OF INVESTIGATION LABORATORY

[OAR Docket #10-373]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions
375:30-1-2 [AMENDED]
Subchapter 3. Collection and Submission of DNA Samples from the Oklahoma Department of Corrections
375:30-3-1 through 375:30-3-3 [AMENDED]
Subchapter 5. Collection and Submission of Forensic Evidence for DNA Profiling
375:30-5-2 through 375:30-5-4 [AMENDED]
Subchapter 7. Analysis of State DNA Offender Databank Samples
375:30-7-1 through 375:30-7-3 [AMENDED]
Subchapter 9. Removal of DNA Records from State DNA Databases
375:30-9-2 [AMENDED]
Subchapter 11. General Rules for Submission of Evidence
375:30-11-1 through 375:30-11-5 [AMENDED]
375:30-11-7 [AMENDED]

SUBMITTED TO THE GOVERNOR:

March 19, 2010

SUBMITTED TO THE HOUSE:

March 19, 2010

SUBMITTED TO THE SENATE:

March 19, 2010

[OAR Docket #10-373; filed 3-22-10]

TITLE 380. DEPARTMENT OF LABOR CHAPTER 30. PROTECTION OF LABOR

[OAR Docket #10-442]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Wage Claim Procedures
380:30-3-4 [AMENDED]
380:30-3-8 [AMENDED]

SUBMITTED TO GOVERNOR:

March 26, 2010

SUBMITTED TO HOUSE:

March 26, 2010

SUBMITTED TO SENATE:

March 26, 2010

[OAR Docket #10-442; filed 3-26-10]

**TITLE 380. DEPARTMENT OF LABOR
CHAPTER 45. OKLAHOMA HAZARD
COMMUNICATION STANDARD [REVOKED]**

[OAR Docket #10-441]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Chapter 45. Oklahoma Hazard Communication Standard
[REVOKED]

SUBMITTED TO GOVERNOR:

March 26, 2010

SUBMITTED TO HOUSE:

March 26, 2010

SUBMITTED TO SENATE:

March 26, 2010

[OAR Docket #10-441; filed 3-26-10]

**TITLE 435. STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION
CHAPTER 10. PHYSICIANS AND
SURGEONS**

[OAR Docket #10-360]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 7. Regulation of Physician and Surgeon
Practice

435:10-7-2. Use of Board certification [AMENDED]

SUBMITTED TO GOVERNOR:

March 15, 2010

SUBMITTED TO HOUSE:

March 15, 2010

SUBMITTED TO SENATE:

March 15, 2010

[OAR Docket #10-360; filed 3-16-10]

**TITLE 435. STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION
CHAPTER 15. PHYSICIAN ASSISTANTS**

[OAR Docket #10-359]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Licensure of Physician Assistants
435:15-3-18. License renewal period; reinstatement
[AMENDED]

SUBMITTED TO GOVERNOR:

March 15, 2010

SUBMITTED TO HOUSE:

March 15, 2010

SUBMITTED TO SENATE:

March 15, 2010

[OAR Docket #10-359; filed 3-16-10]

**TITLE 435. STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION
CHAPTER 40. REGISTERED
ELECTROLOGISTS**

[OAR Docket #10-358]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

435:40-1-5. Academic requirements for examination and
licensure [AMENDED]

SUBMITTED TO GOVERNOR:

March 15, 2010

SUBMITTED TO HOUSE:

March 15, 2010

SUBMITTED TO SENATE:

March 15, 2010

[OAR Docket #10-358; filed 3-16-10]

**TITLE 435. STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION
CHAPTER 45. RESPIRATORY CARE
PRATITIONER**

[OAR Docket #10-356]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 5. Regulation of Practice
435:45-5-1. Continuing education [AMENDED]

SUBMITTED TO GOVERNOR:

March 15, 2010

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March 15, 2010

[OAR Docket #10-356; filed 3-16-10]

Submissions for Review

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 70. THERAPEUTIC RECREATION

[OAR Docket #10-357]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Chapter 70. Therapeutic Recreation [NEW]

SUBMITTED TO GOVERNOR:

March 15, 2010

SUBMITTED TO HOUSE:

March 15, 2010

SUBMITTED TO SENATE:

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[OAR Docket #10-357; filed 3-16-10]

TITLE 530. OFFICE OF PERSONNEL MANAGEMENT CHAPTER 10. MERIT SYSTEM OF PERSONNEL ADMINISTRATION RULES

[OAR Docket #10-354]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

PROPOSED RULES:

Subchapter 3. Affirmative Action and Equal Employment
Opportunity

Part 3. Affirmative Action

530:10-3-33.4 [AMENDED]

530:10-3-33.5 [AMENDED]

530:10-3-33.6 [AMENDED]

530:10-3-33.7 [AMENDED]

530:10-3-33.8 [AMENDED]

530:10-3-33.9 [AMENDED]

530:10-3-33.11 [AMENDED]

Subchapter 7. Salary and Payroll

Part 1. Salary and Rate of Pay

530:10-7-12 [AMENDED]

Subchapter 9. Recruitment and Selection

Part 3. Written and Performance Tests

530:10-9-37 [AMENDED]

530:10-9-38 [AMENDED]

Subchapter 13. Reduction-in-Force

Part 1. General Provisions for Reduction-in-Force

530:10-13-3 [AMENDED]

Subchapter 15. Time and Leave

Part 5. Miscellaneous Types of Leave

530:10-15-45 [AMENDED]

Subchapter 17. Performance Evaluation and Career
Enhancement Programs

Part 7. Carl Albert Public Internship Program

530:10-17-70 [AMENDED]

530:10-17-75 [AMENDED]

530:10-17-76 [NEW]

530:10-17-77 [AMENDED]

SUBMITTED TO GOVERNOR:

February 26, 2010

SUBMITTED TO HOUSE:

February 26, 2010

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February 26, 2010

[OAR Docket #10-354; filed 3-15-10]

TITLE 530. OFFICE OF PERSONNEL MANAGEMENT CHAPTER 15. VOLUNTARY PAYROLL DEDUCTION

[OAR Docket #10-353]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

PROPOSED RULES:

Subchapter 1. General Provisions

530:15-1-1 [AMENDED]

530:15-1-2 [AMENDED]

530:15-1-5 [AMENDED]

530:15-1-6 [AMENDED]

530:15-1-7 [AMENDED]

530:15-1-12 [AMENDED]

Subchapter 3. Administrative Provisions

530:15-3-7 [AMENDED]

530:15-3-7.1 [AMENDED]

530:15-3-8 [AMENDED]

530:15-3-14 [AMENDED]

Subchapter 5. Complaints and Hearings

530:15-5-8 [AMENDED]

SUBMITTED TO GOVERNOR:

February 26, 2010

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[OAR Docket #10-353; filed 3-15-10]

TITLE 550. OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #10-418]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 3. Organization of Board
550:1-3-3 [AMENDED]
- Subchapter 5. Petition Procedures
550:1-5-2 [AMENDED]
- Subchapter 7. Collections and Disbursements
550:1-7-1 [AMENDED]

SUBMITTED TO GOVERNOR:

March 25, 2010

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SUBMITTED TO SENATE:

March 25, 2010

[OAR Docket #10-418; filed 3-25-10]

**TITLE 550. OKLAHOMA POLICE PENSION
AND RETIREMENT SYSTEM
CHAPTER 15. OKLAHOMA POLICE
DEFERRED OPTION PLAN**

[OAR Docket #10-419]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

550:15-1-2 [AMENDED]

SUBMITTED TO GOVERNOR:

March 25, 2010

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[OAR Docket #10-419; filed 3-25-10]

**TITLE 550. OKLAHOMA POLICE PENSION
AND RETIREMENT SYSTEM
CHAPTER 30. PERIODS OF ABSENCE FOR
WHICH A MEMBER IS NOT RECEIVING
COMPENSATION**

[OAR Docket #10-420]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

550:30-1-1 [NEW]

SUBMITTED TO GOVERNOR:

March 25, 2010

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SUBMITTED TO SENATE:

March 25, 2010

[OAR Docket #10-420; filed 3-25-10]

**TITLE 605. OKLAHOMA REAL ESTATE
COMMISSION
CHAPTER 10. REQUIREMENTS,
STANDARDS AND PROCEDURES**

[OAR Docket #10-363]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 1. General Provisions
605:10-1-2. Definitions [AMENDED]
- Subchapter 3. Education and Examination Requirements
605:10-3-2. Application for license [AMENDED]
- 605:10-3-6. Continuing education requirements
[AMENDED]
- Subchapter 5. Instructor and Entity Requirements and
Standards
605:10-5-1. Approval of prelicense course offerings
[AMENDED]
- 605:10-5-1.1. Approval of postlicense course offerings
[AMENDED]
- 605:10-5-2. Approval of continuing education offerings
[AMENDED]
- 605:10-5-3. Standards for Commission approved real estate
courses [AMENDED]
- Subchapter 7. Licensing Procedures and Options
605:10-7-1.1. Documentation required for compliance
necessary to verify citizenship, qualified alien status, and
eligibility under the Personal Responsibility and Work
Opportunity Reconciliation Act of 1996 [AMENDED]
- 605:10-7-4. Request for activation or re-issuance of license
[AMENDED]
- 605:10-7-9. Nonresident licensing [AMENDED]
- Subchapter 9. Broker's Operational Procedures
605:10-9-1. Place of business and broker requirements
[AMENDED]
- 605:10-9-4. Advertising [AMENDED]
- Subchapter 11. Associate's Licensing Procedures
605:10-11-2. Associate licenses [AMENDED]
- Subchapter 13. Trust Account Procedures
605:10-13-1. Duty to account; broker [AMENDED]
- 605:10-13-2. Duty to account; associate [AMENDED]
- Subchapter 17. Causes for Investigation; Hearing Process,
Prohibited Acts; Discipline
605:10-17-4. Prohibited dealings [AMENDED]
- 605:10-17-5. Substantial misrepresentation [AMENDED]
- Appendix A. Residential Property Condition Disclosure
Statement [REVOKED]
- Appendix A. Residential Property Condition Disclosure
Statement [NEW]

Submissions for Review

SUBMITTED TO GOVERNOR:

March 12, 2010

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March 12, 2010

[OAR Docket #10-363; filed 3-16-10]

**TITLE 690. BOARD OF EXAMINERS FOR
SPEECH-LANGUAGE PATHOLOGY AND
AUDIOLOGY
CHAPTER 10. LICENSURE AND FEES**

[OAR Docket #10-286]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

PROPOSED RULES:

Subchapter 3. ~~Licensure of Speech-Language Pathologist and Audiologist Independent Practitioners~~

690:10-3-1. Application for licensure as a speech-language pathologist and/or audiologist [AMENDED]

690:10-3-3. Criteria considered for licensure [AMENDED]

690:10-3-4. Academic requirement [AMENDED]

690:10-3-5. Supervised clinical practicum requirement [AMENDED]

690:10-3-6. Clinical experience requirement [AMENDED]

690:10-3-8. Continuing education for speech-language pathologists and audiologists [AMENDED]

Subchapter 5. Licensure of Speech-Language Pathology Clinical Experience Interns

690:10-5-1. License to practice as a speech-language pathology clinical experience intern [AMENDED]

690:10-5-6. Requirements for supervision of clinical experience interns [AMENDED]

Subchapter 7. ~~Authorization of Assistants Licensure of Speech-Language Pathology Assistants and Audiology assistants~~

690:10-7-1. ~~Authorization to practice as an assistant~~ Application for license to practice as a speech-language pathology assistant or audiology assistant [AMENDED]

690:10-7-3. ~~Direct on site supervision required~~ Supervision required [AMENDED]

690:10-7-4. Violation of ~~authorization to assist licensure~~ [AMENDED]

690:10-7-5. Application for license authorization to assist [AMENDED]

690:10-7-6. Period of ~~authorization to assist licensure~~ and extension [AMENDED]

690:10-7-7. Requirements for supervision of assistants [AMENDED]

690:10-7-9. Academic requirements [NEW]

690:10-7-10. Roles and responsibilities of speech-language pathology assistants [NEW]

Subchapter 9. Fees

690:10-9-1. License application fee [AMENDED]

690:10-9-2. License renewal fee [AMENDED]

690:10-9-5. Lost or damaged certificate fee [AMENDED]

SUBMITTED TO GOVERNOR:

March 9, 2010

SUBMITTED TO HOUSE:

March 9, 2010

SUBMITTED TO SENATE:

March 9, 2010

[OAR Docket #10-286; filed 3-10-10]

**TITLE 690. BOARD OF EXAMINERS FOR
SPEECH-LANGUAGE PATHOLOGY AND
AUDIOLOGY
CHAPTER 10. LICENSURE AND FEES**

[OAR Docket #10-361]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Licensure of Speech-Language Pathologists and Audiologists

690:10-3-1. Application for licensure as a speech-language pathologist and/or audiologist [AMENDED]

690:10-3-3. Criteria considered for licensure [AMENDED]

690:10-3-4. Academic requirement [AMENDED]

690:10-3-5. Supervised clinical practicum requirement [AMENDED]

690:10-3-6. Clinical experience requirement [AMENDED]

690:10-3-8. Continuing education for speech-language pathologists and audiologists [AMENDED]

Subchapter 5. Licensure of Speech-Language Pathology Clinical Experience Interns [AMENDED]

690:10-5-1. License to practice as a speech-language pathology clinical experience intern [AMENDED]

690:10-5-6. Requirements for supervision of clinical experience interns [AMENDED]

Subchapter 7. ~~Authorization of Assistants Licensure of Speech-Language Pathology Assistants and Audiology Assistants~~ [AMENDED]

690:10-7-1. ~~Authorization to practice as an assistant~~ Application for license to practice as a speech-language pathology assistant or audiology assistant [AMENDED]

690:10-7-3. ~~Direct on site supervision required~~ Supervision required [AMENDED]

690:10-7-4. Violation of ~~authorization to assist licensure~~ [AMENDED]

690:10-7-5. Application for license authorization to assist [AMENDED]

690:10-7-6. Period of ~~authorization to assist licensure~~ and extension [AMENDED]

690:10-7-7. Requirements for supervision of assistants [AMENDED]

690:10-7-9. Academic requirements [NEW]

690:10-7-10. Roles and responsibilities of speech-language pathology assistants [NEW]
Subchapter 9. Fees
690:10-9-1. License application fee [AMENDED]
690:10-9-2. License renewal fee [AMENDED]
690:10-9-5. Lost or damaged certificate fee [AMENDED]

SUBMITTED TO GOVERNOR:

March 15, 2010

SUBMITTED TO HOUSE:

March 15, 2010

SUBMITTED TO SENATE:

March 15, 2010

[OAR Docket #10-361; filed 3-16-10]

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

[OAR Docket #10-423]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 3. Fee Schedules

35:2-3-11 [AMENDED]

GUBERNATORIAL APPROVAL:

March 5, 2010

[OAR Docket #10-423; filed 3-25-10]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 15. ANIMAL INDUSTRY

[OAR Docket #10-424]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 15. Equine Infectious Anemia (EIA)

Part 3. Procedures

35:15-15-32 through 35:15-15-34 [AMENDED]

35:15-15-36 [AMENDED]

35:15-15-37 [AMENDED]

35:15-15-39 through 35:15-15-42 [AMENDED]

GUBERNATORIAL APPROVAL:

March 5, 2010

[OAR Docket #10-424; filed 3-25-10]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 15. ANIMAL INDUSTRY

[OAR Docket #10-425]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 44. Farmed Cervidae

35:15-44-2 through 35:15-44-14 [AMENDED]

35:15-44-16 through 35:15-44-19 [AMENDED]

GUBERNATORIAL APPROVAL:

March 5, 2010

[OAR Docket #10-425; filed 3-25-10]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. CONSUMER PROTECTION

[OAR Docket #10-422]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 17. Combined Pesticide

Part 1. Commercial and Non-Commercial Categories of

Pesticide Application

35:30-17-1.2 [NEW]

Subchapter 25. Seed

35:30-25-15 [NEW]

Subchapter 27. Feed

Part 1. Commercial Feed

30-30-27-11 [AMENDED]

Subchapter 29. Fertilizer

Part 5. Licenses and Complaints

35:30-29-51 [AMENDED]

Subchapter 31. Lime

35:30-31-4 [NEW]

Subchapter 37. Nursery Stock Sales

35:30-37-12 [NEW]

Subchapter 38. Apiaries

35:30-38-13 [NEW]

GUBERNATORIAL APPROVAL:

February 16, 2010

[OAR Docket #10-422; filed 3-25-10]

TITLE 60. ARCHIVES AND RECORDS COMMISSION CHAPTER 10. ARCHIVES AND RECORDS

[OAR Docket #10-323]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 11. Service Fees

60:10-11-4 [AMENDED]

Gubernatorial Approvals

GUBERNATORIAL APPROVAL:

March 5, 2010

[OAR Docket #10-323; filed 3-12-10]

**TITLE 60. ARCHIVES AND RECORDS
COMMISSION
CHAPTER 15. ADMINISTRATION OF
UNIFORM REAL PROPERTY ELECTRONIC
RECORDING ACT**

[OAR Docket #10-325]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 1. General Provisions [NEW]

60:15-1-1 through 60:15-1-4 NEW

Subchapter 3. Electronic Recording Standards [NEW]

60:15-3-1 through 60:15-3-11 [NEW]

GUBERNATORIAL APPROVAL:

March 5, 2010

[OAR Docket #10-325; filed 3-12-10]

**TITLE 245. STATE BOARD OF LICENSURE
FOR PROFESSIONAL ENGINEERS AND
LAND SURVEYORS
CHAPTER 15. LICENSURE AND PRACTICE
OF PROFESSIONAL ENGINEERS AND
LAND SURVEYORS**

[OAR Docket #10-372]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 1. General Provisions

245:15-1-3 [AMENDED]

Subchapter 3. Application and Eligibility for Licensing

245:15-3-7 [AMENDED]

Subchapter 7. Licensure

245:15-7-1 [AMENDED]

245:15-7-5 [AMENDED]

Subchapter 11. Continuing Education

245:15-11-3 [AMENDED]

245:15-11-11 [AMENDED]

Subchapter 13. Minimum Standards for the Practice of
Land Surveying

245:15-13-2 [AMENDED]

Subchapter 17. Licensee's Seal

245:15-17-1 [AMENDED]

245:15-17-2 [AMENDED]

Subchapter 19. Organizational Practice

245:15-19-8 [AMENDED]

245:15-19-9 [NEW]

Subchapter 23. Violations

245:15-23-1 [AMENDED]

245:15-23-2 [AMENDED]

245:15-23-8 [AMENDED]

245:15-23-9 [AMENDED]

245:15-23-11 [AMENDED]

245:15-23-12 [AMENDED]

245:15-23-13 [AMENDED]

245:15-23-14 [AMENDED]

245:15-23-15 [AMENDED]

GUBERNATORIAL APPROVAL:

February 17, 2010

[OAR Docket #10-372; filed 3-19-10]

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

[OAR Docket #10-307]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 1. Organization and Administration

317:1-1-8. [AMENDED]

317:1-1-9. [AMENDED]

317:1-1-9.1. [NEW]

317:1-1-10. [REVOKED]

317:1-1-17. [AMENDED]

Subchapter 3. Formal and Informal Procedures

317:1-3-3.1. [AMENDED]

317:1-3-3.2. [REVOKED]

317:1-3-4. [NEW]

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

317:1-5-1. through 317:1-5-5. [REVOKED]

Subchapter 7. Compliance with the Americans with
Disabilities Act Of 1990 [REVOKED]

317:1-7-1. through 317:1-7-8. [REVOKED]

Subchapter 9. Civil Rights and Nondiscrimination
[REVOKED]

317:1-9-1. through 317:1-9-6. [REVOKED]

317:1-9-9. through 317:1-9-10. [REVOKED]

(Reference APA WF # 09-37)

GUBERNATORIAL APPROVAL:

March 3, 2010

[OAR Docket #10-307; filed 3-10-10]

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

[OAR Docket #10-301]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

317:2-1-1. through 317:2-1-2. [AMENDED]
317:2-1-6. through 317:2-1-13. [AMENDED]
(Reference APA WF # 09-24)

GUBERNATORIAL APPROVAL:

March 3, 2010

[OAR Docket #10-301; filed 3-10-10]

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

[OAR Docket #10-290]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 5. Individual Providers and Specialties
Part 85. ADvantage Program Waiver Services
317:30-5-761. [AMENDED]
317:30-5-763.1. [AMENDED]
Part 95. Agency Personal Care Services
317:30-5-952. [AMENDED]
(Reference APA WF # 09-02A)

GUBERNATORIAL APPROVAL:

March 3, 2010

[OAR Docket #10-290; filed 3-10-10]

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

[OAR Docket #10-291]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 3. General Provider Policies
Part 3. General Medical Program Information
317:30-3-61. [NEW]
(Reference APA WF # 09-04)

GUBERNATORIAL APPROVAL:

March 3, 2010

[OAR Docket #10-291; filed 3-10-10]

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

[OAR Docket #10-292]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 5. Individual Providers and Specialties
Part 85. ADvantage Program Waiver Services
317:30-5-761. [AMENDED]
317:30-5-763. [AMENDED]
317:30-5-764. [AMENDED]
(Reference APA WF # 09-06A)

GUBERNATORIAL APPROVAL:

March 3, 2010

[OAR Docket #10-292; filed 3-10-10]

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

[OAR Docket #10-294]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 5. Individual Providers and Specialties
Part 1. Physicians
317:30-5-1. [AMENDED]
Part 69. Certified Registered Nurse Anesthetists
317:30-5-605. [AMENDED]
317:30-5-607. [AMENDED]
317:30-5-608. [REVOKED]
317:30-5-609. [REVOKED]
317:30-5-610. [REVOKED]
317:30-5-611. [AMENDED]
Part 70. Anesthesiologist Assistants [NEW]
317:30-5-612. [NEW]
317:30-5-613. [NEW]
317:30-5-614. [NEW]
317:30-5-615. [NEW]
(Reference APA WF # 09-09)

Gubernatorial Approvals

GUBERNATORIAL APPROVAL:

March 3, 2010

[OAR Docket #10-294; filed 3-10-10]

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

[OAR Docket #10-295]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 5. Individual Providers and Specialties

Part 5. Pharmacies

317:30-5-72.1. [AMENDED]

(Reference APA WF # 09-10)

GUBERNATORIAL APPROVAL:

March 3, 2010

[OAR Docket #10-295; filed 3-10-10]

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

[OAR Docket #10-297]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 3. General Provider Policies

Part 1. General Scope and Administration

317:30-3-27. [AMENDED]

Subchapter 5. Individual Providers and Specialties

Part 110. Indian Health Services, Tribal Programs, and

Urban Indian Clinics (I/T/Us)

317:30-5-1091. [AMENDED]

(Reference APA WF # 09-16)

GUBERNATORIAL APPROVAL:

March 3, 2010

[OAR Docket #10-297; filed 3-10-10]

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

[OAR Docket #10-298]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 3. General Provider Policies

Part 1. General Scope and Administration

317:30-3-24. [AMENDED]

(Reference APA WF # 09-19A)

GUBERNATORIAL APPROVAL:

March 3, 2010

[OAR Docket #10-298; filed 3-10-10]

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

[OAR Docket #10-302]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 3. General Provider Policies

Part 5. Eligibility

317:30-3-80. [REVOKED]

(Reference APA WF # 09-26)

GUBERNATORIAL APPROVAL:

March 3, 2010

[OAR Docket #10-302; filed 3-10-10]

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

[OAR Docket #10-304]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 5. Individual Providers and Specialties

Part 6. Inpatient Psychiatric Hospitals

317:30-5-95. [AMENDED]

(Reference APA WF # 09-29)

GUBERNATORIAL APPROVAL:

March 3, 2010

[OAR Docket #10-304; filed 3-10-10]

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

[OAR Docket #10-305]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 5. Individual Providers and Specialties

Part 3. Hospitals

317:30-5-42.11. [AMENDED]

(Reference APA WF # 09-34)

GUBERNATORIAL APPROVAL:

March 3, 2010

[OAR Docket #10-305; filed 3-10-10]

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

[OAR Docket #10-306]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 5. Individual Providers and Specialties

Part 17. Medical Suppliers

317:30-5-211.18. [NEW]

(Reference APA WF # 09-35)

GUBERNATORIAL APPROVAL:

March 3, 2010

[OAR Docket #10-306; filed 3-10-10]

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

[OAR Docket #10-308]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 5. Individual Providers and Specialties

Part 1. Physicians

317:30-5-22. [AMENDED]

(Reference APA WF # 09-38)

GUBERNATORIAL APPROVAL:

March 3, 2010

[OAR Docket #10-308; filed 3-10-10]

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

[OAR Docket #10-309]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 5. Individual Providers and Specialties

Part 21. Outpatient Behavioral Health Services

317:30-5-241.3. [AMENDED]

(Reference APA WF # 09-39)

GUBERNATORIAL APPROVAL:

March 3, 2010

[OAR Docket #10-309; filed 3-10-10]

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

[OAR Docket #10-310]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 5. Individual Providers and Specialties

Part 17. Medical Suppliers

317:30-5-210.1. [NEW]

317:30-5-210.2. [NEW]

317:30-5-211.1. [AMENDED]

317:30-5-211.8. [REVOKED]

317:30-5-211.13. [AMENDED]

317:30-5-211.14. [AMENDED]

317:30-5-212. [REVOKED]

317:30-5-216. [AMENDED]

(Reference APA WF # 09-42)

GUBERNATORIAL APPROVAL:

March 3, 2010

[OAR Docket #10-310; filed 3-10-10]

Gubernatorial Approvals

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

[OAR Docket #10-314]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 5. Individual Providers and Specialties

Part 10. Bariatric Surgery

317:30-5-137. [AMENDED]

317:30-5-137.1. [NEW]

317:30-5-137.2. [NEW]

317:30-5-138. [REVOKED]

317:30-5-139. [REVOKED]

(Reference APA WF # 09-49)

GUBERNATORIAL APPROVAL:

March 3, 2010

[OAR Docket #10-314; filed 3-10-10]

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

[OAR Docket #10-293]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 17. ADvantage Waiver Services

317:35-17-1. [AMENDED]

317:35-17-11. [AMENDED]

(Reference APA WF # 09-06B)

GUBERNATORIAL APPROVAL:

March 3, 2010

[OAR Docket #10-293; filed 3-10-10]

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

[OAR Docket #10-296]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 5. Eligibility and Countable Income

Part 5. Countable Income and Resources

317:35-5-41.9. [AMENDED]

(Reference APA WF #09-15A)

GUBERNATORIAL APPROVAL:

March 3, 2010

[OAR Docket #10-296; filed 3-10-10]

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

[OAR Docket #10-299]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 13. ~~Client~~ Member Rights and Responsibilities

317:35-13-4. [AMENDED]

(Reference APA WF # 09-19B)

GUBERNATORIAL APPROVAL:

March 3, 2010

[OAR Docket #10-299; filed 3-10-10]

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

[OAR Docket #10-311]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 5. Eligibility and Countable Income

Part 5. Countable Income and Resources

317:35-5-41.2. [AMENDED]

(Reference APA WF # 09-43)

GUBERNATORIAL APPROVAL:

March 3, 2010

[OAR Docket #10-311; filed 3-10-10]

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

[OAR Docket #10-312]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 17. ADvantage Waiver Services

317:35-17-14. [AMENDED]

(Reference APA WF # 09-45)
GUBERNATORIAL APPROVAL:
March 3, 2010

[OAR Docket #10-312; filed 3-10-10]

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

[OAR Docket #10-315]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 15. Personal Care Services
317:35-15-8.1. [AMENDED]

(Reference APA WF # 09-50)

GUBERNATORIAL APPROVAL:

March 3, 2010

[OAR Docket #10-315; filed 3-10-10]

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

[OAR Docket #10-300]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

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

(Reference APA WF # 09-21)

GUBERNATORIAL APPROVAL:

March 3, 2010

[OAR Docket #10-300; filed 3-10-10]

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

[OAR Docket #10-313]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 9. Self-directed Services [NEW]
317:40-9-1. [NEW]

(Reference APA WF # 09-48)
GUBERNATORIAL APPROVAL:
March 3, 2010

[OAR Docket #10-313; filed 3-10-10]

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

[OAR Docket #10-303]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 11. Insure Oklahoma/O-EPIC IP
Part 3. Insure Oklahoma/O-EPIC IP Member Health Care
Benefits
317:45-11-11. [AMENDED]

(Reference APA WF # 09-27)

GUBERNATORIAL APPROVAL:

March 3, 2010

[OAR Docket #10-303; filed 3-10-10]

**TITLE 340. DEPARTMENT OF HUMAN
SERVICES
CHAPTER 1. FUNCTION AND STRUCTURE
OF THE DEPARTMENT**

[OAR Docket #10-368]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 1. General Provisions
340:1-1-17 [AMENDED]

(Reference APA WF 09-22)

GUBERNATORIAL APPROVAL:

March 5, 2010

[OAR Docket #10-368; filed 3-17-10]

**TITLE 340. DEPARTMENT OF HUMAN
SERVICES
CHAPTER 2. ADMINISTRATIVE
COMPONENTS**

[OAR Docket #10-369]

RULEMAKING ACTION:

Gubernatorial approval

Gubernatorial Approvals

RULES:

Subchapter 1. Human Resources Management Division
(HRMD)
340:2-1-58 [AMENDED]
(Reference APA WF 09-22)

GUBERNATORIAL APPROVAL:

March 5, 2010

[OAR Docket #10-369; filed 3-17-10]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 5. ADULT PROTECTIVE SERVICES

[OAR Docket #10-370]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 1. General Provisions
340:5-1-1 through 340:5-1-6 [AMENDED]
340:5-1-8 [AMENDED]
Subchapter 3. Reports of Maltreatment of Vulnerable Adults
340:5-3-1 [AMENDED]
340:5-3-5 through 340:5-3-6 [AMENDED]
Subchapter 5. Investigation of Adult Protective Services Referrals
340:5-5-2 through 340:5-5-7 [AMENDED]
340:5-5-8 [NEW]

(Reference APA WF 09-24)

GUBERNATORIAL APPROVAL:

March 5, 2010

[OAR Docket #10-370; filed 3-17-10]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 15. STATE SUPPLEMENTAL PAYMENT

[OAR Docket #10-371]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

340:15-1-4 [AMENDED]
(Reference APA WF 09-23)

GUBERNATORIAL APPROVAL:

March 5, 2010

[OAR Docket #10-371; filed 3-17-10]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 100. DEVELOPMENTAL DISABILITIES SERVICES DIVISION

[OAR Docket #10-416]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 1. General Provisions
340:100-1-2 [AMENDED]
Subchapter 3. Administration
Part 1. General Administration
340:100-3-4 [AMENDED]
Part 3. Administration
340:100-3-29 [AMENDED]
340:100-3-38.5 [AMENDED]
Subchapter 5. Client Services
Part 1. Admission and Safeguards
340:100-5-3 [AMENDED]
Part 3. Service Provisions
340:100-5-20 [NEW]
340:100-5-22 [AMENDED]
340:100-5-22.5 through 340:100-5-22.6 [AMENDED]
Part 5. Individual Planning
340:100-5-52 through 340:5-53 [AMENDED]
Subchapter 17. Employment Services
Part 5. Other State Funded Employment Services
340:100-17-30 [AMENDED]
(Reference APA WF 09-20)

GUBERNATORIAL APPROVAL:

March 5, 2010

[OAR Docket #10-416; filed 3-25-10]

TITLE 405. OKLAHOMA DEPARTMENT OF LIBRARIES
CHAPTER 35. FEES

[OAR Docket #10-324]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

405:35-1-2 [AMENDED]

GUBERNATORIAL APPROVAL:

February 26, 2010

[OAR Docket #10-324; filed 3-12-10]

**TITLE 530. OFFICE OF PERSONNEL
MANAGEMENT
CHAPTER 10. MERIT SYSTEM OF
PERSONNEL ADMINISTRATION RULES**

[OAR Docket #10-351]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

PROPOSED RULES:

Subchapter 3. Affirmative Action and Equal Employment
Opportunity

Part 3. Affirmative Action
530:10-3-33.4 [AMENDED]
530:10-3-33.5 [AMENDED]
530:10-3-33.6 [AMENDED]
530:10-3-33.7 [AMENDED]
530:10-3-33.8 [AMENDED]
530:10-3-33.9 [AMENDED]
530:10-3-33.11 [AMENDED]

Subchapter 7. Salary and Payroll

Part 1. Salary and Rate of Pay
530:10-7-12 [AMENDED]

Subchapter 9. Recruitment and Selection

Part 3. Written and Performance Tests
530:10-9-37 [AMENDED]
530:10-9-38 [AMENDED]

Subchapter 13. Reduction-in-Force

Part 1. General Provisions for Reduction-in-Force
530:10-13-3 [AMENDED]

Subchapter 15. Time and Leave

Part 5. Miscellaneous Types of Leave
530:10-15-45 [AMENDED]

Subchapter 17. Performance Evaluation and Career
Enhancement Programs

Part 7. Carl Albert Public Internship Program
530:10-17-70 [AMENDED]
530:10-17-75 [AMENDED]
530:10-17-76 [NEW]
530:10-17-77 [AMENDED]

GUBERNATORIAL APPROVAL:

March 5, 2010.

[OAR Docket #10-351; filed 3-15-10]

**TITLE 530. OFFICE OF PERSONNEL
MANAGEMENT
CHAPTER 15. VOLUNTARY PAYROLL
DEDUCTION**

[OAR Docket #10-352]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

PROPOSED RULES:

Subchapter 1. General Provisions

530:15-1-1 [AMENDED]
530:15-1-2 [AMENDED]
530:15-1-5 [AMENDED]
530:15-1-6 [AMENDED]
530:15-1-7 [AMENDED]
530:15-1-12 [AMENDED]
Subchapter 3. Administrative Provisions
530:15-3-7 [AMENDED]
530:15-3-7.1 [AMENDED]
530:15-3-8 [AMENDED]
530:15-3-14 [AMENDED]
Subchapter 5. Complaints and Hearings
530:15-5-8 [AMENDED]

GUBERNATORIAL APPROVAL:

March 5, 2010.

[OAR Docket #10-352; filed 3-15-10]

**TITLE 730. DEPARTMENT OF
TRANSPORTATION
CHAPTER 35. MAINTENANCE AND
CONTROL OF STATE HIGHWAY SYSTEM**

[OAR Docket #10-427]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 19. Oklahoma Traveler Information Logo
Signing Program
730:35-19-1 [AMENDED]
730:35-19-2 [AMENDED]
730:35-19-3 [AMENDED]
730:35-19-6 [AMENDED]
730:35-19-7 [AMENDED]
Appendix A. Urban Interstate Interchange [REVOKED]
Appendix A. Urban Interstate Interchange [NEW]
Appendix B. Rural Interstate Interchange [REVOKED]
Appendix B. Rural Interstate Interchange [NEW]
Appendix C. Rural and Urban Primary Interchange
[REVOKED]
Appendix C. Rural and Urban Primary Interchanges [NEW]
Appendix D. Preferred Guideline Criteria for Signing
Traffic Generators on Freeways or Expressways
[REVOKED]
Appendix D. Preferred Guideline Criteria for Signing
Traffic Generators on Freeways or Expressways [NEW]
Appendix E. Traffic Generators that do not Normally
Warrant Signing [REVOKED]
Appendix E. Traffic Generators that do not Normally
Warrant Signing [NEW]
Appendix F. Tourist Oriented Directional Signing
[REVOKED]
Appendix F. Tourist Oriented Directional Signing (TODS)
[NEW]

Gubernatorial Approvals

GUBERNATORIAL APPROVAL:

February 15, 2010

[OAR Docket #10-427; filed 3-25-10]

Withdrawn Rules

An agency may withdraw proposed PERMANENT rules prior to final adoption (approval by Governor/Legislature) by notifying the Governor and the Legislature and by publishing a notice in the *Register* of such a withdrawal.

An agency may withdraw proposed EMERGENCY rules prior to approval/disapproval by the Governor by notifying the Governor, the Legislature, and the Office of Administrative Rules. The withdrawal notice is not published in the *Register*, however, unless the agency published a Notice of Rulemaking Intent in the *Register* before adopting the EMERGENCY rules.

For additional information on withdrawal of proposed rules, see 75 O.S., Section 308(F) and 253(K) and OAC 655:10-7-33.

TITLE 92. OKLAHOMA STATE ATHLETIC COMMISSION CHAPTER 10. RULES FOR BOXING AND OTHER ACTIVITIES

[OAR Docket #10-349]

RULEMAKING ACTION:

Withdrawal of PERMANENT rulemaking

WITHDRAWN RULE:

Subchapter 1. General Provisions

92:10-1-4 [AMENDED]

92:10-1-7 [AMENDED]

DATES:

Adoption:

March 3, 2010

Withdrawn:

March 12, 2010

[OAR Docket #10-349; filed 3-12-10]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 70. THERAPEUTIC RECREATION

[OAR Docket #10-440]

RULEMAKING ACTION:

Notice of withdrawn rules

RULES:

Chapter 70. Therapeutic Recreation [NEW]

DATES:

Adoption:

March 11, 2010

Submitted to Governor:

March 15, 2010

Submitted to House:

March 15, 2010

Submitted to Senate:

March 15, 2010

Withdrawn:

March 26, 2010

[OAR Docket #10-440; filed 3-26-10]

Emergency Adoptions

An agency may adopt new rules, or amendments to or revocations of existing rules, on an emergency basis if the agency determines that "an imminent peril exists to the preservation of the public health, safety, or welfare, or that a compelling public interest requires an emergency rule[s] [A]n agency may promulgate, at any time, any such [emergency] rule[s], provided the Governor first approves such rule[s]" [75 O.S., Section 253(A)].

An emergency action is effective immediately upon approval by the Governor or on a later date specified by the agency in the preamble of the emergency rule document. An emergency rule expires on July 15 after the next regular legislative session following promulgation, or on an earlier date specified by the agency, if not already superseded by a permanent rule or terminated through legislative action as described in 75 O.S., Section 253(H)(2).

Emergency rules are not published in the *Oklahoma Administrative Code*; however, a source note entry, which references the *Register* publication of the emergency action, is added to the *Code* upon promulgation of a superseding permanent rule or expiration/termination of the emergency action.

For additional information on the emergency rulemaking process, see 75 O.S., Section 253.

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

[OAR Docket #10-437]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 3. Priority Academic Student Skills

Part 11. Social Studies

210:15-3-100. Oklahoma history for high school [AMENDED]

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

210:15-3-104. World History for high school [AMENDED]

AUTHORITY:

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

DATES:

Adoption:

February 4, 2010

Approved by Governor:

February 15, 2010

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2011, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

Public schools are required to implement the rules and provide instruction based upon the *Priority Academic Student Skills* and local schools need this information to make proper and timely adjustments to instruction at the local level.

ANALYSIS:

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

CONTACT PERSON:

Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253 (D):

SUBCHAPTER 3. PRIORITY ACADEMIC STUDENT SKILLS

PART 11. SOCIAL STUDIES

210:15-3-100. Oklahoma history for high school

(a) **Standard.** The student will demonstrate process skills in social studies.

(1) Identify, analyze, and interpret primary and secondary sources (e.g., artifacts, diaries, letters, art, music, literature, photographs, documents, newspapers, and contemporary media).

(2) Identify, evaluate, and explain the relationships between the geography of Oklahoma and its historical development by using different kinds of maps, graphs, charts, diagrams, and other representations such as photographs, satellite-produced images, and computer-based technologies.

(3) Interpret information from a broad selection of research materials (e.g., encyclopedias, almanacs, dictionaries, atlases, and cartoons).

(4) Construct and examine timelines of Oklahoma history (e.g., removal and relocation of Native American groups, economic cycles, immigration patterns, and the results of redistricting and statewide elections).

(b) **Standard.** The student will describe both European and American exploration and claims the territory that would become Oklahoma.

(1) Explain the significance of early Spanish and French expeditions (e.g., Coronado, Oñate, and LaHarpe).

(2) Evaluate the lasting impact of American exploration, including the Pike, Wilkinson, and expeditions.

(3) Analyze the impact of territorial claims on the development of the state of Oklahoma, including the Louisiana Purchase and Adams-Onís Treaty.

(c) **Standard.** The student will evaluate the social, economic, and political development and contributions of Native Americans from prehistoric settlement through modern times.

(1) Identify and describe significant phases of prehistoric cultures, including the Paleo Indians (Clovis points), Archaic Indians (Folsom points), the Mound Builders, and the Plains Tribes.

Emergency Adoptions

- (2) Trace the movement of other North American peoples into present-day Oklahoma, including the Five Tribes, Plains Tribes, and Eastern Tribes.
- (3) Compare and contrast cultural perspectives (e.g., land ownership and use, agricultural, production and distribution of commodities, and trading practices) of Native Americans and European Americans.
- (4) Identify significant historical and contemporary Native Americans (e.g., John Ross, Sequoyah, Quanah Parker, Jim Thorpe, Will Rogers, the Five Indian Ballerinas, the Kiowa Five, and Wilma Mankiller).
- (d) **Standard.** The student will evaluate the major political and economic events prior to statehood.
- (1) Analyze tribal alliances, river transportation, and the fur trade, and their relationship to early mercantile settlements (e.g., Fort Towson, Fort Gibson, Fort Coffee, Fort Washita, and Chouteau's Trading Post).
- (2) Explain the significance of the Civil War in Indian Territory and the prominent figures and groups that fought in its battles (e.g., Stand Watie, General James Blunt, General Douglas Cooper, and the 1st Kansas Colored Regiment).
- (3) Assess the impact of the cattle industry (e.g., cattle trails, railheads and cow towns in Kansas, and the location of railroad lines).
- (4) Evaluate the impact and importance of the various means of distributing land in Oklahoma (e.g., allotments, land runs, lottery, and Supreme Court settlement).
- (e) **Standard.** The student will describe the development of constitutional government in Oklahoma.
- (1) Examine the work of the Dawes Commission and the distribution of lands to non-Native American settlers.
- (2) Analyze the development of governments among the Native American tribes; the movement towards the all-Indian state of Sequoyah; the movement for single statehood; and the impact and influence of the Enabling Act and the Constitutional Convention.
- (f) **Standard.** The student will investigate the geography and economic assets of Oklahoma and trace their effects on the history of the state.
- (1) Locate the significant physical and human features of the state on a map (e.g., major waterways, cities, natural resources, military installations, major highways, and major landform regions).
- (2) Examine how economic cycles (e.g., the Great Depression and the Dust Bowl, and oil boom and bust) have affected and continue to affect major sectors of state employment (e.g., fossil fuels, timber, mining, tourism, the military, and agriculture).
- (g) **Standard.** The student will examine major cultural and ethnic groups represented in Oklahoma.
- (1) Identify cultural and ethnic groups in Oklahoma (e.g., African Americans, Eastern Europeans, Italians, Germans, and Vietnamese) and explore the causes and effects of their immigration and settlement patterns.
- (2) Trace the cultural, political, and economic contributions of these groups.

(h) **Standard.** The student will examine factors that contributed to the political, economic, and social history of Oklahoma during the twentieth century.

(1) Identify significant individuals and their contributions (e.g., Jerome Tiger, Frank Phillips, Kate Barnard, Angie Debo, Ada Lois Sipuel, Clara Luper, George Lynn Cross, Ralph Ellison, Robert S. Kerr, Henry Bellmon, and Reba McEntire).

(2) Analyze the impact of the Populist Movement, the Temperance Movement, the Dust Bowl, and political corruption (e.g., Ku Klux Klan activities; the prosecutions and convictions of Governor David Hall and the county commissioners) on Oklahoma history.

(3) Examine the historical evolution of race relations in Oklahoma (e.g., the significance of Jim Crow laws, the Tulsa Race Riot, and the contributions of Governor Raymond Gary to the peaceful integration of public facilities).

(4) Examine and evaluate the causes and effects of terrorism in Oklahoma, including the A. P. Murrah Federal Building bombing in Oklahoma City on April 19, 1995.

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

(a) The focus of the course in United States History for Grades 9-12 is the immediate pre-Civil War era to the present (1850-present). However, for the high school ACE U.S. HISTORY examination, the time frame is approximately 1850-1975, or approximately from the Compromise of 1850 through the withdrawal of United States military and diplomatic personnel from Vietnam. NOTE: Standard 1 social studies process skills should be integrated throughout the content standards and used in teaching and assessing the course content at the classroom and district level. At the state level, Standard 1 social studies process skills will be measured and reported within each of the content standards (1, 2, 3, 4, 5, and 6). Process skill assessment items will be content-based and reported under each of the content standards. For assessment purposes, each standard will have items using primary and secondary source documents, timelines, maps, charts, graphs, pictures, photographs, and/or political cartoons. There will be a balance of graphic and textual stimulus materials within the various U.S. History test forms. At least 50 percent of the assessment items will have appropriate pictorial and graphical representations.

(b) In United States History, the student will describe and analyze the causes, events, and effects of the Civil War and Reconstruction era; examine the impact of immigration and the settlement of the American West on American society; and evaluate the economic effects of the industrialization and the changing role of the United States in world affairs at the turn of the twentieth century. He or she will also describe the social, cultural, and economic events between the World Wars; investigate and analyze the Great Depression, and the causes, events and effects of World War II; and assess the foreign and domestic policies of the United States since World War II. The student will continue to strengthen, expand, and put to use the full range of process and research skills in social studies.

- (1) **Standard.** The student will demonstrate process skills in social studies.
- (A) Identify, analyze, and interpret primary and secondary sources (e.g., artifacts, diaries, letters, photographs, documents, newspapers, media, and computer-based technologies).
 - (B) Recognize and explain how different points of view have been influenced by nationalism, racism, religion, culture and ethnicity.
 - (C) Distinguish between fact and opinion in examining documentary sources.
 - (D) Construct timelines of United States history (e.g., landmark dates of economic changes, social movements, military conflicts, constitutional amendments, and presidential elections).
 - (E) Explain the relationships between geography and the historical development of the United States by using maps, graphs, charts, visual images, and computer-based technologies.
 - (F) Develop discussion, debate, and persuasive writing and speaking skills, focusing on enduring issues (e.g., individual rights vs. the common good, and problems of intolerance toward cultural, ethnic, and religious groups), and demonstrating how divergent viewpoints have been and continue to be addressed and reconciled.
- (2) **Standard.** The student will analyze causes, key events, and effects of the Civil War/Reconstruction era.
- (A) Examine the economic and philosophical differences (e.g., sectionalism, popular sovereignty, states' rights debate, nullification, abolition, and tariffs) between the North and South, as articulated by Daniel Webster and John C. Calhoun.
 - (B) Trace the events leading to secession and war (e.g., the Compromise of 1850, the Fugitive Slave Act, the Kansas-Nebraska Act, "Bleeding Kansas," the Dred Scott case, John Brown's Raid on Harpers Ferry, 1860 presidential election, secession of South Carolina, and the attack on Fort Sumter).
 - (C) Identify political and military leaders of the war (e.g., Abraham Lincoln, Ulysses S. Grant, Jefferson Davis, Robert E. Lee, Frederick Douglass, and William Lloyd Garrison).
 - (D) Interpret the importance of critical developments in the war, including major battles (e.g., Fort Sumter, "Anaconda Plan," Bull Run, Gettysburg, Vicksburg, Antietam, battle of the Monitor and Merrimack, and the North's "total war strategy"), the Emancipation Proclamation, and Lee's surrender at Appomattox.
 - (E) Relate the basic provisions and postwar impact of the 13th, 14th, and 15th Amendments to the Constitution.
 - (F) Evaluate the continuing impact of Reconstruction policies on the South, including southern reaction (e.g., tenant farming, Freedmen's Bureau, sharecropping, Black Codes, Ku Klux Klan, Carpetbaggers, scalawags, Plessy v. Ferguson, and Jim Crow laws).
- (3) **Standard.** The student will analyze the impact of immigration, the settlement of the American West, and industrialization on American society.
- (A) Analyze the impact of immigration, migration and settlement patterns.
 - (i) Analyze immigration, including the reasons for immigration, employment, settlement patterns, and contributions of various immigrant, cultural, and ethnic groups (e.g., Irish, Chinese, Italians, Germans, Japanese, and Southeast/Central Europeans) from 1850-1930.
 - (ii) Examine ethnic conflict and discrimination.
 - (iii) Analyze changes in the domestic policies of the United States relating to immigration (e.g., the CHINESE EXCLUSION ACT, the rise of nativism, Ellis Island, and the "Gentlemen's Agreement") from 1850-1930.
 - (iv) Evaluate the significance of immigration on the labor supply and the movement to organize workers (e.g., growth of labor pool, rise of the labor movement, Pullman strikes, Haymarket Riot, Eugene V. Debs, Samuel Gompers, John L. Lewis, and the use of court injunctions to halt labor strikes).
 - (v) Compare and contrast social attitudes and federal policies toward Native American peoples (e.g., the Indian Wars of 1850-1890, establishment of reservations, attempts at assimilation, and the DAWES ACT, and the destruction of the bison herds) and actions of the United States Army, missionaries, and settlers during the settlement of the American West, 1850-1890.
 - (B) Evaluate the impact of industrialization on American society.
 - (i) Identify the impact of new inventions and industrial production methods, including new technologies in transportation and communication between 1850-1920 (e.g., Thomas Edison, Alexander G. Bell, Henry Ford, the Bessemer process, the Westinghouse Company, barbed wire, the western cattle drives).
 - (ii) Describe the effects of the "muckrakers" (e.g., Carey Nation, Susan B. Anthony, Elizabeth Cady Stanton, Alice Paul, Ida Tarbell, Upton Sinclair, and William Jennings Bryan) and reform movements (e.g., Women's Suffrage, Temperance, Populism, and the Grange Movement) that resulted in government policies affecting child labor, wages, working conditions, trade, monopolies, taxation and the money supply (e.g., Sherman Anti-trust Act and Triangle Shirtwaist Factory Fire).
 - (iii) Assess the impact of industrialization, the expansion of international markets, urbanization, and immigration on the economy.
 - (iv) Evaluate the rise of the Progressive Movement in relation to political changes at the national

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and state levels (e.g., workplace protections, conservation of natural resources, increased political strength of third parties, the direct primary, initiative petition, referendum, and recall).

(v) Examine the causes of the money panics of 1873, 1893, and 1907, explaining how the establishment of the Federal Reserve System addressed the problems.

(4) **Standard.** The student will analyze the changing role of the United States in world affairs at the turn of the twentieth century.

(A) Evaluate the motivations and impact of American Imperialism on international relations.

(i) Identify the goals of and reasons for imperialism (e.g., Open Door Policy, annexation of Hawaii, influence of Admiral Alfred T. Mahan, and the concept of "white man's burden") explaining its impact on developed and developing nations (e.g., "banana republic").

(ii) Analyze the role of the Spanish-American War in the development of the United States as a world power (e.g., yellow journalism, Rough Riders, PLATT AMENDMENT, TELLER AMENDMENT, territorial acquisitions, and contributions of Admiral George Dewey).

(iii) Evaluate the reasons for United States involvement in locating a canal in Central America and the actions of President Theodore Roosevelt regarding the Panama Canal.

(iv) Compare and contrast the strengths and weaknesses of Theodore Roosevelt's foreign policy and other presidential foreign policies from 1890-1910, including "Big Stick Diplomacy," "Dollar Diplomacy," "Missionary Diplomacy," the Great White Fleet, *ROOSEVELT COROLLARY*, and interventionism.

(B) Evaluate the causes and effects of World War I on American politics, economy, and society.

(i) Analyze the factors leading to the involvement of the United States in World War I (e.g., the alliance systems, submarine warfare, and the Zimmerman Note) and the effects of the war on the United States (e.g., mobilization, propaganda, women in the workplace, and the First Red Scare).

(ii) Examine the reasons why the United States did not join the League of Nations and for the nation's return to isolationism (e.g., Wilson's Fourteen Points and the Treaty of Versailles).

(5) **Standard.** The student will describe the social; cultural; economic; and technological ideas and events in the United States in the era between the World Wars.

(A) Compare and contrast cultural, economic, and social events and trends between the World Wars.

(i) Evaluate literature, music, dance, and forms of entertainment of the 1920s and 1930s (e.g., the Harlem Renaissance, the Jazz Age, flappers, the "Lost Generation," and "talkies").

(ii) Investigate the long term effects of reform movements, such as the Women's Suffrage Movement, Temperance/Prohibition Movements (e.g., the 18th, 19th, and 21st Amendments to the Constitution), and the Early Civil Rights Movement and leaders (e.g., Booker T. Washington and W. E. B. Du Bois).

(iii) Analyze the impact of the automobile, aviation (e.g., Charles Lindbergh), electrification, and urbanization (e.g., the Great Migration) on American society.

(iv) Describe rising racial tensions and labor unrest common in the era (e.g., the Tulsa Race Riot, the resurgence of the Ku Klux Klan, the "Back to Africa" Movement and Marcus Garvey, the rise of industrial unions, and the labor sit-down strikes).

(B) Analyze the effects of the destabilization of the American economy.

(i) Examine the growing disparity between the wealth of corporate leaders and the incomes of small business owners, industrial workers, and farmers.

(ii) Identify causes contributing to an unstable economy (e.g., the increased reliance on installment buying, a greater willingness to speculate and buy on margin in the stock market, and government reluctance to interfere in the economy or laissez-faire policy).

(iii) Examine changes in the business cycle (e.g., the "Black Tuesday" Stock Market Crash and bank failures), weaknesses in key sectors of the economy (e.g., agriculture and manufacturing), and government economic policies in the late 1920s.

(iv) Analyze the effects of the Stock Market Crash between October 1929 and March 1933 (e.g., unemployment, the shrinking economy, Herbert Hoover's economic policies, the "Bonus Army," Securities and Exchange Commission, "Hoovervilles," and the presidential election of 1932).

(C) Analyze the Great Depression, the Dust Bowl, and the New Deal economic policies.

(i) Evaluate the impact of the Great Depression, the Dust Bowl (e.g., migration of the Okies and exodusters), and the New Deal economic policies on business and agriculture, as well as on the American people, their culture and political behavior. (e.g., FDR's court packing plan and the "fireside chats").

(ii) Assess the impact of the expanded role of government in the economy since the 1930s. (e.g., FDR's "New Deal," deficit spending and new federal agencies - Social Security Administration, FDIC, TVA, WPA, and CCC).

(iii) Identify the contributions of key individuals of the period between the wars (e.g.,

- Will Rogers, Eleanor Roosevelt, Franklin Roosevelt, Huey Long, "The Brain Trust," and Woody Guthrie).
- (6) **Standard.** The student will analyze the major causes, events, and effects of United States' involvement in World War II.
- (A) Examine changes in American society and government policy as the nation prepared for and entered World War II.
- Relate the rise of totalitarian regimes in the Soviet Union, Germany, Italy, and Japan to the rise of communism, Nazism, and fascism in the 1930s and 1940s, and the response of the United States.
 - Describe the roles of appeasement and isolationism in the United States' reluctance to involve itself in world conflicts during 1937-1941 (e.g., the Lend-Lease Act, and the Neutrality Acts).
 - Evaluate the impact of preparation and mobilization for war, including the internment policies and their effects (e.g., internment of minority Americans, such as, Japanese, Germans, and Italians; *Korematsu v. United States*; rationing; role of women in the workforce and armed services; and discrimination and segregation at home and in the armed forces).
- (B) Describe events affecting the outcome of World War II.
- Identify major battles, military turning points, and key strategic decisions in both the European and Pacific Theaters of operation (e.g., Pearl Harbor; Battle of Midway; the D-Day Invasion; Battle of the Bulge; the development and use of the atomic bomb; island-hopping strategy, such as Iwo Jima; and the Allied conferences, such as Yalta).
 - Analyze public and political reactions in the United States to the events of the Holocaust (e.g., Nuremberg War Trials).
- (7) **Standard.** The student will analyze the foreign and domestic policies of the United States since World War II.
- (A) Analyze the origins, international alliances, and efforts at containment of Communism.
- Identify the origins of the Cold War and its foreign and domestic consequences, including confrontations with the Soviet Union in Berlin and Cuba (e.g., the postwar division of Europe, the Warsaw Pact, the "Iron Curtain," the Marshall Plan, the Berlin Airlift, the Berlin Wall, the Bay of Pigs Invasion, and the Cuban Missile Crisis).
 - Evaluate the United States' attempts at the containment of Communism including the Truman Doctrine and the involvement of the United Nations in the Korean War.
 - Describe the fear of communist influence within the United States including the McCarthy hearings (e.g., the Second Red Scare and various congressional hearings).
- (B) Describe events which changed domestic and foreign policies during the Cold War and its aftermath.
- Examine the proliferation of nuclear weapons and the arms race (e.g., Sputnik and the space race; development and effects of nuclear weapons; the Rosenbergs' spy trial; and the SALT treaties).
 - Describe the role of the United States in the formation of the United Nations, NATO, and SEATO.
 - Evaluate the causes and long term foreign and domestic consequences of United States' military commitments in Southeast Asia, including the Vietnam War (e.g., "Domino Theory;" the Tonkin Gulf Resolution; the Tet Offensive; the presidential elections of 1968 and 1972; student protests; expanded television coverage of the war; and the War Powers Act).
 - Examine the strategic and economic factors in the development of Middle East policy and relations with African nations, including South Africa.
 - Analyze the reasons for the collapse of Communism in Eastern Europe and the Soviet Union, and relate the end of the Cold War to new challenges to the United States' leadership role in the world.
- (C) Analyze the economic, social, and political transformation within the United States since World War II.
- Describe de jure and de facto segregation policies, attempts at desegregation and integration, and the impact of the Civil Rights Movement on society (e.g., *Brown v. Board of Education of Topeka, Kansas*, the Montgomery Bus Boycott, the lunch counter sit-down strikes in Oklahoma City and elsewhere, the Freedom Rides, integration of Little Rock Central High School, the Civil Rights Act of 1964, and the Voting Rights Act of 1965).
 - Evaluate the success of the Women's Liberation Movement (e.g., Equal Rights Amendment, *Roe v. Wade*, Betty Friedan, and NOW) and the changing roles of women during the 1950s through the mid-1970s.
 - Examine the technology revolution and its impact on communication, transportation, and industry.
 - Assess the impact of violent crime, and illegal drug use and trafficking.
 - Explain the effects of increased immigration, the influx of political refugees, and the increasing number of undocumented aliens on society and the economy.
 - Identify the contributions of political leaders, political activists, civil rights leaders (e.g., Dr. Martin Luther King, Jr., Malcolm X, Thurgood Marshall, and César Chavez), major issues, and

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scandals, including the Watergate Scandal, and major trends in national elections (e.g., differences between the two major political parties, and the rise of third party candidates).

(vii) Examine the postwar rise in the standard of living, the OPEC Oil Embargo, the inflation of the 1970s, and the federal budget deficit problems of the 1980s and early 1990s.

(viii) Evaluate the impact of political scandals (e.g., Iran-Contra, and the Clinton impeachment) on federal law, national policies, and political behavior.

(ix) Analyze how the principles and structures of the United States Constitution have changed through amendment and judicial interpretation (e.g., the 22nd and 25th Amendments, the Warren Court, *Gideon v. Wainwright*, and *Miranda v. Arizona*).

(x) Compare and contrast conservative and liberal economic strategies, including the positions of political parties and interest groups on major issues to the present.

(xi) Describe and evaluate the ongoing globalization of the world's economic and communication systems (e.g., the Internet), including the rise of terrorism and its impact on the United States; the role and effects of the A. P. Murrah Federal Building bombing in Oklahoma City on April 19, 1995; the first attack on the World Trade Center Towers in New York City in 1993; the attacks on the World Trade Center Towers in New York City and the Pentagon in Washington, DC on September 11, 2001; and the policies and actions of the U. S. Government to respond to and combat terrorism (e.g., PATRIOT Act, creation of the Department of Homeland Security, and the wars in Afghanistan and Iraq).

210:15-3-104. World History for high school

(a) **Standard.** The student will demonstrate social studies research skills.

(1) Identify, analyze, and interpret primary and secondary sources and artifacts.

(2) Validate sources as to their authenticity, authority, credibility, and possible bias.

(3) Construct timelines of key events, periods, and historically significant individuals.

(4) Identify and analyze the reasons for major shifts in national political boundaries.

(b) **Standard.** The student will describe early physical and cultural development of humankind from the Paleolithic Era to the emergence of agriculture.

(1) Describe the characteristics of hunter-gatherer societies, their use of fire and tools, and the impact of geography on these societies.

(2) Identify the technological and social advancements that gave rise to stable communities.

(c) **Standard.** The student will compare selected ancient river civilizations (e.g., Egypt, Mesopotamia, the Indus Valley, and Shang China), and other ancient civilizations (e.g., the Hebrew and Phoenician kingdoms, and the Persian Empire).

(1) Describe their location in time and place.

(2) Trace their development of cultural, political, and economic patterns.

(d) **Standard.** The student will describe and analyze ancient Greece (*circa* 2000 to 300 B.C.E.) and its impact on contemporary and future civilizations.

(1) Explain the influence of geography on Greek culture including the contributions of Greek playwrights, poets, historians, sculptors, architects, scientists, mathematicians, and philosophers, (e.g., Socrates, Plato, Aristotle, Sophocles, Pythagoras, Hippocrates, Herodotus, and Archimedes).

(2) Analyze the impact of Greek commerce and colonies on the Mediterranean region.

(3) Describe the social structure, significance of citizenship, and development of democracy in the city-state of Athens.

(4) Describe life in Athens during the Golden Age of Pericles.

(5) Evaluate the conquest of Greece by Macedonia, and the spread of Hellenistic culture by Alexander the Great.

(e) **Standard.** The student will describe and analyze ancient Rome (700 B.C.E. to 500 C.E.) and its impact on contemporary and future civilizations.

(1) Explain the influence of geography on Roman economic, social, and political development.

(2) Describe the social structure, the significance of citizenship, and the development of democratic features in the government of the Roman Republic.

(3) Analyze the Roman military domination of the Mediterranean basin and western Europe, and the spread of Roman culture in these areas.

(4) Describe the collapse of the Republic and the rise of imperial monarchs.

(5) Evaluate the economic, social, and political impact of the Pax Romana.

(6) Examine the origin, traditions, customs, beliefs, and spread of Judaism and Christianity.

(7) Describe the contributions in art, architecture, technology, science, literature, history, language, religion, and law.

(8) Explain the reasons for the decline and fall of the Roman Empire, (e.g., the invasions of the Visigoths and Vandals).

(f) **Standard.** The student will analyze the interactions and relationships between the Muslim world and Christendom from the seventh to the eleventh century C.E.

(1) Describe the origin, theological foundations, traditions, customs, beliefs, and spread of Islam.

(2) Identify religious, political, and economic influences in the Mediterranean region.

(g) **Standard.** The student will describe, compare and contrast selected civilizations in Asia, Africa, and the Americas.

- (1) Analyze India's caste system, the traditions, customs, beliefs, and significance of Hinduism, and the conquest by Muslim Turks and Mongols.
 - (2) Describe China under the Qin, Han, T'ang, and Sung dynasties; the traditions, customs, beliefs, and significance of Buddhism; the impact of Confucianism and Taoism; and the construction of the Great Wall.
 - (3) Describe Japan's development, and the significance of Shintoism and Buddhism, and the influence of Chinese culture.
 - (4) Describe the kingdoms of Kush in eastern Africa and Ghana in western Africa.
 - (5) Describe the Olmec, Mayan, Aztec, and Inca civilizations.
- (h) **Standard.** The student will describe and analyze the Byzantine Empire and Russia (*circa* 300 to 1400 C.E.) and their impact on contemporary and later civilizations.
- (1) Explain the expansion of the Byzantine Empire and economy with the establishment of Constantinople.
 - (2) Describe the conflicts that led to the split between the Roman Catholic and Eastern Orthodox churches.
 - (3) Evaluate Byzantine influence on Kievan Russia and Eastern Europe.
- (i) **Standard.** The student will describe and analyze the patterns of social, economic, and political change, and cultural achievement during the Middle Ages, *circa* 500 to 1500 C.E.
- (1) Describe the structure of feudal society and its social, economic, and political effects.
 - (2) Examine the Age of Charlemagne and the revival of the idea of the Roman Empire.
 - (3) Trace the invasions and settlements of the Magyars in Eastern Europe, and the Vikings, Angles, and Saxons in Great Britain.
 - (4) Analyze the spread and influence of Christianity throughout Europe, and the secular roles of the Roman Catholic Church.
 - (5) Describe conflicts among Eurasian powers, such as the Crusades, the Mongol conquests, and the expansion of the Ottoman Turks.
 - (6) Compare and contrast the federal system in Asia (e.g., the society in Japan) with European federalism.
- (j) **Standard.** The student will analyze the historical sources and developments of the Renaissance.
- (1) Examine the economic foundations of the Renaissance, increased trade, role of the Medicis, and new economic practices, including the rise of Italian city-states.
 - (2) Describe artistic, literary, scientific, political, and intellectual creativity, (e.g., as reflected in the works of Leonardo da Vinci, Michelangelo, Machiavelli, Cervantes, and Shakespeare) as contrasted with the Middle Ages.
- (k) **Standard.** The student will analyze the historical sources and developments of the Reformation.
- (1) Evaluate the effects of the theological, political, and economic differences that emerged during the Reformation (e.g., the views and actions of Martin Luther, John Calvin, the Council of Trent and Henry VIII).
 - (2) Describe the influence of religious conflicts on government actions, (e.g., the Edict of Nantes in France, and the reign of Elizabeth I in England).
- (l) **Standard.** The student will analyze the impact of European expansion into the Americas, Africa, and Asia.
- (1) Describe the roles of explorers and conquistadors (e.g, Prince Henry the Navigator, Columbus, Magellan, and Cortés).
 - (2) Analyze migration, settlement patterns, and cultural diffusion, including the exchange of technology, ideas, and agricultural practices, the introduction of new diseases, and trade in slaves, gold, furs, and tobacco.
 - (3) Evaluate the economic and cultural transformations created by the emergence of plants (e.g., tobacco and corn) in new places and the arrival of the horse in the Americas.
 - (4) Describe the competition for resources and the rise of mercantilism, including the commercial and maritime growth of European nations, and the emergence of money and banking, global economics, and market systems.
- (m) **Standard.** The student will analyze the scientific, political, and economic changes in Europe and North America in the sixteenth, seventeenth, and eighteenth centuries.
- (1) Describe the establishment and authority of absolute monarchies (e.g., Louis XIV, Frederick the Great, and Peter the Great).
 - (2) Examine the Glorious Revolution in England and the French Revolution, including the ideas of significant individuals, (e.g., Hobbes, Locke, Montesquieu, Rousseau, Adam Smith, and Jefferson).
 - (3) Explain how the political and religious ideas of the Enlightenment affected the founders of the United States.
 - (4) Explain how new scientific theories (e.g., those of Newton, Kepler, Copernicus, Galileo, Harvey, and Franklin) and technological changes brought about social, political, and cultural changes.
 - (5) Describe how the arts, philosophy, and literature were influenced by significant individuals (e.g., Voltaire, Diderot, Rembrandt, Gainsborough, Bach, and Mozart).
- (n) **Standard.** The student will describe nineteenth century political developments.
- (1) Analyze the impact of the Congress of Vienna.
 - (2) Describe the expansion of democracy in Europe, the effects of urbanization, the revolutions of 1848, and British reform laws.
 - (3) Analyze the unification of Germany and of Italy.
 - (4) Evaluate the impact of the Meiji Restoration in Japan.
- (o) **Standard.** The student will analyze and explain the effects of the Industrial Revolution.
- (1) Describe the rise and impact of industrial economies.
 - (2) Describe the scientific and technological changes (e.g., the inventions of Watt, Bessemer, and Whitney) which brought about massive social and cultural change.
 - (3) Analyze the emergence of capitalism and free enterprise as a dominant economic pattern.

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- (4) Evaluate the responses to capitalism (e.g., utopianism, socialism, and communism), including the trade union movement.
- (5) Explain how Asia, Africa, and South America were transformed by European commercial power.
- (p) **Standard.** The student will analyze major twentieth century historical events through World War II.
- (1) Evaluate the causes and effects of World War I (e.g., assassination of Archduke Ferdinand; Woodrow Wilson and the Fourteen Points; and the League of Nations).
- (2) Describe the Bolshevik Revolution in Russia, and the creation of the Soviet Union.
- (3) Examine the rise, aggression, and human costs of totalitarian regimes in the Soviet Union, Germany, Italy, and Japan.
- (4) Examine the rise of nationalism, and the causes and effects of World War II (e.g., the Holocaust, economic and military power shifts since 1945, the founding of the United Nations, and the political partitioning of Europe, Africa, and Asia).
- (5) Describe the revolutionary movements in Asia and their leaders (e.g., Mao Zedong and Ho Chi Minh).
- (6) Examine African and Asian countries which achieved independence from European colonial rule (e.g., India under Mohandas Gandhi and Ghana under Kwame Nkrumah).
- (q) **Standard.** The student will evaluate post-World War II global and contemporary events.
- (1) Describe regional military and political conflicts, such as Korea and Vietnam.
- (2) Evaluate the creation of the modern state of Israel, and the recurring conflicts between and among Israel and the Arab neighbors.
- (3) Examine the beginning and end of the Cold War and the collapse of the Soviet Union.
- (4) Describe the Chinese Cultural Revolution and the pro-democracy student demonstrations at Tiananmen Square in Beijing.
- (5) Describe and evaluate the ongoing globalization of the world's economic and communication systems (e.g., the Internet), including the rise of terrorism in the United States and around the world; the role and effects of the A. P. Murrah Federal Building bombing in Oklahoma City on April 19, 1995; the first attack on the World Trade Center Towers in New York City in 1993; and the attacks on the World Trade Center Towers in New York City and the Pentagon in Washington, DC on September 11, 2001; the subway bombings in London; the train attacks in Madrid; the attack in Mumbai, India; airplane and ship hijackings; and the policies and actions of the US Government to respond to and combat terrorism (e.g., PATRIOT Act, creation of the Department of Homeland Security, and the wars in Afghanistan and Iraq).

[OAR Docket #10-437; filed 3-26-10]

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

[OAR Docket #10-287]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 3. General Provider Policies
Part 3. General Medical Program Information

317:30-3-62. [NEW]

317:30-3-63. [NEW]

(Reference APA WF # 09-77)

AUTHORITY:

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

DATES:

Adoption:

February 11, 2010

Approved by Governor:

March 3, 2010

Effective:

April 1, 2010

Expiration:

Effective through July 14, 2010, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

Subchapter 3. General Provider Policies
Part 3. General Medical Program Information

317:30-3-62. [NEW]

Gubernatorial approval:

January 14, 2010

Register Publication:

27 Ok Reg 617

Docket number:

10-69

(Reference APA WF # 09-51)

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions to the agency's general provider policies. Rules are written to establish a policy for hospital acquired conditions. These emergency rule revisions will set policy to no longer reimburse the extra cost of treating certain categories of conditions that occur while a member is in the hospital. This quality initiative ensures that state and federal funds are not being used to promote serious medical errors and conditions and that all Oklahomans will continue to have access to quality healthcare.

ANALYSIS:

Agency rules are written to establish policy for hospital acquired conditions. Rules will set policy to no longer reimburse the extra cost of treating certain categories of conditions that occur while a member is in the hospital. For discharges, hospitals will not receive additional payment for cases in which one of the selected conditions was not present on admission. Payment will be made as though the secondary diagnosis was not present. The selected conditions that OHCA will recognize are those conditions identified as non-payable by Medicare. Rules will also include the avoidance of SoonerCare to act as a secondary payer for Medicare non-payment of the recognized hospital acquired conditions.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION

253(D), WITH A LATER EFFECTIVE DATE OF APRIL 1, 2010:

SUBCHAPTER 3. GENERAL PROVIDER POLICIES

PART 3. GENERAL MEDICAL PROGRAM INFORMATION

317:30-3-62. Serious reportable events - never events

(a) **Definitions.** The following words and terms, when used in this Section, have the following meaning, unless the context clearly indicates otherwise.

(1) "Surgical and other invasive procedures" are defined as operative procedures in which skin or mucous membranes and connective tissues are incised or an instrument is introduced through a natural body orifice. Invasive procedures include a range of procedures from minimally invasive dermatological procedures (biopsy, excision, and deep cryotherapy for malignant lesions) to extensive multi-organ transplantation. They include all procedures described by the codes in the surgery section of the Current Procedural Terminology (CPT) and other invasive procedures such as percutaneous transluminal angioplasty and cardiac catheterization. They include minimally invasive procedures involving biopsies or placement of probes or catheters requiring the entry into a body cavity through a needle or trocar. They do not include use of instruments such as otoscopes for examinations or very minor procedures such as drawing blood.

(2) A surgical or other invasive procedure is considered to be the wrong procedure if it is not consistent with the correctly documented informed consent for that member.

(3) A surgical or other invasive procedure is considered to have been performed on the wrong body part if it is not consistent with the correctly documented informed consent for that member including surgery on the right body part, but on the wrong location on the body; for example, left versus right (appendages and/or organs), or at the wrong level (spine).

(4) A surgical or other invasive procedure is considered to have been performed on the wrong member if that procedure is not consistent with the correctly documented informed consent for that member.

(b) **Coverage.** The Oklahoma Health Care Authority (OHCA) will no longer cover a particular surgical or other invasive procedure to treat a particular medical condition when the practitioner erroneously performs (1) a different procedure altogether; (2) the correct procedure but on the wrong body part; or (3) the correct procedure but on the wrong member. SoonerCare will not cover hospitalizations or any services related to these non-covered procedures. All services provided in the operating room when an error occurs are considered related and therefore not covered. All providers in the operating room when the error occurs, who could bill individually for their services, are also not eligible

for payment. All related services provided during the same hospitalization in which the error occurred are not covered. A provider cannot shift financial liability or responsibility for the non-covered services to the member if the OHCA has determined that the service is related to one of the above erroneous surgical procedures.

(c) **Billing.** For inpatient claims, hospitals are required to bill two claims when the erroneous surgery is reported, one claim with covered services or procedures unrelated to the erroneous surgery, the other claim with the non-covered services or procedures as a no-payment claim. For outpatient and practitioner claims, providers are required to append the applicable HCPCS modifiers to all lines related to the erroneous surgery. Claim lines submitted with one of the applicable HCPCS modifiers will be line-item denied.

(d) **Related claims.** Once a claim for the erroneous surgery(s) has been received, OHCA may review member history for related claims as appropriate. Incoming claims for the identified member may be reviewed for an 18-month period from the date of the surgical error. If such claims are identified to be related to the erroneous surgical procedure(s), OHCA may take appropriate action to deny such claims and recover any overpayments on claims already processed.

(e) **Dually eligible members.** SoonerCare will not act as a secondary payer for Medicare non-payment of the aforementioned erroneous surgery(s).

(f) **Hospital acquired conditions.** SoonerCare will not reimburse the extra cost of treating certain categories of conditions that occur while a member is in the hospital. See OAC 317:30-3-63 for specific information regarding hospital acquired conditions.

317:30-3-63. Hospital acquired conditions

(a) **Coverage.** The Oklahoma Health Care Authority (OHCA) will no longer reimburse the extra cost of treating certain categories of conditions that occur while a member is in the hospital. For discharges, hospitals will not receive additional payment for cases in which one of the selected conditions was not present on admission. The claim will be grouped to a DRG as if the diagnosis was not present on the claim. The selected conditions that OHCA recognizes are those conditions identified as non-payable by Medicare. OHCA may revise through addition or deletion the selected conditions at any time during the fiscal year. The following is a complete list of the hospital acquired conditions (HACs) currently recognized by OHCA:

- (1) Foreign Object Retained After Surgery
- (2) Air Embolism
- (3) Blood Incompatibility
- (4) Pressure Ulcer Stages III & IV
- (5) Falls and Trauma
 - (A) Fracture
 - (B) Dislocation
 - (C) Intracranial Injury
 - (D) Crushing Injury
 - (E) Burn
 - (F) Electric Shock
- (6) Catheter-Associated Urinary Tract Infection

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- (7) Vascular Catheter-Associated Infection
 - (8) Manifestations of Poor Glycemic Control
 - (A) Diabetic Ketoacidosis
 - (B) Nonketotic Hyperosmolar Coma
 - (C) Hypoglycemic Coma
 - (D) Secondary Diabetes with Ketoacidosis
 - (E) Secondary Diabetes with Hyperosmolarity
 - (9) Surgical Site Infection Following:
 - (A) Coronary Artery Bypass Graft- Mediastinitis
 - (B) Bariatric Surgery
 - (i) Laparoscopic Gastric Bypass
 - (ii) Gastroenterostomy
 - (iii) Laparoscopic Gastric Restrictive Surgery
 - (C) Orthopedic Procedures
 - (i) Spine
 - (ii) Neck
 - (iii) Shoulder
 - (iv) Elbow
 - (10) Deep Vein Thrombosis and Pulmonary Embolism
 - (A) Total Knee Replacement
 - (B) Hip Replacement
- (b) Billing. Hospitals paid under the diagnosis related grouping (DRG) methodology are required to submit a present on admission (POA) indicator for the principal diagnosis code and every secondary diagnosis code for all discharges. A valid POA indicator is required on all inpatient hospital claims. Claims with no valid POA indicator will be denied. For all claims involving inpatient admissions, OHCA will group diagnoses into the proper DRG using the POA indicator.
- (c) Dually eligible members. SoonerCare will not act as a secondary payer for Medicare non-payment of the aforementioned hospital acquired conditions.

[OAR Docket #10-287; filed 3-10-10]

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

[OAR Docket #10-289]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- Subchapter 5. Individual Providers and Specialties
- Part 65. Case Management Services for Over 21
- 317:30-5-585. [REVOKED]
- 317:30-5-586. [REVOKED]
- Part 67. Behavioral Health Case Management Services for ~~Individuals~~
~~Under 21 Years of Age~~
- 317:30-5-595. [AMENDED]
- 317:30-5-596. [AMENDED]
- 317:30-5-596.1. [AMENDED]
- 317:30-5-596.2. [REVOKED]
- Part 97. Case Management Services for Under Age 18 At Risk of or in the
Temporary Custody or Supervision of Office of Juvenile Affairs
- 317:30-5-972. [AMENDED]
- Part 99. Case Management Services for Under Age 18 In Emergency,
Temporary or Permanent Custody or Supervision of the Department of
Human Services
- 317:30-5-992. [AMENDED]

(Reference APA WF # 09-64)

AUTHORITY:

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

DATES:

Adoption:

February 11, 2010

Approved by Governor:

March 3, 2010

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2010, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions to amend policy to broadening Targeted Case Management (TCM) to all BA/BS level degrees. This rule change is needed in order to increase access across the state.

ANALYSIS:

Rules are revised to broaden TCM to all BA/BS level degrees. Currently a Case Manager II and III bachelor's degree had to be in a behavioral health field, with the revisions any bachelor's degree earned from a regionally accredited college or university recognized by the United States Department of Education will be accepted. Additionally rules were revised to combine adult and children outpatient Behavioral Health TCM rules into one streamlined set. Revisions were also made to provide more consistency with Oklahoma Department of Mental Health Substance Abuse Services (ODMHSAS) policy.

CONTACT PERSON:

Tywanda Cox at (405)522-7153

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN,
THE FOLLOWING EMERGENCY RULES ARE
CONSIDERED PROMULGATED AND EFFECTIVE
UPON APPROVAL BY THE GOVERNOR AS SET
FORTH IN 75 O.S., SECTION 253(D):**

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 65. CASE MANAGEMENT SERVICES FOR OVER 21

317:30-5-585. Eligible providers [REVOKED]

~~Services are provided by case management agencies established for the purpose of providing case management services.~~

(1) **Provider agency requirements.** The agency must demonstrate its capacity to deliver case management services in terms of the following:

(A) ~~On or after July 1, 2007, the OHCA will require agencies to have accreditation appropriate to case management from JCAHO, CARE, COA, or AOA, and meet the standards of the accreditation agency at all times.~~

(B) ~~The OHCA reserves the right to obtain a copy of any accreditation audit and/or site visit reports from the provider and/or the accreditation agency.~~

(C) Agencies that are eligible to contract with the OHCA to provide case management services for seriously mentally ill adults must be community based.

(D) Agencies must be able to demonstrate the ability to develop and maintain appropriate patient records including, but not limited to, assessments, service plans, and progress notes.

(E) An agency's behavioral health case management staff must serve the target group on a 24 hour on-call basis.

(F) Each site operated by a case management facility must have a separate provider number. A site is defined as an office, clinic, or other business setting where case management services are routinely performed. When services are rendered at the patient's residence, a school, or an appropriate community based setting, a site is determined according to where the professional staff conduct administrative duties and where the patient's chart and other records are kept. Failure to obtain and utilize site specific provider numbers will result in disallowance of services.

(2) **Provider types.**

(A) **ODMHSAS public and private facilities.** Public ODMHSAS facilities are regionally based Community Mental Health Centers. Private ODMHSAS facilities are providers that have contracted with the ODMHSAS to provide mental health, substance abuse, and case management treatment services. Both of these provider types must also contract with the OHCA directly to receive SoonerCare reimbursement.

(B) **Private facilities.** Private facilities are those facilities that contract directly with the Oklahoma Health Care Authority to provide case management services.

(3) **Service provider education and experience requirements before July 1, 2001.** For case management services to be compensable by SoonerCare, the case manager performing the service must maintain current case management certification from the Department of Mental Health and Substance Abuse Services. For those case managers who are certified on or before July 1, 2001, the following education and experience requirements apply:

(A) Associate's degree in a related human service field, OR;

(B) Two years of college education plus two years or more human service experience, OR;

(C) Bachelor's degree in a related human service field plus one year or more human service experience, OR;

(D) Master's degree in a related human service field.

(4) **Service provider education and experience requirements after July 1, 2001.** The following education and experience requirements apply after July 1, 2001.

(A) Bachelor's or Master's degree in a mental health related field including, but not limited to psychology, social work, occupational therapy, family studies, sociology, criminal justice, school guidance and counseling, OR

(B) A current license as a registered nurse in Oklahoma; OR

(C) Certification as an alcohol and drug counselor allowed to provide substance abuse case management to those with alcohol and/or other drug dependencies or addictions as a primary or secondary DSMIV Axis I diagnosis, AND

(D) Current case management certification from the Department of Mental Health and Substance Abuse Services.

(5) **Service provider education and experience requirements after July 1, 2007.** For behavioral health case management services to be compensable by SoonerCare, the case manager performing the service must have and maintain a current behavioral health case manager certification from the ODMHSAS and meet either (A), (B), or (C) below, and (D):

(A) Certified Behavioral Health Case Manager III B meets the Licensed Behavioral Health Professional status as defined at OAC 317:30-5-240, and passes the ODMHSAS web based Case Management Competency Exam.

(B) Certified Behavioral Health Case Manager II B a bachelor's or master's degree in a behavioral health field, earned from a regionally accredited college or university recognized by the United States Department of Education, which includes but is not limited to psychology, social work/sociology, occupational therapy, family studies, human resources/services counseling, human developmental psychology, gerontology, early childhood development, chemical dependency studies, school guidance/counseling/education, rehabilitative services, and/or criminal justice; a current license as a registered nurse in Oklahoma with experience in behavioral health care; or a current certification as an alcohol and drug counselor in Oklahoma, and pass the ODMHSAS web based Case Management Competency Exam, and complete seven hours of ODMHSAS specified CM training.

(C) Certified Behavioral Health Case Manager I B meets the following requirements:

(i) completed 60 college credit hours; or

(ii) high school diploma with 36 total months of experience working with persons who have a mental illness. Documentation of experience must be on file with ODMHSAS; and

(iii) passes the ODMHSAS web based Case Management Competency Exam, and completes 14 hours of ODMHSAS specified CM training.

(D) All certified case managers must fulfill the continuing education requirements as laid out in OAC 450:50-5-4.

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317:30-5-586. Coverage by category [REVOKED]

Payment is made for case management services as set forth in this Section.

(I) **Adults.** Payment is made for services to adults as follows:

(A) **Description of case management services.** Services under case management are not comparable in amount, duration and scope. The target group for case management services is the chronically and/or severely mentally ill. Chronically and/or severely mentally ill individuals refer to institutionalized adults or adults at risk of institutionalization. All case management services will be subject to medical necessity criteria. The criteria will be applied to each individual case by an agent designated by the OHCA or its designated agent.

(i) Behavioral health case management services are provided to assist consumers in gaining access to needed medical, social, educational and other services essential to meeting basic human needs. The behavioral health case manager provides referral, linkage and advocacy on behalf of consumers, to help consumers access appropriate community resources. Case management is designed to assist individuals in accessing services for themselves. The consumer has the right to refuse case management and cannot be restricted from other services because of a refusal of case management services. However, in referring a consumer for medical services, the case manager should be aware that the SoonerCare program is limited in scope. The behavioral health case manager must monitor the progress in gaining access to services and continued appropriate utilization of necessary community resources. Behavioral case management is designed to promote recovery, maintain community tenure, and to assist individuals in accessing services for themselves following the case management guidelines established by the ODMHSAS. In order to be compensable, the service must be performed utilizing the ODMHSAS Strengths Based model of case management. This model of case management assists individuals in identifying and securing the range of resources, both environmental and personal, needed to live in a normally interdependent way in the community. The focus for the helping process is on strengths, interests, abilities, knowledge and capacities of each person, not on their diagnosis, weakness or deficits. The relationship between the service member and the behavioral health case manager is characterized by mutuality, collaboration, and partnership. Helping activities are designed to occur primarily in the community, but may take place in the behavioral health case manager's office, if more appropriate. The community based behavioral health case management agency will coordinate with the

member by phone or face to face, to identify immediate needs for return to home/community. The case manager will provide linkage/referral to physicians/medication services, counseling services, rehabilitation and/or support services as described in the case management service plan. During the follow up phase of these referrals or links, the behavioral health case manager will provide aggressive outreach if appointments or contacts are missed within two business days of the missed appointments. Community/home based case management to assess the needs for services will be scheduled as reflected in the case management service plan, but not less than one time per month.

(ii) An eligible member/parent/guardian will not be restricted and will have the freedom to choose a behavioral health case management provider as well as providers of other medical care.

(iii) In order to ensure that case management services are not duplicated by other staff, case management activities will be provided in accordance with a comprehensive individualized treatment/service plan.

(iv) The service plan must include general goals and objectives pertinent to the overall recovery needs of the member. Progress notes must relate to the service plan and describe the specific activities performed. Behavioral health case management service plan development is compensable time if the time is spent communicating with the participation by, as well as, reviewed and signed by the member, the behavioral health case manager, and a licensed behavioral health case manager, and a licensed behavioral health professional as defined at OAC 317:30-5-240.

(v) SoonerCare reimbursable behavioral health case management services include the following:

(I) Gathering necessary psychological, educational, medical, and social information for the purpose of service plan development.

(II) Face to face meetings with the child and/or the parent/guardian/family member for the implementation of activities delineated in the service plan.

(III) Face to face meetings with treatment or service providers, necessary for the implementation of activities delineated in the service plan.

(IV) Supportive activities such as non face to face communication with the child and/or parent/guardian/family member or the behavioral health case manager's travel time to and from meetings for the purpose of development or implementation of the service plan.

- (V) ~~Non face to face communication with treatment or service providers necessary for the implementation of activities delineated in the service plan.~~
- (vi) ~~Reimbursable case management does not include:~~
 - (I) ~~physically escorting or transporting a member to scheduled appointments or staying with the member during an appointment; or~~
 - (II) ~~monitoring financial goals; or~~
 - (III) ~~providing specific services such as shopping or paying bills; or~~
 - (IV) ~~delivering bus tickets, food stamps, money, etc.; or~~
 - (V) ~~services to nursing home residents; or~~
 - (VI) ~~counseling or rehabilitative services, psychiatric assessment, or discharge; or~~
 - (VII) ~~filling out forms, applications, etc., on behalf of the member when the member is not present; or~~
 - (VIII) ~~filling out SoonerCare forms, applications, etc., or;~~
 - (IX) ~~services to members residing in ICF/MR facilities.~~

(B) **Providers.** ~~Case management services must be provided by a Community Mental Health Center or other qualifying provider agency of case management. Two different provider agencies may not bill case management service(s) for the same member on the same day.~~

- (2) **Children.** ~~Coverage for children is found in OAC 317:30-5-596.~~
- (3) **Individuals eligible for Part B of Medicare.** ~~Case management services provided to Medicare eligible members should be filed directly with the fiscal agent.~~

PART 67. BEHAVIORAL HEALTH CASE MANAGEMENT SERVICES FOR INDIVIDUALS UNDER 21 YEARS OF AGE

317:30-5-595. Eligible providers

Services are provided by ~~ease management outpatient behavioral health~~ behavioral health agencies established for the purpose of providing behavioral health outpatient and case management services.

- (1) **Provider agency requirements.** Services are provided by outpatient behavioral health agencies contracted with OHCA that meet the requirements under OAC 317:30-5-240. The agency must demonstrate its capacity to deliver behavioral health case management services in terms of the following items:
 - (A) ~~On or after July 1, 2004, OHCA will require agencies to have~~ Agencies must hold current accreditation appropriate to outpatient behavioral health ease management from JCAHO, CARF, COA, or AOA, and maintain the standards of the accreditation at all times.

- (B) OHCA reserves the right to obtain a copy of any accreditation audit and/or site visit reports from the provider and/or the accreditation agency.
- (C) Agencies that are eligible to contract with OHCA to provide behavioral health case management services to eligible individuals ~~under the age of 21~~ must be community based ~~with a history of serving seriously emotionally disturbed (SED) children and their families.~~
- (D) The agency must be able to demonstrate the ability to develop and maintain appropriate patient records including but not limited to assessments, service plans, and progress notes.
- (E) An agency must agree to follow the Oklahoma Department of Mental Health and Substance Abuse Services established behavioral health case management rules found in OAC 450:50.
- (F) An agency's behavioral health case management staff must serve the target group on a 24 hour on call basis.
- (G) Each site operated by a behavioral health outpatient and case management facility must have a separate provider number, per OAC 317:30-5-240.2. ~~A site is defined as an office, clinic, or other business setting where case management services are routinely performed. When services are rendered at the patient's residence, a school, or an appropriate community based setting, a site is determined according to where the professional staff conduct administrative duties and where the patient's chart and other records are kept. Failure to obtain and utilize site specific provider numbers will result in disallowance of services.~~

(2) **Provider types Qualifications.**

- (A) ~~ODMHSAS public and private facilities.~~ Public ODMHSAS facilities are regionally based Community Mental Health Centers. Private ODMHSAS facilities are providers that have a contract with the ODMHSAS to provide Mental Health, Substance Abuse, and Case Management Treatment Services. Both of these provider types must also contract with the OHCA directly to receive SoonerCare reimbursement.
- (B) ~~Private facilities.~~ Private facilities are those facilities that ~~contract directly with the Oklahoma Health Care Authority to provide case management (CM) services.~~
- (3A) **Service provider education and experience requirements if certified before July 1, 2001.** For case management services to be compensable by SoonerCare, the case manager performing the service must maintain current case management certification from the ~~Oklahoma Department of Mental Health and Substance Abuse Services ODMHSAS.~~ For those case managers who are certified on or before July 1, 2001, the following education and experience requirements apply:

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- (A i) ~~Associate's~~ Associate degree in a related human service field, OR;
- (B ii) Two years of college education plus two years or more human service experience, OR;
- (C iii) ~~Bachelor's~~ Bachelors degree in a related human service field plus one year or more human service experience, OR;
- (D iv) ~~Master's~~ Masters degree in a related human service field.

(4B) **Service provider education and experience requirements if certified after July 1, 2001 and before July 1, 2007.** For behavioral health case management services to be compensable by SoonerCare, the case manager performing the service must have and maintain a current ~~children's~~ behavioral health case manager certification from the ODMHSAS and have a:

- (A i) ~~Bachelor's~~ Bachelors or ~~Master's~~ masters degree in a mental health related field including, but not limited to psychology, social work, occupational therapy, family studies, sociology, criminal justice, school guidance and counseling; OR
- (B ii) A current license as a registered nurse in Oklahoma with experience in behavioral health care; OR
- (C iii) Certification as an alcohol and drug counselor allowed to provide substance abuse case management to those with alcohol and/or other drug dependencies or addictions as a primary or secondary ~~DSMIV~~ DSM-IV Axis I diagnosis; and
- (D iv) Current case management certification from the ODMHSAS.

(5C) **Service provider education and experience requirements if certified after July 1, 2007.** For behavioral health case management services to be compensable by SoonerCare, the case manager performing the service must have and maintain a current ~~children's~~ behavioral health case manager certification from the ODMHSAS and meet either ~~(A)~~ (i), ~~(B)~~ (ii), or ~~(C)~~ (iii) below, and ~~(D)~~ (iv):

- (A i) Certified Behavioral Health Case Manager III -meets the Licensed Behavioral Health Professional status as defined at OAC 317:30-5-240, and passes the ODMHSAS web-based Case Management Competency Exam.
- (B ii) Certified Behavioral Health Case Manager II- a ~~bachelor's~~ bachelors or ~~master's~~ masters degree in a behavioral health field, earned from a regionally accredited college or university recognized by the United States Department of Education, which includes ~~but is not limited to~~ psychology, social work/sociology, occupational therapy, family studies, human resources/services counseling, human developmental psychology, gerontology, early childhood development, chemical dependency studies, school guidance/counseling/education, rehabilitative services, education

and/or criminal justice; a current license as a registered nurse in Oklahoma with experience in behavioral health care; or a current certification as an alcohol and drug counselor in Oklahoma, and pass the ODMHSAS web-based Case Management Competency Exam, and complete seven hours of ODMHSAS specified CM training. (After July 1, 2010: Any bachelors or masters degree earned from a regionally accredited college or university recognized by the USDE).

(C iii) Certified Behavioral Health Case Manager I- meets the requirements in either ~~(i)~~ (I) or ~~(ii)~~ (II), and ~~(iii)~~ (III):

- ~~(i)~~ (I) completed 60 college credit hours; or
- ~~(ii)~~ (II) has a high school diploma with 36 total months of experience working with persons who have a mental illness and/or substance abuse. Documentation of experience on file with ODMHSAS; and
- ~~(iii)~~ (III) passes the ODMHSAS web-based Case Management Competency Exam, and completes 14 hours of ODMHSAS specified CM training.

(D) **Wraparound Facilitator Case Manager** - meets the qualifications for CM II or CM III and has the following:

- (i) Successful completion of the ODMHSAS training for wraparound facilitation within six months of employment; and
- (ii) Participate in ongoing coaching provided by ODMHSAS and employing agency; and
- (iii) Successfully complete wraparound credentialing process within nine months of beginning process; and
- (iv) Direct supervision or immediate access and a minimum of one hour weekly clinical consultation with a Qualified Mental Health Professional, as required by ODMHSAS;

(E) **Intensive Case Manager** - meets the provider qualifications of a Case Manager II or III and has the following:

- (i) A minimum of 2 years Behavioral Health Case Management experience, crisis intervention experience, and
- (ii) must have attended the ODMHSAS 6 hours Intensive case management training.

~~(D)~~ (F) All certified case managers must fulfill the continuing education requirements as outlined under OAC 450:50-5-4.

317:30-5-596. Coverage by category

Payment is made for behavioral health case management services as set forth in this Section.

~~(1)~~ **Adults.** Coverage for adults is found in OAC 317:30-5-586.

~~(2)~~ **Children.** Payment is made for services to persons ~~under age 21~~ rendered to SoonerCare member's as follows:

(A) **Description of behavioral health case management services.** Services under behavioral health case management are not comparable in amount, duration and scope. The target group for behavioral health case management services are persons under age 21 who are in imminent risk of out-of-home placement for psychiatric or substance abuse reasons or are in out-of-home placement due to psychiatric or substance abuse reasons and chronically and/or severely mentally ill adults who are institutionalized or are at risk of institutionalization. All behavioral health case management services will be subject to medical necessity criteria.

(i) Behavioral health case management services are provided to assist eligible individuals in gaining access to needed medical, social, educational and other services essential to meeting basic human needs. The behavioral health case manager provides assessment of case management needs, development of a case management care plan, referral, linkage, monitoring and advocacy on behalf of the child member to gain access to appropriate community resources. The behavioral health case manager must monitor the progress in gaining access to services and continued appropriate utilization of necessary community resources. Behavioral case management is designed to promote recovery, maintain community tenure, and to assist individuals in accessing services for themselves following the case management guidelines established by ~~the Oklahoma Department of Mental Health and Substance Abuse Services—ODMHSAS.~~ In order to be compensable, the service must be performed utilizing the ~~ODMHSAS~~ Strengths Based model of case management. This model of case management assists individuals in identifying and securing the range of resources, both environmental and personal, needed to live in a normally interdependent way in the community. The focus for the helping process is on strengths, interests, abilities, knowledge and capacities of each person, not on their diagnosis, weakness or deficits. The relationship between the service member and the behavioral health case manager is characterized by mutuality, collaboration, and partnership. Assistive activities are designed to occur primarily in the community, but may take place in the behavioral health case manager's office, if more appropriate. The community based behavioral health case management agency will coordinate with the child member and family (if applicable) by phone or face-to-face, to identify immediate needs for return to home/community no more than 72 hours after notification that the member/family requests case management services. For ~~children member's~~ discharging from an out of home placement higher level of care than outpatient, the out of home agency placement the higher level of care facility

is responsible for scheduling an appointment with a case management agency for transition and services post discharge services. The case manager will make contact with the child member and family (if applicable) for transition from the higher level of care than outpatient back to the community, within 72 hours of discharge, and then conduct a ~~face-to-face~~ follow-up appointment/contact within seven days. The case manager will provide linkage/referral to physicians/medication services, counseling services, rehabilitation and/or support services as described in the case management service plan. Case Managers may also provide crisis diversion (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) to assist member(s) from progression to a higher level of care. During the follow-up phase of these referrals or links, the behavioral health case manager will provide aggressive outreach if appointments or contacts are missed within 2 two business days of the missed appointments. Community/home based case management to assess the needs for services will be scheduled as reflected in the case management service plan, but not less than one time per month. The member/parent/guardian has the right to refuse behavioral health case management and cannot be restricted from other services because of a refusal of behavioral health case management services.

(ii) An eligible member/parent/guardian will not be restricted and will have the freedom to choose a behavioral health case management provider as well as providers of other medical care.

(iii) In order to ensure that behavioral health case management services appropriately meet the needs of the child member and family and are not duplicated, behavioral health case management activities will be provided in accordance with an individualized plan of care.

(iv) The individual plan of care must include general goals and objectives pertinent to the overall recovery of the child member (and family's, if applicable) needs. Progress notes must relate to the individual plan of care and describe the specific activities to be performed. ~~Behavioral health case management individual plan of care development is compensable if the time is spent communicating with the child, parent/guardian/family member or provider of other services.~~ The individual plan of care must be developed with participation by, as well as, reviewed and signed by the child member (only if over 16 years of age), the parent or guardian (if the member is under 18), the behavioral health case manager, and a Licensed

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Behavioral Health Professional as defined in OAC 317:30-5-240(d).

(v) SoonerCare reimbursable behavioral health case management services include the following:

(I) Gathering necessary psychological, educational, medical, and social information for the purpose of individual plan of care development.

(II) Face-to-face meetings with the ~~child~~ member and/or the parent/guardian/family member for the implementation of activities delineated in the individual plan of care.

(III) Face-to-face meetings with treatment or service providers, necessary for the implementation of activities delineated in the individual plan of care.

(IV) Supportive activities such as non face-to-face communication with the ~~child~~ member and/or parent/guardian/family member or the behavioral health case manager's travel time to and from meetings for the purpose of development or implementation of the individual plan of care.

(V) Non face-to-face communication with treatment or service providers necessary for the implementation of activities delineated in the individual plan of care.

(VI) Monitoring of the individual plan of care to reassess goals and objectives and assess progress and or barriers to progress.

(VII) Crisis diversion (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) to assist member(s) from progression to a higher level of care.

(VIII) Transitioning from institutions to the community. Individuals (except individuals ages 22 to 64 who reside in an institution for mental diseases (IMD) or individuals who are inmates of public institutions) may be considered to be transitioning to the community during the last 60 consecutive days of a covered, long-term, institutional stay that is 180 consecutive days or longer in duration. For a covered, short term, institutional stay of less than 180 consecutive days, individuals may be considered to be transitioning to the community during the last 14 days before discharge. These time requirements are to distinguish case management services that are not within the scope of the institution's discharge planning activities from case management required for transitioning individuals with complex, chronic, medical needs to the community.

(B) Levels of Case Management

(i) Basic Case Management/Resource Coordination. Resource coordination services are targeted to adults with serious and persistent mental illness and children and adolescents with mental illness or serious emotional disturbance, and their families, who need assistance in accessing, coordination, and monitoring of resources and services. Services are provided to assess an individual's strengths and meet needs in order to achieve stability in the community.

(ii) Intensive Case Management (ICM)/Wrap-around Facilitation Case Management (WFCM). Intensive Case Management is targeted to adults with serious and persistent mental illness (including member's in PACT programs) and Wraparound Facilitation Case Management is targeted to children with serious mental illness and emotional disorders (including member's in a System of Care Network) who are deemed high risk and in need of more intensive CM services. It is designed to ensure access to community agencies, services, and people whose functions are to provide the support, training and assistance required for a stable, safe, and healthy community life, and decreased need for higher levels of care. To ensure that these intense needs are met, case manager caseloads are limited to 25. The ICM shall be a Certified Behavioral Health Case Manager, have a minimum of 2 years Behavioral Health Case Management experience, crisis intervention experience, must have attended the ODMHSAS 6 hours ICM training, and 24 hour availability is required.

~~(*)~~ **(C) Excluded Services.** SoonerCare reimbursable behavioral health case management does not include the following activities:

~~(i)~~ Physically escorting or transporting a ~~child~~ member or family to scheduled appointments or staying with the ~~child~~ member during an appointment; or

~~(ii)~~ Managing finances; or

~~(iii)~~ Providing specific services such as shopping or paying bills; or

~~(iv)~~ Delivering bus tickets, food stamps, money, etc.; or

~~(v)~~ Counseling, rehabilitative services, psychiatric assessment, or discharge planning; or

~~(vi)~~ Filling out forms, applications, etc., on behalf of the ~~child~~ member when the ~~child~~ member is not present; or

~~(vii)~~ Filling out SoonerCare forms, applications, etc., or;

~~(viii)~~ Mentoring or tutoring; or

~~(ix)~~ Provision of behavioral health case management services to the same family by two separate behavioral health case management agencies.

~~(B)D~~ **Excluded Individuals.** The following SoonerCare members are not eligible for behavioral health case management services:

- (i) Children/families for whom behavioral health case management services are available through OKDHS/OJA staff without special arrangements with OKDHS, OJA, and OHCA;
- (ii) ~~Children~~ Members receiving services in Residential Behavior Management Services (RBMS) in a foster care or group home setting unless transitioning into the community;
- (iii) Residents of ICF/MR and nursing facilities unless transitioning into the community; and
- (iv) ~~Children~~ Members receiving services under a Home and Community Based Waiver services (HCBS) waiver program.

~~(C)~~ **Restriction.** Two different provider agencies may not bill case management services for the member on the same day.

~~(3)E~~ **Individuals eligible for Part B of Medicare.** Case management services provided to Medicare eligible members should be filed directly with the fiscal agent.

317:30-5-596.1. Prior authorization

- (a) Prior authorization of behavioral health case management services is mandatory. The provider must request prior authorization from the OHCA, or its designated agent.
- (b) SoonerCare members who are eligible for services will be considered for prior authorization after receipt of complete and appropriate information submitted by the provider in accordance with the guidelines for behavioral health case management services developed by OHCA or its designated agent. Based on diagnosis, functional assessment, history and other SoonerCare services being received, the SoonerCare member may be approved to receive case management services. SoonerCare members who reside in nursing facilities, residential behavior management services, group or foster homes, or ICF/MR's may not receive SoonerCare compensable case management services unless transitioning from a higher level of care than outpatient. A SoonerCare member may be approved for a time frame of one to ~~six~~ twelve months. The OHCA, or its designated agent will review the initial request in accordance with the guidelines for prior authorization in the Outpatient Behavioral Health Service Provider Manual. An initial request for case management services requires the provider to submit specific documentation to OHCA, or its designated agent. A fully developed individual plan of service is not required at the time of initial request. The provider will be given a time frame to develop the individual plan of service while working with the child and his/her family and corresponding units of service will be approved prior to the completion of the service plan. ~~The provider will be required to engage with the child/family within 72 hours of discharge from an inpatient psychiatric hospital and/or within 72 hours of receiving the request for services from the family or other community resource. The expectation is for the behavioral health case manager to immediately engage with the child/family to prevent hospital readmission or other out of home placement, and refer to~~

~~needed community resources.~~ Prior authorization requests will be reviewed by licensed behavioral health professionals as defined at OAC 317:30-5-240.

~~(e) In the event that a member disagrees with the decision by OHCA's contractor, it receives an evidentiary hearing under OAC 317:2-1-2(a). The member's request for such an appeal must commence within 20 calendar days of the initial decision.~~

~~(d) Providers seeking prior authorization will follow OHCA's or its designated agent's prior authorization process guidelines for submitting behavioral health case management requests on behalf of the SoonerCare member.~~

317:30-5-596.2. Direct and Indirect Case Management services [REVOKED]

Case management services are provided using one of two categories of service.

~~(1) Direct case management services.~~ For Direct case management services the behavioral health case manager performs face to face interactions with the child and/or the child's parent/guardian/family member or service providers necessary for the implementation of activities delineated in the service plan. Service plan development, when performed face to face, is considered direct behavioral health case management.

~~(2) Indirect behavioral health case management.~~ For Indirect case management services the behavioral health case manager performs non face to face services related to the child's case, excluding those activities cited as non Medicaid compensable in OAC 317:30-5-596(2)(vi). Examples of indirect behavioral health case management are phone calls, monitoring of client progress and the case manager's travel time to or from activities necessary for the implementation of the service plan. Other indirect services may be communication through letters, memorandums or e-mail to treatment or other service providers necessary for the implementation of activities delineated in the service plan. Electronic communication documentation must be encrypted and meet HIPAA guidelines.

PART 97. CASE MANAGEMENT SERVICES FOR UNDER AGE 18 AT RISK OF OR IN THE TEMPORARY CUSTODY OR SUPERVISION OF OFFICE OF JUVENILE AFFAIRS

317:30-5-972. Reimbursement

- (a) ~~Reimbursement for OJATCM services is a unit rate based on the monthly cost per case for documented OJATCM services. A unit of service is defined as one calendar month of case management, provided that a minimum of one contact which meets the description of a case management activity with or on behalf of the recipient has been documented during the month claimed. Payment is made on the basis of claims submitted for payment. The provider bills at the monthly unit rate for documented Medicaid OJATCM services provided to each Medicaid eligible recipient during the calendar month.~~
- (b) ~~Only one unit of OJATCM services may be billed for each Medicaid eligible recipient per month. OJATCM services~~

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may not be billed for any recipient already receiving case management services as part of a Home and Community Based waiver.

Office of Juvenile Affairs Targeted Case Management (OJATCM) services will be reimbursed pursuant to the methodology described in the Oklahoma Title XIX State Plan.

PART 99. CASE MANAGEMENT SERVICES FOR UNDER AGE 18 IN EMERGENCY, TEMPORARY OR PERMANENT CUSTODY OR SUPERVISION OF THE DEPARTMENT OF HUMAN SERVICES

317:30-5-992. Reimbursement

~~(a) Reimbursement for CWTCM services is a unit rate based on the monthly cost per case for documented CWTCM services. A unit of service is defined as one calendar month of case management, provided that a minimum of one contact which meets the description of a case management activity with or on behalf of the recipient has been documented during the month claimed. Payment is made on the basis of claims submitted for payment. The provider bills at the monthly unit rate for documented unit of Medicaid CWTCM services provided to each Medicaid eligible recipient during the calendar month.~~

~~(b) Only one unit of CWTCM services may be billed for each Medicaid eligible recipient per month. CWTCM services may not be billed for any recipient already receiving case management services as part of a Home and Community Based waiver.~~

Child Welfare Targeted Case Management (CWTCM) services will be reimbursed pursuant to the methodology described in the Oklahoma Title XIX State Plan.

[OAR Docket #10-289; filed 3-10-10]

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

[OAR Docket #10-288]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Individual Providers and Specialties

Part 6. Inpatient Psychiatric Hospitals

317:30-5-95.33 [AMENDED]

317:30-5-95.35 [AMENDED]

(Reference APA WF # 09-68)

AUTHORITY:

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

DATES:

Adoption:

February 11, 2010

Approved by Governor:

March 3, 2010

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2010, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions to add Licensed Alcohol and Drug Counselors (LADCs) as Licensed Behavioral Health Professionals (LBHP). This rule change is needed to allow greater access to care for SoonerCare children that receive inpatient psychiatric treatment. By allowing reimbursement for this provider type in the inpatient setting, SoonerCare children with alcohol/drug/chemical dependency diagnoses will have access to more appropriate treatments and behavioral interventions which would affect the child's inpatient length of stay thereby reducing overall SoonerCare inpatient psychiatric facility reimbursement costs.

ANALYSIS:

Children's inpatient psychiatric treatment rules are revised to add LADCs as a qualified LBHP's in inpatient settings for children. Currently LADCs are not one of the licensed behavioral health professionals that provide services in an inpatient setting for children, which limits access for specialized treatment in alcohol and drug addiction. The revisions will increase the specialty access to care for people with drug or alcohol addiction as well as expand the type of licensure children's inpatient psychiatric treatment centers staff can hold in order to provide services.

CONTACT PERSON:

Tywanda Cox at (405)522-7153

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 6. INPATIENT PSYCHIATRIC HOSPITALS

317:30-5-95.33. Individual plan of care for children

(a) The following words and terms, when used in this section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Licensed Behavioral Health Professional (LBPH) (LBHP)"** means licensed psychologists, licensed clinical social workers (LCSW), licensed marital and family therapists (LMFT), licensed professional counselors (LPC), licensed behavioral practitioners (LBP), licensed alcohol and drug counselors (LADC), and advanced practice nurses (APN).

(2) **"Individual plan of Care (IPC)"** means a written plan developed for each member within four calendar days of any admission to a PRTF and is the document that directs the care and treatment of that member. The individual plan of care must be recovery focused, trauma informed, and specific to culture, age and gender and includes:

(A) the complete record of the DSM-IV-TR five-axis diagnosis, including the corresponding

symptoms, complaints, and complications indicating the need for admission;

(B) the current functional level of the individual;

(C) treatment goals and measurable time limited objectives;

(D) any orders for psychotropic medications, treatments, restorative and rehabilitative services, activities, therapies, social services, diet and special procedures recommended for the health and safety of the patient;

(E) plans for continuing care, including review and modification to the plan of care; and

(F) plan for discharge, all of which is developed to improve the child's condition to the extent that the inpatient care is no longer necessary.

(b) The individual plan of care:

(1) must be based on a diagnostic evaluation that includes examination of the medical, psychological, social, behavioral and developmental aspects of the individual member and reflects the need for inpatient psychiatric care;

(2) must be developed by a team of professionals as specified in OAC 317:30-5-95.35 in collaboration with the member, and his/her parents for members under the age of 18, legal guardians, or others in whose care he/she will be released after discharge;

(3) must establish treatment goals that are general outcome statements and reflective of informed choices of the member served. Additionally, the treatment goal must be appropriate to the patient's age, culture, strengths, needs, abilities, preferences and limitations;

(4) must establish measurable and time limited treatment objectives that reflect the expectations of the member served and parent/legal guardian (when applicable) as well as being age, developmentally and culturally appropriate. When modifications are being made to accommodate age, developmental level or a cultural issue, the documentation must be reflected on the individual plan of care. The treatment objectives must be achievable and understandable to the member and the parent/guardian (when applicable). The treatment objectives also must be appropriate to the treatment setting and list the frequency of the service;

(5) must prescribe an integrated program of therapies, activities and experiences designed to meet the objectives;

(6) must include specific discharge and after care plans that are appropriate to the member's needs and effective on the day of discharge. At the time of discharge, after care plans will include referral to medication management, out-patient behavioral health counseling and case management to include the specific appointment date(s), names and addresses of service provider(s) and related community services to ensure continuity of care and reintegration for the member into their family school, and community;

(7) must be reviewed every five to nine calendar days when in acute care and a regular PRTF and every 11 to 16 calendar days in the OHCA approved longer term treatment programs or specialty PRTF treatment programs by

the team specified to determine that services are being appropriately provided and to recommend changes in the individual plan of care as indicated by the member's overall adjustment, progress, symptoms, behavior, and response to treatment;

(8) development and review must satisfy the utilization control requirements for physician re-certification and establishment of periodic reviews of the individual plan of care; and,

(9) each individual plan of care review must be clearly identified as such and be signed and dated individually by the physician, LBHP, member, parent/guardian (for patients under the age of 18), registered nurse, and other required team members. Individual plans of care and individual plan of care reviews are not valid until completed and appropriately signed and dated. All requirements for the individual plan of care or individual plan of care reviews must be met or a partial per diem recoupment will be merited. In those instances where it is necessary to fax an Individual Plan of Care or Individual Plan of Care review to a parent or OKDHS/OJA worker for review, the parent and/or OKDHS/OJA worker may fax back their signature. The Provider must obtain the original signature for the clinical file within 30 days. Stamped or Xeroxed signatures are not allowed for any parent or member of the treatment team.

317:30-5-95.35. Credentialing requirements for treatment team members for children

(a) The team developing the individual plan of care for the child must include, at a minimum, the following:

(1) Allopathic or Osteopathic Physician with a current license and a board certification/eligible in psychiatry, or a current resident in psychiatry practicing as described in OAC 317:30-5-2(a)(1)(U), and

(2) a mental health professional licensed to practice by one of the following boards: Psychology (health service specialty only); Social Work (clinical specialty only); Licensed Professional Counselor, Licensed Behavioral Practitioner; Licensed Alcohol and Drug Counselor (LADC), (or) Licensed Marital and Family Therapist or Advanced Practice Nurse (certified in a psychiatric mental health specialty, licensed as a registered nurse with a current certification of recognition from the Board of Nursing in the state in which the services are provided), and

(3) a registered nurse with a minimum of two years of experience in a mental health treatment setting.

(b) Candidates for licensure for Licensed Professional Counselor, Social Work (clinical specialty only), Licensed Marital and Family Therapist, Licensed Behavioral Practitioner and Psychology (health services specialty only) can provide individual therapy, family therapy and process group therapy as long as they are involved in the supervision that complies with their respective approved licensing regulations and the Department of Health and their work must be co-signed by a licensed LBHP who is additionally a member on the treatment team. Individuals who have met their supervision requirements and are waiting to be licensed by one of

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the licensing boards in OAC 317:30-5-95.35(a)(1) must have their work co-signed by a licensed MHP who is additionally a member on the treatment team.

(c) Services provided by treatment team members not meeting the above credentialing requirements are not Medicaid compensable and can not be billed to the Medicaid recipient.

[OAR Docket #10-288; filed 3-10-10]

TITLE 530. OFFICE OF PERSONNEL MANAGEMENT CHAPTER 10. MERIT SYSTEM OF PERSONNEL ADMINISTRATION RULES

[OAR Docket #10-355]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 15. Time and Leave
Part 5. Miscellaneous Types of Leave
530:10-15-48 [AMENDED]

AUTHORITY:

The Administrator of the Office of Personnel Management; 74 O.S., §§ 840-1.6A.

DATES:

Adoption:

February 19, 2010

Approved by Governor:

February 25, 2010

Effective:

Immediately upon Governor's approval.

Expiration:

Effective through July 14, 2011, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTION:

None

INCORPORATIONS BY REFERENCE:

None

FINDING OF EMERGENCY:

The proposed amendments to 530:10-15-48 are necessary to address the impacts of the budgetary shortfalls the State of Oklahoma is experiencing and provide agencies with options when dealing with such shortfalls.

ANALYSIS:

The proposed amendments to 530:10-15-48 are necessary to address the impacts of the budgetary shortfalls the State of Oklahoma is experiencing and provide agencies with options when dealing with such shortfalls.

CONTACT PERSON:

Kara I. Smith, General Counsel, Office of Personnel Management, 2101 N. Lincoln, G-80, Oklahoma City, OK 73105, (405) 522-1736.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 15. TIME AND LEAVE

PART 5. MISCELLANEOUS TYPES OF LEAVE

530:10-15-48. Involuntary leave without pay (furlough)

(a) **Policy.** An Appointing Authority may place classified and unclassified employees on involuntary leave without pay (furlough) for up to a total of **184** hours in any **12** month period in accordance with this Section. An Appointing Authority may only furlough employees when it is necessary to reduce expenditures or when it is required because of a temporary decline or cessation of work activities.

(b) **Required announcement of reasons for furlough.** Before beginning a furlough, an Appointing Authority shall announce in writing the reasons that require it. The Appointing Authority shall post this announcement throughout the agency and send it to the Governor, the Office of Personnel Management, and the Office of State Finance. This announcement is not part of the furlough plan required in (c) of this Section, and it is not subject to the approval of the Administrator.

(c) Required plan for implementation of furlough.

(1) Before beginning a furlough, an Appointing Authority shall develop an equitable and systematic plan for the furlough and shall submit the plan to the Office of Personnel Management for review and approval. The Administrator of the Office of Personnel Management shall disapprove any plan that is not in substantial compliance with the Merit Rules.

(2) After approval of the plan by the Administrator, the Appointing Authority shall post the approved plan throughout the agency a minimum of **2** working days before furloughing any employee.

(3) The plan shall apply uniformly to employees regardless of classified or unclassified status [74:840-2.27C]. As far as possible, the Appointing Authority shall furlough all full-time employees, including those on paid leave, the same number of hours and shall prorate the number of hours for part-time employees. The Appointing Authority shall address the application of the furlough to employees who are on other types of leave without pay.

(d) **Non-uniform treatment of employees.** The Appointing Authority may find non-uniform treatment of employees necessary during a furlough. The Appointing Authority must certify the reasons for non-uniform treatment as described in paragraph (1) of this subsection. It is possible that more than one reason may apply in any specific furlough. Paragraph (2) of this subsection describes how the Appointing Authority may limit the effect of a furlough on specified employees. Any certifications issued by an Appointing Authority shall be included in the furlough plan.

(1) Certification of reasons for non-uniform treatment.

(A) If the Appointing Authority certifies that uniform treatment of all employees would cause undue hardship on lower paid employees and uniform treatment is not required to meet the reduced revenue levels which made the furlough necessary, the Appointing Authority may limit the applicability of a furlough on lower paid employees.

(B) If the Appointing Authority certifies that uniform treatment of all employees would endanger

public health, safety, or property, or continued operations of critical agency functions, the Appointing Authority may limit the applicability of the furlough on specified employees, positions, jobs, or organizational units as needed to avoid the danger.

(C) If the Appointing Authority certifies that a furlough is due to a decline or loss of funding to the agency that supports specific positions, jobs, or organizational units, the Appointing Authority may limit a furlough to specific employees supported by the funding that is lost or reduced.

(D) If the Appointing Authority certifies that a Furlough is due to a budgetary shortfall which results in a decline or loss of funding to the agency, the Appointing Authority may limit the furlough to employees who request to participate in a furlough and certify that they have done so without coercion, undue influence, threat or intimidation of any kind or type.

(2) **Types of non-uniform treatment.** In certifying the reasons for non-uniform treatment of employees, the Appointing Authority may use any of the following types of limits. The Appointing Authority may:

(A) exclude specified employees from the furlough,

(B) place specified employees on a lesser number of hours without pay than other employees,

(C) make the furlough of specified employees subject to early cancellation or periodic call-back, or

(D) limit the furlough to employees who have certified that they have requested to participate in a furlough without any coercion, undue influence, threat, or intimidation of any kind or type.

(e) **Required notice to employee.** The Appointing Authority shall give employees who are to be furloughed individual written notice of the furlough before its starting date. This written notice shall explain the reasons for the furlough and how the furlough will affect the employee. The notice shall also include the dates and times leave is to begin and end. A copy of this Section shall be enclosed with the written notice to the employee. If an Appointing Authority makes leave for employees subject to early cancellation or periodic call-back, the employee's notice of furlough shall describe the reasons for, and conditions of, the cancellation or call-back.

(f) **Continuation of benefits while on furlough.** While on furlough, employees who would otherwise accrue leave shall continue to accrue annual and sick leave as though the furlough had not occurred. The Appointing Authority shall schedule the furlough so the furlough does not interrupt the agency's payment of the employees' insurance premiums.

(g) **Failure to return as directed cause for discipline.** Failure on the part of an employee to return from such leave to his or her previous work status as directed in writing shall be cause for discipline.

(h) **Appeal rights.** *Furlough, as provided for [?] by rules adopted by the Administrator of the Office of Personnel Management, shall not be appealable under the provisions of the Oklahoma Personnel Act [74:840-2.27C].*

[OAR Docket #10-355; filed 3-15-10]

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 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 10. UNEMPLOYMENT INSURANCE PROGRAM

[OAR Docket #10-428]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

240:10-1-2. Definitions [AMENDED]

240:10-1-3. Time computation [AMENDED]

Subchapter 3. Benefits

Part 3. Computations

240:10-3-10. Approved training [AMENDED]

240:10-3-12. Payment of benefits [AMENDED]

Part 5. Eligibility

240:10-3-23. Claims for Unemployment Benefits [AMENDED]

Part 11. Filing Claims - Notice

240:10-3-51. Information to be posted [AMENDED]

Subchapter 5. Contributions

Part 3. Rates

240:10-5-18. Tax rate information-third party administrators [NEW]

Part 19. Maintenance and Production of Work Records

240:10-5-90. Records [AMENDED]

240:10-5-91. Reports [AMENDED]

Subchapter 11. Assessment Board Procedure

Part 1. General Provisions

240:10-11-5. Jurisdiction [AMENDED]

Part 5. Hearings

240:10-11-22. Conduct of hearings [AMENDED]

240:10-11-24. Good cause [AMENDED]

240:10-11-25. Motion to reopen after failure to appear [AMENDED]

Subchapter 13. Appeal Tribunal Procedures

Part 5. Hearings

240:10-13-37. Good Cause [AMENDED]

240:10-13-40. Reopen [AMENDED]

240:10-13-42. Conduct of hearings [AMENDED]

AUTHORITY:

40 O.S. §§2-203, 2-210, 2-404, 2-405, 2-408, 2-502, 2-503, 3-118, 4-302, 4-313, 4-502, and the Oklahoma Employment Security Commission. 75 O.S. §310; 26 U.S.C.A. §3304(a)(8); and 29 U.S.C.A. §§2801 through 2945.

DATES:

Comment period:

December 2, 2009 through December 31, 2009

Public hearing:

None held or requested

Adoption:

January 5, 2010

Submitted to Governor:

January 6, 2010

Submitted to House:

January 6, 2010

Submitted to Senate:

January 6, 2010

Gubernatorial approval:

January 20, 2010

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2010

Final adoption:

March 24, 2010

Effective:

May 1, 2010

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The amendments to the rules in this chapter will define "commuting distance," and certain time computations, revise approved training procedures, correct policies and procedures in regard to the payment of unemployment insurance benefits by electronic fund transfers, modernize the way unemployment insurance information is posted at places of employment, allow third party administrators access to tax rate information in order to file electronic reports, clarify record keeping requirements, clarify official date of filing of unemployment insurance tax reports through electronic methods, clarify jurisdiction of the Assessment Board, clarify rules of evidence before Assessment Board and Appeal Tribunal, and clarifies good cause and motions to reopen before the Assessment Board and Appeal Tribunal.

CONTACT PERSON:

Melissa Copenhaver, Rulemaking Liaison, 2401 N. Lincoln Boulevard, 5th Floor, Oklahoma City, Oklahoma 73152. Telephone number 405/557-7146. E-Mail address: Melissa.Copenhaver@oesc.state.ok.us .

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

SUBCHAPTER 1. GENERAL PROVISIONS

240:10-1-2. Definitions

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

"Commuting distance" means an automobile driving distance of fifty (50) miles from a claimant's place of residence.

"Good cause" means reasons beyond the control of the party seeking relief.

"Independent contractor" means:

(A) Any person who performs services according to their own methods and without control except as to results is an independent contractor, if they are:

(i) Customarily engaged in an independently-established business; or

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(ii) Performing service outside the usual course of the contractor's business and outside the places of such business.

(B) In order to be considered "without control" the individual providing the service shall:

- (i) Provide their own tools and equipment;
- (ii) Pay their own ordinary and customary business expenses;
- (iii) Risk losing money from the contract;
- (iv) Be free to hire their own assistants; and
- (v) Be responsible for obtaining and maintaining all business, tax registrations and all business occupational licenses required by federal, state, or local laws or ordinances.

(C) A written contract relating to such services shall be considered under 40 O.S. Section 1-210 (14), along with all other pertinent evidence in determining employment status and shall not be accorded any greater weight than any other evidence.

(D) This definition shall not be interpreted or construed as conflicting with Section 3304 (a) (6) (a) of the Federal Unemployment Tax Act.

"Interested Party" means:

(A) In an unemployment claim appeal - the Commission, a claimant who files a claim for unemployment benefits with the Commission, and any employer who properly files a written objection to the claim pursuant to 40 O.S. §2-503 (E).

(B) In an unemployment tax protest - the Commission and the employer with an account that is directly affected by a decision made by the Commission or its representative.

(C) In a supplemental unemployment benefit plan appeal - the Commission, the employer that made application for approval of the plan, and the collective bargaining agent of the employees, if any exists.

"Leases" and **"Rents"** [40:1-210(15)] mean a contract between an owner of a business, building, or property and a leasee, in which:

(A) Space is leased, sublet, or rented for the purpose of operating or conducting a trade or business by the leasee;

(B) The lease or rental fee is set at a fixed amount per month, that remains constant for the term of the lease, sublease, or rental contract; and

(C) Is not based upon a percentage of income or revenue earned in the trade or business.

"Mail", **"Mailed"**, and **"Mailing"**, as used in 40 O.S. §1-224, shall mean the mailing of a document through the United States Postal Service or a private delivery service designated by the United States Secretary of the Treasury pursuant to 26 U.S.C. §7520(f), as a delivery service that may deliver returns, claims, statements, or other documents to the Internal Revenue Service.

"Profiling" means:

(A) A systematic computer generated process that:

(i) Identifies those claimants most likely to exhaust regular compensation and will need job search assistance services to make a successful transition to new employment;

(ii) Refers identified claimants to reemployment services; and

(iii) Collects follow-up information relating to the services received.

(B) Data elements which may be used in the identification process for profiling are:

- (i) Recall status;
- (ii) Union hiring hall agreement;
- (iii) Education;
- (iv) Job tenure;
- (v) Industry;
- (vi) Occupation;
- (vii) Unemployment rate;
- (viii) Number of prior UI claims; and
- (ix) Maximum weekly benefit amount.

(C) Data elements prohibited for usage in profiling are:

- (i) Age;
- (ii) Race or ethnic group;
- (iii) Sex;
- (iv) Color;
- (v) National origin;
- (vi) Disability;
- (vii) Religion;
- (viii) Political affiliation; and
- (ix) Citizenship.

"Reasonable cash value" [40:1-218] means an amount estimated and determined by consideration of the position held, type of work performed, duration of the work, and customary compensation of like providers in like industries.

"Reemployment Services" means those services which provide job search assistance and job placement services, which are counseling, testing, and providing occupational and labor market information, assessment, job search workshops, job clubs and referrals to employers, and other similar services.

"Temporary Layoff" means a short term cessation of work or employment in which the employer maintains an attachment to an employee by means of a recall date.

"Wages"

(A) **"Gratuities or Tips"** The employer shall include as wages all monies paid as gratuities or tips actually *received by an individual in the course of his work* [40:1-218] or, if actual information is not available, gratuities and tips shall be allocated to the employer in the amount of 8% of gross receipts.

(B) **"Noncash remuneration"** Noncash remuneration means meals, lodging or any other payment in kind received by a worker from the employing unit in addition to or in lieu of cash payments for services unless such *meals and lodging are furnished on the business premises of the employer for the convenience of the employer.* [40:1-218(4)]

"Wages paid"

(A) The term "wages paid" [40:1-219] shall include both wages actually received by the worker and wages constructively paid. Wages shall be considered constructively paid when they are credited to the account of or set apart for a worker so that they may be drawn upon by the worker at any time although not then actually in the worker's possession. A mere crediting of the wages to the worker's account, without actually making them available to the worker so that they may be drawn upon by him/her at any time, does not constitute constructive payment.

(B) In the case of an employer who terminates his/her coverage as of January 1st of some year, the term "wages paid" shall include all wages earned for all pay periods up to and including the last payroll period ending in that year, at the end of which, the employer's coverage is terminated.

(C) "Wages paid" to the worker are to be reported in the calendar quarter in which they were actually paid.

"Week"

(A) For the purpose of paying benefits and for the purpose of this Chapter, a "week" [40:1-220] shall consist of a calendar week which begins at 12:01 A.M. Sunday and ends at midnight the following Saturday.

(B) Provided that the Commission, upon its own initiative or upon application by any employer, may prescribe that with regard to individuals involved in a temporary layoff with a specified date to return to work and whose assigned work week consists of consecutive work days within two different calendar weeks, the definition of a "week" shall be the work week as assigned by the employer.

(C) For the purposes of determining full time work, "week" means a period of seven consecutive days that is established by an employer as its regular work week.

240:10-1-3. Time computation

(a) In computing any period of time prescribed or allowed by the Employment Security Act of 1980, by these rules, or by order of a hearing officer, the day of the act, event, or default from which the designated period of time begins to run shall not be included. All intervening days falling between the beginning and end of the time period shall be counted, including Saturdays, Sundays, holidays and any day the offices of the Oklahoma Employment Security Commission are closed for part or all of the day. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday as defined by the Oklahoma Statutes or any other day when the offices of the Oklahoma Employment Security Commission do not remain open for public business until 4:00 p.m., in which event the period runs until the end of thenext day which is not a Saturday, a Sunday, or a legal holiday as defined by the Oklahoma Statutes or any other day when the offices of the Oklahoma Employment Security Commission do not remain open for public business until 4:00 p.m.

(b) This rule shall not apply to the calculation of the time period set out in rule 240:10-3-23.

SUBCHAPTER 3. BENEFITS

PART 3. COMPUTATION

240:10-3-10. Approved training

(a) **Definition of approved training.** "Approved training" means any training program:

~~(1) authorized and financed by the United States Congress and under the control of the United States Department of Labor, Employment and Training Administration, or other suitable training program approved by the Commission; and~~

~~(2) in which the trainee would not receive, or be entitled to receive, an educational or training allowance financed under any Act of the United States Congress other than the allowance authorized for the approved training; and~~

~~(3) in which the total duration in weeks is similar to that which is offered by the State Department of Vocational Technical Education; and~~

~~(4) in which the total hours of training, on a weekly basis, are not less than those required for similar training offered by the State Department of Vocational Technical Education; provided that remedial or training related education may be considered "hours of training" if offered in conjunction with skill training, when so approved by the Executive Director of the Commission.~~

(b) **Requirements for approval of training.** Approval of an individual for training will be determined by the Commission through consideration of all of the factors set out in 40 O.S. Section 2-108 (1), (2), (3) and (4). In keeping with Section 2-108, the following definitions of terms are to be followed:

(1) **"Continued attendance and satisfactory progress"** as used in 40 O.S. Section 2-108 (B) shall be evidenced by continued enrollment at the training facility.

(2) **"Substantial and Recurring recurring demand"** as used in 40 O.S. Section 2-108 (A) (2) means that the demand for workers in such occupation is projected to continue for the foreseeable future.

~~(3) **"Substantial demand"** as used in 40 O.S. Section 2-108 (A) (2) means that for any occupation:~~

~~(A) the projected percentage rate of growth in the most recent state wide long term or short term Commission employment forecast is at least 150% of the overall occupational growth rate; or~~

~~(B) Any occupation so identified by the Director of the Economic Research and Analysis Division of the Oklahoma Employment Security Commission.~~

(c) **Authority of Executive Director.** The Executive Director of the Oklahoma Employment Security Commission is authorized to issue operating procedures as necessary to implement OAC 240:10-3-10.

Permanent Final Adoptions

240:10-3-12. Payment of benefits

(a) As of ~~July 1, 2007~~ December 1, 2008, all unemployment benefits payable by the Commission pursuant to the provisions of the Employment Security Act of 1980, shall be paid by direct deposit to the bank account of the eligible claimant, or by crediting a debit card issued to the eligible claimant. ~~The claimant will have the option to designate which payment method will be used. The debit card will be the payment method unless the claimant designates direct deposit.~~

(b) The claimant must communicate the ~~choice of payment option to~~ direct deposit information as directed by the Commission. The payment option ~~cannot~~ may be changed during the claimant's benefit year.

(c) If a claimant chooses to be paid by direct deposit to the claimant's bank account, the claimant must provide the Commission with the following information:

- (1) Claimant's bank account number
- (2) Claimant's bank routing number

(d) If the claimant chooses to be paid by crediting benefit payments on a debit card, the debit card will be mailed to the address given by the claimant in the claimant's initial claim for benefits or in the latest notice of change of address. The claimant will be responsible for the debit card. ~~A claimant must activate the debit card by contacting the debit card service center within ninety days of the date of the issuance of the card. If a claimant fails to activate the card in the time allowed, the card will be cancelled.~~

(e) Benefits paid by direct deposit or by debit card will be paid under the same conditions as payments formerly made by check. All rules of eligibility, disqualification, fraud, and claimant error will apply.

PART 5. ELIGIBILITY

240:10-3-23. Claims for total unemployment benefits

(a) **Definition.** An individual shall be defined as in "**total unemployment**" during a week whenever:

- (1) the individual has been separated from employment with his/her last regular employer; and
- (2) the individual has not during the week performed services in employment for any employer; or
- (3) the individual has worked less than full time for some employer and earned less than his/her weekly benefit amount plus \$100.00. [40:1-217]

(b) **Initial claim.** The initial claim may serve as a registration for work.

(c) **Effective date.** The effective date of an initial claim or additional initial claim shall be the first day of the calendar week in which the individual first files the initial claim or additional initial claim.

(d) **Failure to report/good cause.** When the Commission representative determines that a claimant had good cause for failure to report as directed, a claim may be accepted at a later date, not to exceed seven (7) calendar days from the date originally specified for his/her reporting.

(e) **Continued claim.** A claimant who is filing for benefits under the mail claim system, the Interactive Voice Response

System, or the Internet may file a continued claim provided the claimant files the continued claim within fourteen (14) calendar days from the week ending date of the claim or within fourteen (14) calendar days from the date the continued claim is furnished to the claimant.

(f) **Determination of eligibility for benefits.** The OES Act prescribes the following requirements:

(1) A Commission representative shall determine claimant's eligibility for benefits.

(2) A Commission representative shall accept written and verbal statements from the claimant and the employer.

(3) A Commission representative shall take any action necessary to determine the facts and to determine the rights of both the employer and claimant.

(4) A Commission representative shall write a determination which must include the following:

- (A) An explanation of the parties' appeal rights;
- (B) A summary of pertinent facts;
- (C) The reasons for allowing or denying benefits; and
- (D) The conclusion or legal results of the decision.

(5) Any interested party may appeal a determination. The appeal shall be filed with the Commission. When the appeal is filed, all interested parties shall be notified.

(g) In computing any period of time described in this rule, the day of the event from which the designated period of time begins to run shall not be included. All intervening days falling between the beginning and end of the time period shall be counted, including Saturdays, Sundays, holidays and any day the offices of the Oklahoma Employment Security Commission are closed for part or all of the day. The last day of the period so computed shall be included. Claimants required to make a filing on a day in which the offices of the Commission are not open shall make the filing through the Internet or by telephone through the Interactive Voice Response system. Failure to file for a claim within the time allowed will result in denial of benefits for that week.

PART 11. FILING CLAIMS - NOTICE

240:10-3-51. Information to be posted

Each employing unit subject to the ~~OES Act~~ Employment Security Act of 1980 shall post and maintain in places readily accessible to individuals in its employ a ~~printed statement styled "Notice to Workers."~~ a notice explaining the worker's rights to unemployment benefits and how to make a claim for benefits pursuant to 40 O.S. Section 2-502 [40:2-502]. Notices are to be placed in locations easily accessible by employees and where it is likely for employees to see and read the notice. The notice may be posted electronically on an employer Internet website, or periodically distributed through e-mail if that can be shown to be the most likely method of reaching the employees with the notice. Notice(s) Notice forms are to be furnished by the Commission through the Commission's Internet website without cost to the employer.

PART 3. RATES

240:10-5-18. Tax Rate Information-Third Party Administrators

(a) Third Party Administrators that have contracted with an employer for the purpose of filing and paying quarterly tax information electronically will be considered by the Commission as duly authorized agents of the employer and authorized by contract to receive necessary tax rate information for proper and accurate filing of wage information and contribution payments, provided the Third Party Administrator is registered with the Commission for the purpose of electronic filing of multiple employer accounts.

(b) If a Third Party Administrator, that is registered to electronically file multiple employer accounts, requests or obtains records on an account of an employer that the Third Party Administrator has not contracted to represent, the Commission may deny access to that Third Party Administrator to obtain any further records on any unemployment tax account, or the Commission may disable the ability of the Third Party Administrator to file tax accounts electronically, or both, until the Commission can be satisfied that the Third Party Administrator will refrain from obtaining information it is not authorized to receive.

PART 19. MAINTENANCE AND PRODUCTION OF WORK RECORDS

240:10-5-90. Records

Records shall be maintained by employers for a period of four (4) years. For purposes of audits, investigations, verifications, or certifications, each employer shall be required to maintain and produce to a representative of the Commission, the following records:

- (1) Records that show the proprietary interest, type of organization and identity of the employing unit.
- (2) All accounting records, business and personal.
- (3) All bank statements and banking records for all checking and savings accounts, business and personal.
- (4) All federal and state income tax returns, business and personal, including all schedules.
- (5) All payroll records including federal Internal Revenue Service forms W-2, W-3, 940, 941, and 1099.
- (6) All general ledgers, cash disbursement ledgers or journals, cash receipts journals, check registers, and check stubs for the employer's business.
- (7) For each pay period, records that show:
 - (A) The beginning and ending dates of such period.
 - (B) The total amount of wages paid with respect to all employment.
- (8) For each worker, records that show:
 - (A) Name.
 - (B) Social Security account number.
 - (C) Wages for each pay period showing separately:
 - (i) Cash wages.
 - (ii) Reasonable cash value of all remuneration in any medium other than cash (See OAC 240:10-1-2(b), Wages, Noncash remuneration).

(iii) Actual or estimated amount of gratuities received from persons other than his/her employing unit (See OAC 240:10-1-2 (a), Wages, Gratuities and tips).

(iv) Special payments for services rendered in prior periods, designating the period in which the service was performed.

(v) The total amount of wages paid for each pay period.

(9) Records showing the date on which the worker was hired, and the date he/she was separated from employment.

(10) Records showing the circumstances under which the worker was separated from employment shall be maintained with respect to the following:

(A) If separation from employment was because of lack of work, the records shall so state.

(B) If separation from employment was voluntary on the part of the worker, the records shall reflect the fact together with any reason(s) given by the worker.

(C) If separation from employment was a discharge of the worker for other than "lack of work," the record shall reflect such circumstances and reason given by the employer to the worker for the discharge. It shall also be in sufficient detail to reflect if there was, or was not, any misconduct connected with his/her work.

(D) If the separation from employment was other than those three listed above, the record shall reflect details of such "other reason."

(11) Records showing each day during the pay period that such individual was in employment if the individual was not regularly employed.

(12) Records showing the state or states in which his/her services are performed, and if such services are performed outside of this state, his/her base of operations (or if there is no base of operations, then the place from which his/her services are directed or contracted) and his/her residence (by state). All work records required by the Commission shall be kept safely and readily accessible at the place of business of the person or firm required to keep same. Nonresident employing units who customarily maintain work records required by OAC 240:10-5-90 outside the State of Oklahoma shall furnish to the Commission, upon request, certified copies of such records.

(13) For each quarter in the records retention period, a copy of the Employer's Quarterly Contribution and Wage Report, and any amended reports, as filed with the Commission.

(14) Records that will confirm, verify, or supply data that is required in any field on any Commission report form that is required to be filed by an employer or on behalf of an employer.

(15) Any other books, papers, correspondence, memoranda, and any other records deemed necessary for review by a Commission representative.

Permanent Final Adoptions

240:10-5-91. Reports

(a) **Due date of report.** Each employer shall report both contributions and "wages paid" (as defined in OAC 240:10-1-2) on Form OES-3, Employer's Quarterly Contribution and Wage Report, for each quarterly period in which said employer is subject to the OES Act, on or before the last day of the month following the calendar quarter to be reported. However, an employing unit which has not previously qualified as an employer under the OES Act and who first qualifies as an employer during a calendar year shall file Form OES-3, Employer's Quarterly Contribution and Wage Reports, for all past periods of that calendar year on or before the due date for the quarterly report for that quarter in which such employing unit becomes an employer subject to the OES Act. [40:4-503]

(b) Information required.

- (1) All instructions furnished with the official forms must be followed.
- (2) All information required on the official forms shall be given.

(c) **Date of filing.** The date of filing of the Employer's Quarterly Contribution and Wage Report shall be determined by the date that an employer's fully completed report form is submitted for filing with the Commission pursuant to 40 O.S. §1-224.

(d) After January 1, 2011, all third party administrators or employers with 50 or more employees shall be required to file the Employer's Quarterly Contribution and Wage Report through the employer portal on the Commission Internet website and payment of taxes shall be through electronic fund transfer.

SUBCHAPTER 11. ASSESSMENT BOARD PROCEDURE

PART 1. GENERAL PROVISIONS

240:10-11-5. Jurisdiction

(a) The Assessment Board shall have jurisdiction to hear the following types of cases:

- (1) An appeal to a determination regarding employer liability for unemployment contributions, pursuant to 40 O.S. Sections 1-208 and 1-210.
- (2) An appeal to a determination regarding whether a worker is an independent contractor or an employee, pursuant to 40 O.S. Section 1-210(14).
- (3) An appeal to a determination regarding the contribution rate of an employer, pursuant to 40 O.S. Section 3-102.
- (4) An appeal to a determination to charge a base period employer, pursuant to 40 O.S. Section 3-106.
- (5) An appeal to a determination of an acquiring employer (successor employer) and predecessor, pursuant to 40 O.S. Section 3-111.
- (6) An appeal to a determination regarding unemployment contribution assessments, pursuant to 40 O.S. Section 3-305.

(7) An appeal to a determination regarding a request for refund of penalty or interest, or a portion thereof, pursuant to 40 O.S. Section 3-310.

(8) An appeal to a determination to intercept state tax refunds through the Oklahoma Tax Commission, pursuant to 68 O.S. Section 205.2(B).

(9) An appeal filed by a Workforce Investment Act CLEO, local area fiscal agent, Local Board or OESC's subrecipient, as a result of audit or monitoring findings issued by the Commission pursuant to the Workforce Investment Act, pursuant to 20 C.F.R. Sections 661.120, 667.400, and 667.500.

(10) An appeal concerning the voluntary election of an employer for coverage pursuant to 40 O.S. §3-203.

(11) Any other appeal pursuant to 40 O.S. §3-115.

(12) An appeal of a denial or termination of an eligible training provider filed pursuant to 240:21-3-1 through 240:21-3-6.

(b) The Commission, or its appointee, may assign other subjects of appeal to the Assessment Board as it deems appropriate.

PART 5. HEARINGS

240:10-11-22. Conduct of hearings

(a) ~~Rules of evidence. All hearings will be conducted in a manner to ascertain the substantial rights of the parties. All hearings shall be conducted in accordance with 75 O.S. §310, except where OESC Rules or the Employment Security Act of 1980 provides for an alternative procedure, in which case the provisions of OESC Rules or the Employment Security Act of 1980 shall prevail.~~

(b) **Record of hearings.** All testimony shall be electronically recorded and the Board shall retain originals of all exhibits entered into evidence for as long as required by law.

(c) **Representation.** All protestants have the right to be represented by an attorney or other representative of his/her choice.

240:10-11-24. Good cause

Good cause is defined as a situation beyond the control of the parties. Situations considered beyond the control of the party may include, a disabling personal illness, death in the immediate family, jury duty, military obligations or any other circumstance that would make it impossible for a party to appear for a hearing or comply with a requirement of these rules, the Employment Security Act of 1980, or any determination or notice served on the party. Good cause will not be found if the failure to act is due to the negligence or inattentiveness of the party or the party's representative or attorney-at-law.

240:10-11-25. Motion to reopen after failure to appear

(a) If a party does not appear for a scheduled hearing, the party may move to reopen the hearing within five (5) days after the mailing of the Assessment Board's Order of Decision. The

motion shall provide the reasons for the party's failure to appear and will become a part of the record. Upon receipt of the motion, the Assessment Board shall set the case for hearing. All interested parties shall be notified of the hearing.

~~(b) If the hearing officer finds good cause as the basis for failure to appear at the previously scheduled hearing, the case will proceed to be heard on the merits. The Director of the Appellate Division, or a designee, shall review the Motion to Reopen the Hearing. For the purpose of ruling on the motion only, the Director or designee shall accept the facts offered in the motion as true. If the motion does not demonstrate good cause for failure to appear at the prior hearing as defined by OESC Rule 240:10-11-24, the Motion to Reopen the Hearing shall be denied. The Assessment Board shall issue a written order with appeal rights to district court.~~

~~(c) If the hearing officer does not find good cause for the party's failure to appear at the originally scheduled hearing, a decision will be rendered reinstating the original decision. If the Director or designee finds that the motion demonstrates good cause or leaves a question as to whether good cause exists, the Chief Hearing Officer shall set the case for hearing on the issue of good cause for the non-appearance. All interested parties shall be notified of the newly scheduled hearing.~~

~~(d) After the hearing provided for subsection (c) above, if the hearing officer finds good cause as the basis for failure to appear at the previously scheduled hearing, the case will proceed to be heard on the merits.~~

~~(e) After the hearing provided for subsection (c) above, if the hearing officer does not find good cause for the party's failure to appear at the originally scheduled hearing, a decision will be rendered reinstating the original decision.~~

~~(b) If the hearing officer finds good cause as the basis for failure to appear at the previously scheduled hearing, the case will proceed to be heard on its merits. The Director of the Appellate Division, or a designee, shall review the Motion to Reopen the Hearing. For the purpose of ruling on the motion only, the Director or designee shall accept the facts offered in the motion as true. If the motion does not demonstrate good cause for failure to appear at the prior hearing as defined by all OESC Rule 240:10-13-37, the Motion to Reopen the Hearing shall be denied. The Appeal Tribunal shall issue a written order denying the motion with appeal rights to the Board of Review.~~

~~(c) If the hearing officer does not find good cause for the party's failure to appear at the originally scheduled hearing, a decision will be rendered reinstating the original decision. If the facts offered in the motion demonstrate good cause or leave a question as to whether good cause exists, the Chief Hearing Officer shall set the case for hearing on the issue of good cause for the non-appearance. All interested parties shall be notified of the hearing to show good cause.~~

~~(d) After the hearing provided for subsection (c) above, if the hearing officer finds good cause as the basis for failure to appear at the previously scheduled hearing, the case will proceed to be heard on its merits.~~

~~(e) After the hearing provided for subsection (c) above, if the hearing officer does not find good cause for the party's failure to appear at the originally scheduled hearing, a decision will be rendered reinstating the original decision.~~

~~(f) If the party who failed to appear at the originally scheduled hearing appears for the new hearing and the party who appeared at the originally scheduled hearing does not appear, testimony and evidence from the party present will be taken, the tape made at the original hearing played, and the decision shall be rendered based upon the sworn testimony and other evidence submitted at both the first hearing and the second hearing.~~

SUBCHAPTER 13. APPEAL TRIBUNAL PROCEDURE

PART 5. HEARINGS

240:10-13-37. Good cause

Good cause is defined as a situation beyond the control of the parties. Situations considered beyond the control of a party may include, among other factors, a disabling personal illness, death in immediate family, jury duty, or military obligations. Good cause will not be found if the failure to act is due to the negligence or inattentiveness of the party or the party's representative or attorney-at-law.

240:10-13-40. Reopen

(a) If a party does not appear for a scheduled hearing, the party may move to reopen the hearing within five (5) days after the mailing of the Appeal Tribunal's Order of Decision. The motion shall provide reasoning for failure to appear and will become a part of the record. ~~Upon receipt of the motion, the Chief Hearing Officer shall set the case for hearing on the issue of good cause for the nonappearance. All interested parties shall be notified of the newly scheduled hearing.~~

240:10-13-42. Conduct of hearings

(a) **Hearings (in-person and telephonic).** Hearings will be conducted in a manner to protect the substantial rights of the parties. Hearings will be in accordance with the requirements of the Employment Security Act of 1980 and the Administrative Procedures Act.

(b) **Rules of evidence.**

(1) The parties may present testimony and evidence in their own behalf and each party shall be allowed the right of cross examination. The hearing officer may also examine the parties and witnesses.

~~(2) The Hearing Officer will rely upon the best evidence presented. The offering party must be able to lay the foundation for authentication. All hearings shall be conducted in accordance with 75 O.S. §310, except where OESC Rules or the Employment Security Act of 1980 provides for an alternative procedure, in which case the provisions of OESC Rules or the Employment Security Act of 1980 shall prevail.~~

[OAR Docket #10-428; filed 3-26-10]

Permanent Final Adoptions

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 12. TRADE ACT PROGRAMS

[OAR Docket #10-429]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions
240:12-1-2. Definitions [AMENDED]

AUTHORITY:

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SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The amendments to the rules in this chapter will define "commuting distance," and certain time computations, revise approved training procedures, correct policies and procedures in regard to the payment of unemployment insurance benefits by electronic fund transfers, modernize the way unemployment insurance information is posted at places of employment, allow third party administrators access to tax rate information in order to file electronic reports, clarify record keeping requirements, clarify official date of filing of unemployment insurance tax reports through electronic methods, clarify jurisdiction of the Assessment Board, clarify rules of evidence before Assessment Board and Appeal Tribunal, and clarifies good cause and motions to reopen before the Assessment Board and Appeal Tribunal.

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

SUBCHAPTER 1. GENERAL PROVISIONS

240:12-1-2. Definitions

The definitions in this rule shall apply only to the Trade Act Programs governed by Chapter 12 of the Oklahoma Employment Security Commission Rules. The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Commuting areas" means the area within a radius of 50 miles of the applicant's place of residence.

"Full-time work" means employment in thirty-two (32) or more hours of work per week.

"Part-time work" means employment of less than thirty-two (32) hours of work in a week.

[OAR Docket #10-429; filed 3-26-10]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 21. WORKFORCE INVESTMENT ACT

[OAR Docket #10-430]

RULEMAKING ACTION:

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RULES:

Subchapter 1. General Provisions
240:21-1-1. Purpose and authority [AMENDED]
240:21-1-2. Definitions [AMENDED]
Subchapter 5. Denial of Request for Designation as a Local Workforce Investment Area [REVOKED]
240:21-5-1. Appeal [REVOKED]
240:21-5-2. Appeal time [REVOKED]
240:21-5-3. Hearing [REVOKED]
240:21-5-4. Decision [REVOKED]
240:21-5-5. Appeal of decision [REVOKED]
Subchapter 7. Monitoring
240:21-7-1. Monitoring and exit conference [AMENDED]
240:21-7-2. Monitoring report [AMENDED]
240:21-7-3. Monitoring resolution [AMENDED]
240:21-7-4. Final monitoring determination [AMENDED]
240:21-7-5. Appeal [AMENDED]
240:21-7-6. Hearing [AMENDED]

AUTHORITY:

40 O. S. §§4-302, 4-313, 4-702 and the Oklahoma Employment Security Commission. 29 U.S.C.A. §§2801 through 2945.

DATES:

Comment period:

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Public hearing:

None held or requested

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SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The amendments to these rules will clarify the authority for the Commission to maintain rules for the Workforce Investment Act, define "fiscal agent", "grant", "grantee", "recipient", "subgrant", and "subrecipient", provide procedure for exit conferences, correct identification of parties in monitoring reports and resolution procedures, delete time deadlines, change time limits for final determinations, and delete obsolete rules.

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. §308.1(A), WITH AN EFFECTIVE DATE OF MAY 1, 2010:

SUBCHAPTER 1. GENERAL PROVISIONS

240:21-1-1. Purpose and authority

The Governor of the State of Oklahoma appointed the Governor's Council for Workforce and Economic Development (State Council) in compliance with the Section 111 of the Workforce Investment Act. The State Council assists the Governor in developing the Strategic State Workforce Investment Plan (State Plan) for Title I of the Workforce Investment Act of 1998 (WIA) and the Wagner-Peyser Act pursuant to Section 112 of WIA. In the State Plan, the Governor designated the Oklahoma Employment Security Commission (OESC) as the WIA Title I administrative entity responsible for WIA Title I and Wagner-Peyser program implementation and oversight. The purpose of these rules is to facilitate the implementation of the WIA, U.S. Department of Labor WIA regulations, and State Plan. The authority for these rules is established by Title 40 O.S. § 4-702.

240:21-1-2. Definitions

In addition to definitions found at WIA section 101 and 20 CFR 660.300, the following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Assessment Board" is a hearing Board for the OESC, which is designated to adjudicate certain appeals specified herein.

"Chief Local Elected Official" or **"CLEO"** means (a) the chief elected executive officer of a unit of general local government in a local area; and (b) in a case in which a local area includes more than one unit of general local government, the individuals designated under the agreement ~~designed de-~~ scribed in WIA section 117(c)(1)(B).

"Department" or **"DOL"** means the U.S. Department of Labor, including its agencies and organizational units.

"Division of Internal Audit" means the OESC division responsible for conducting audit resolutions.

"Fiscal Agent" means an entity chosen by the CLEO to serve as ~~grant~~ OESC's subrecipient of the local area's WIA grant funds. Such designation does not relieve the CLEO or the Governor of the liability for any misuse of grant funds.

"Grant" means an award of WIA financial assistance by the U.S. Department of Labor to an eligible WIA recipient.

"Grantee" means the direct recipient of grant funds from the Department of Labor. A grantee may be referred to as a recipient.

"Local Area" means a local workforce investment area designated pursuant to WIA section 116.

"Local Board" means a Local Workforce Investment Board established pursuant to WIA section 117, to set policy for the local area workforce investment system.

"Recipient" means an entity to which a WIA grant is awarded directly from the Department of Labor to carry out a program under title I of WIA.

"Secretary" means the Secretary of the U.S. Department of Labor.

"State Council" means the Governor's Council for Workforce and Economic Development established pursuant to WIA section 111.

"Subgrant" means an award of financial assistance made under a grant by a grantee or subrecipient to an eligible subrecipient.

"Subrecipient" means an entity to which a subgrant is awarded and which is accountable to the recipient, or higher tier subrecipient, for the use of the funds provided.

SUBCHAPTER 5. DENIAL OF REQUEST FOR DESIGNATION AS A LOCAL WORKFORCE INVESTMENT AREA [REVOKED]

240:21-5-1. Appeal [REVOKED]

~~A unit of general local government (including a combination of such units) or a grant recipient that is denied designation as a workforce investment area may file an appeal. The designation process will continue while the appeal is in progress and will be modified should the initial denial of designation be overturned.~~

240:21-5-2. Appeal time [REVOKED]

~~The appeal must be filed with the State Council within twenty (20) days from the date of receipt of the denial of designation. The Governor's designation is final if a timely appeal is not filed and no further appeal shall be allowed.~~

240:21-5-3. Hearing [REVOKED]

~~Upon receipt of a timely appeal, the State Council will refer the case to the Assessment Board for hearing. A hearing will then be conducted by the Assessment Board pursuant to its rules at 240:10-11-20 through 240:10-11-31. Within (30) days from the date the appeal is received from the State, Council the The Assessment Board will issue its findings of fact to the Governor, State Council, and Chief Local Elected Official. A copy of the administrative record will be sent to the Governor.~~

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240:21-5-4. Decision [REVOKED]

~~The Governor will issue his decision within thirty (30) days from the date he receives the Assessment Board's findings of fact, to the State Council and Chief Local Elected Official.~~

240:21-5-5. Appeal of decision [REVOKED]

~~If the Governor denies the designation after the above described appeal process is complete, the entity may file an appeal to the Secretary. The appeal must be filed not later than thirty (30) thirty days after receipt of written notification of the Governor's decision and must comply with the requirements set forth in the WIA statutes and regulations.~~

SUBCHAPTER 7. MONITORING

240:21-7-1. Monitoring and exit conference

(a) OESC will annually monitor each local area fiscal agent, Local Board, and ~~grant recipient~~ OESC's subrecipients pursuant to the requirements set forth in WIA section 184 (a)(4) and 20 CFR section 667.410.

(b) OESC's ~~grant recipients~~ subrecipients and Local Boards must monitor their subrecipients or service providers. Monitoring shall be conducted as outlined in the "Governor's Oversight and Monitoring Plan".

(c) An exit conference will be conducted after each OESC monitoring review. Exit notes, which identify issues that may result in findings and/or questioned costs, will be provided to the local area. The local area representatives have fifteen (15) days from date of the exit conference to submit information and/or documentation to OESC to resolve these possible findings and/or questioned costs before they are included in the monitoring report referenced in 240:21-7-2. Additional findings and/or questioned costs may arise after the on-site review and exit conference are conducted.

240:21-7-2. Monitoring report

(a) A monitoring report will be issued by the Director of Workforce Quality to the CLEO, local area fiscal agent, Local Board, or ~~grant recipient~~ OESC's subrecipients after each monitoring review. Copies of this report will be addressed to the Director of Workforce Integrated Programs, ~~and copies sent to the Executive Director, Deputy Director, and the OESC's Director of Internal Audit of the OESC.~~ If evidence of possible violations is discovered, they will be detailed in the report. The report shall be based, in part, on the requirements of WIA, the regulations promulgated thereunder, administrative requirements, applicable cost principles, grant agreements, and state and local policies.

(b) Monitoring reports and resolutions generated by an OESC subrecipient ~~grant recipient~~ or Local Board must be submitted to the OESC Director of Workforce Quality when issued, on an annual basis and at least sixty (60) days prior to expiration of the service provider or subrecipient's contract with its subrecipient.

240:21-7-3. Monitoring resolution

(a) The Director of Workforce Quality is responsible for monitoring resolution.

(b) Resolution of a monitoring finding is required when there are disallowed/questioned costs, ~~and~~ administrative findings or deficiencies.

(c) The CLEO, local area fiscal agent, Local Board or ~~grant recipient~~ OESC's subrecipient has thirty (30) days from the date of the monitoring report to submit its response to the designated portions of the monitoring report to the Director of Workforce Quality. The response must contain all additional information, documents, or arguments the CLEO, local area fiscal agent, Local Board or ~~grant recipient~~ OESC's subrecipient wants the Director of Workforce Quality to consider in making the ~~initial monitoring~~ final determination. An entity submitting a response to the monitoring report may request in writing an additional thirty (30) day time period. The Director of Workforce Quality will determine if additional time will be allowed and advise the entity in writing of his or her decision. The Director of Workforce Quality may request additional information from the entity submitting a response, if clarification is needed. The Director of Workforce Quality may schedule or the CLEO, local area fiscal agent, Local Board or ~~grant recipient~~ OESC's subrecipient may request, an informal resolution conference in order to discuss the findings in the monitoring report. The request for the informal resolution conference should be submitted to the Director of Workforce Quality prior to the first thirty (30) day deadline.

~~(d) The Director of Workforce Quality shall issue an initial monitoring determination within sixty (60) days from the date the response is received. The CLEO, local area fiscal agent, Local Board or grant recipient has thirty (30) days from the date of the initial monitoring determination to submit its response to the initial monitoring determination to the Director of Workforce Quality.~~

~~(e)~~ (d) The Director of Workforce Quality shall issue a final monitoring determination in compliance with 240:21-7-4.

~~(f) All monitoring findings must be resolved within six (6) months after the initial monitoring report is issued.~~

~~(g)~~ (e) The Director of Workforce Quality will maintain a monitoring resolution file documenting the disposition of reported questioned costs and corrective actions taken for all findings.

~~(h)~~ (f) After follow-up procedures are completed, if the grant recipient is found in non-compliance, the Director of Workforce Integrated Programs will send a notice in the form of a certified letter of impending sanctions. The notice will indicate the violation, the corrective action to be taken, the impending sanction, and the process by which the grant recipient may appeal the sanction.

240:21-7-4. Final monitoring determination

(a) A final determination on the issues raised in the ~~initial monitoring report~~ will be issued within ~~thirty (30)~~ sixty (60) days from the date the response to the ~~initial monitoring~~ determination report is received. ~~This time may be extended an additional thirty (30) days if an informal resolution conference is requested.~~

(b) If all issues have not been resolved, a final determination shall be sent to the local area by certified mail. A final determination will:

- (1) enumerate the efforts that were made to resolve the issues in the ~~initial~~ monitoring report;
- (2) list the issues upon which the parties do not agree;
- (3) list any changes to the factual findings and conclusions set forth in the monitoring report;
- (4) establish a debt, if appropriate;
- (5) require corrective action, when needed;
- (6) determine liability, method of restitution of funds and sanctions; and
- (7) advise recipient of appeal rights.

240:21-7-5. Appeal

(a) If the CLEO, local area fiscal agent, Local Board or ~~grant recipient~~ OESC's subrecipient is not satisfied with the findings issued in the final determination, it has fifteen (15) days from the date of the final determination to file an appeal.

(b) The appeal must be filed with the Director of Workforce Quality.

(c) The Director of Workforce Quality will then forward a copy of the appeal to the Assessment Board within five (5) days from receipt.

240:21-7-6. Hearing

(a) The Assessment Board will conduct a hearing ~~within thirty (30) days from the receipt of the appeal by the Assessment Board unless the parties and the Assessment Board agree to waive this requirement in order to allow additional time to resolve the matter. The hearing will be conducted pursuant to the Assessment Board's rules at 240:10-11-20 through 240:10-11-31.~~

(b) ~~The Assessment Board will issue a decision within thirty (30) days from the date the hearing record is closed.~~

(~~e~~b) The decision of the Assessment Board will be final and binding unless an appeal is filed to district court pursuant to Oklahoma's Administrative Procedures Act, 75 Okla. Stat. ~~section~~ sections 318, 319, 321, and 322.

(~~d~~c) The Assessment Board will provide the administrative record to the district court in the time provided for in 40 Okla. Stat. section 3-403.

(~~e~~d) At the hearing, the appealing party ~~CLEO, local area fiscal agent, Local Board, and grant recipient~~ bears the burden of proof to show that the WIA funds granted or paid to the Local Area or ~~grant recipient~~ OESC's subrecipient were spent in compliance with the statutes, regulations, state policies, uniform administrative requirements, and OMB Circulars that govern these funds and their program. The entities must also prove the WIA costs the entities claim are allowable were determined in accordance with generally accepted accounting principles and adequately documented in compliance with the statutes, regulations, uniform administrative requirements and OMB Circulars that govern these funds and their program.

(~~f~~e) Any fee charged to the CLEO, local area fiscal agent, Local Board, or ~~grant recipient~~ OESC's subrecipient for assistance in resolving the monitoring report or to prepare and

present an appeal to the Assessment Board or District Court cannot be charged to grant or contract funds received from OESC. This includes fees charged by an accountant, expert witness, attorney, or other representative.

(f) Disallowed costs that are not appealed in accordance with these administrative rules are a debt owed to the OESC by the Fiscal Agent and CLEO.

(g) Disallowed costs cannot be repaid with federal grant funds. A debt can be satisfied by substituting stand-in costs that meet the requirements set forth in the One-Stop Comprehensive Financial Management Technical Assistance Guide. If stand-in costs are not available, the debt may be satisfied by making a lump sum payment to OESC, entering into a payment plan authorized by OESC, or reducing an expenditure in a current grant by the amount of the disallowed costs. The local area must provide documentation that the reduced expenditure was subsequently paid with non-federal funds.

[OAR Docket #10-430; filed 3-26-10]

**TITLE 265. STATE FIRE MARSHAL
COMMISSION
CHAPTER 25. ADOPTED NATIONAL
CODES AND STANDARDS**

[OAR Docket #10-391]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

265:25-1-3. Incorporated national codes and standards [AMENDED]

AUTHORITY:

Oklahoma State Fire Marshal Commission; 74 O.S. § 324.11.

DATES:

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SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

265:25-1-3 redefines a revised fee schedule.

CONTACT PERSON:

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Permanent Final Adoptions

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 APRIL 25, 2010:

265:25-1-3. Incorporated national codes and standards

The following national codes and standards are incorporated by reference:

(1) International Building Code and its appendices, 2006 Edition, with the following modifications:

(A) Section 108.1 Fee Schedule: Add additional wording to read as follows: A fee for each plan examination, building permit, and inspection shall be paid in accordance with the following schedule:

(i) Exemptions: the following entities are exempt from the fees associated with this section, except for archiving fees: Detention centers that require an inspection are exempt inspection fees and Fire Departments duly constituted and meeting the reporting requirements of the State Fire Marshal Agency.

(ii) Building Plan Review:

(I) Preliminary review (no permit issued) - ~~\$55.00~~75.00

(II) Review of plans submitted with an application for a building permit. Total permit fee is due at the time of submittal.

(iii) Alteration, Renovation, Repair:

(I) Minimum permit fee - ~~\$25.00~~50.00

(II) Rate per \$1,000 of project evaluation - ~~\$2.20~~3.75

(III) Demolition fee, first story, per square foot - \$.05; additional stories, each - \$5.00

(IV) ~~Required annual inspections - Inspections, per building hour - \$20.00~~40.00, one hour minimum

(iv) New Construction: Permit fees include the cost of a 50% and 100% on site inspection and occupancy permit. Additional on site inspection caused by failure to comply with applicable codes or deviation from approved plans will be billed at ~~\$27.00~~40.00 per hour the actual cost to the agency.

(I) Minimum permit fee - ~~\$25.00~~50.00

(II) Rates where total exceeds the minimum

a. warehouse buildings, canopies: per square foot ~~up to 50,000 - \$.08, 10;~~ ~~per square foot over 50,000 - \$.05~~

b. commercial occupancy: per square foot ~~up to 50,000 - \$.08, 10;~~ ~~per square foot over 50,000 - \$.05~~

c. industrial buildings: per square foot ~~up to 50,000 - \$.05, 10~~ ~~per square foot over 50,000 - \$.02~~

d. sprinkler plan review only: per square foot - ~~\$.04~~.03

e. fire alarm plan review only: per square foot - ~~\$.04~~.03

~~(v) Emergency Plan Review: Emergency request for short notice or emergency plan reviews will be billed at the actual cost of the employees involved in addition to other permit costs.~~

~~(vi) Above Ground Fuel Storage:~~

(I) Inspection and permit fee - \$100.00

~~(vii) Fireworks:~~

(I) Class B Fireworks display inspection and permit - \$75.00125.00

(II) Class C pyrotechnic display inspection and permit - \$150.00250.00

~~(viii) Change of Use of Existing Building:~~

(I) Analysis - ~~\$27.00~~40.00 per hour, one hour minimum

~~(ix) Required Plan Review Fees: Fees may be waived or reduced due to plan review charges by local authority.~~

~~(x) Marinas:~~

(I) On site ~~plan review inspection~~ of facility will be billed at ~~\$27.00~~40.00 per hour, one hour minimum. ~~Building Permit - \$55.00~~

~~(xi) Fast-Track plan review fee schedule:~~

(I) Definition of Fast-Track Review; A plan review which disrupts normal plan review schedules, and requires review in 72 hours or less. Note: If plans cannot be reviewed in 72 hours or less, notification will be given, but fee schedule still applies.

a. Review time - ~~\$27.00~~40.00 per hour

b. Two (2) hour minimum on all reviews.

(II) Check shall be made payable to: Office of the Oklahoma State Fire Marshal

~~(xii) Electrical Generation Facility Plan Review:~~

(I) Each turbine - \$500.00

(II) Each site inspected - \$54.00

(III) Fire Protection review justification - \$500.00

(IV) Fire Protection Engineer review - 40 hours x \$35.00 = \$1,400.00

~~(xiii) Explosive Storage Facility: Inspection and permit fee is a minimum of \$108.00 per magazine.~~

(B) Add new wording into paragraph "113.4 Violation penalties" Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be subject to an administrative fine as per State Statute 72 O.S., Section 324.9. The first repeat notice of violation or failure to provide a plan of correction a person may be subject to a warning, or a fine of \$100.00. Second violation notice \$150.00, third violation notice \$200.00. Also, each day that a

violation continues after due notice has been served shall be deemed a separate offense.

(C) Add new paragraph 112.4 "Procedures for Appeal of Condemnation," Procedures to be followed when appealing condemnation shall be those outlines in 74 O.S. Subsection 317.

(D) Add Section 101.4.8 NFPA 101 2006 edition. The provisions of the NFPA 101, 2006 edition shall only apply when the AHJ approves those provisions to be applicable. Where differences occur between provisions of this code and the NFPA, the most stringent code shall apply.

(2) International Fire Prevention Code and its appendices, 2006 Edition, with the following modifications:

(A) Add new wording to Section 109.3 to read as follows: Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be subject to an administrative citation per State Statute 72 O.S., Section 324.9. The first repeat notice of violation or failure to provide a plan of correction, a person may be subject to a warning, or a fine of \$100.00. Second violation notice \$150.00, third violation notice \$200.00. Also, each day that a violation continues after due notice has been served shall be deemed a separate offense.

(B) Section 111.4 adding new wording: Fine of not less than \$50.00 or more than \$200.00.

(C) Delete Section 307. Follow Oklahoma Statute Title 2 relating to unlawful burning.

(D) Add following to 102.7 NFPA 101 2006 Edition is allowed to use where approved by AHJ. Where differences occur between this code and NFPA 101, the most stringent code shall apply.

(3) International Property Maintenance Code and its appendices, 2006 Edition.

(A) Delete Section 106.3.

(B) Add new wording into Section 106.4 to read as follows: Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be subject to an administrative fine per State Statute 74 O.S., Section 324.9. The first repeat notice of violation or failure to provide a plan of correction, a person may be subject to a warning, or a fine of \$100.00. Second violation continues after due notice has been served shall be deemed a separate offense.

(C) Section 704 to read as follows: 704 Installation: All smoke detector installation shall comply with State Statute 74 O.S., Section 324.11A concerning installation of smoke detectors.

(4) NFPA #10 Portable Fire Extinguishers and its annex's, 2007 Edition.

(5) NFPA #13 Installation of Sprinkler Systems and its annex's, 2007 Edition.

(6) NFPA #13D Installation of Sprinklers in One and Two-Family Dwellings and its annex's, 2007 Edition.

(7) NFPA #13R Sprinkler Systems in Residential Occupancies up to and including Four Stories in Height and its annex's, 2007 Edition.

(8) NFPA #25 Water-Based Fire Protection Systems and its annex's, 2002 Edition.

(9) NFPA #30 Flammable and Combustible Liquids Code and its annex's, 2003 Edition.

(10) NFPA #30A Motor Fuel Dispensing facilities and Repair Garages and its annex's, 2003 Edition.

(11) NFPA #54 Natural Fuel Gas Code and its annex's, 2006 Edition.

(12) NFPA #70 The National Electric Code and its annex's, 2005 Edition.

(13) NFPA #72 National Fire Alarm Code and its annex's, 2007 Edition.

(14) NFPA #90A Air Conditioning and Ventilating Systems and its annex's, 2002 Edition.

(15) NFPA #96 Installation of Equipment for the Removal of Smoke & Grease-Laden Vapors from Commercial Cooking Equipment and its annex's, 2004 Edition.

(16) NFPA #101 Life Safety Code and its annex's, 2006 Edition.

~~(17)~~ NFPA #303 Fire Protection Standard for Marinas and Boatyards and its annex's, 2006 Edition.

~~(18)~~ NFPA #850 Electric Generating Plants and High Voltage Direct Converter Stations and its annex's, 2005 Edition.

~~(19)~~ NFPA #1123 Outdoor Display of Fireworks and its annex's, 2006 Edition.

~~(20)~~ NFPA #1124 Manufacturing, Transportation and Storage of Fireworks and its annex's, 2006 Edition.

~~(21)~~ NFPA #1126 Use of Pyrotechnics before a Proximate Audience and its annex's, 2006 Edition.

~~(22)~~ Add new section 1-7 Violation Penalties to read as follows: Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the code official, or of a permit or certificate issued under the provisions of this code shall be subject to an administrative citation per State Statute 74 O.S., Section 324.9. The first repeat notice of violation or failure to provide a plan of correction, a person may be subject to a warning or a fine of \$100.00. Second violation notice \$150.00, third violation notice \$200.00. Also, each day that a violation continues after due notice has been served shall be deemed a separate offense. Failure to comply with applicable codes, causing a ~~re-inspection~~ an additional inspection, will be billed at ~~\$27.00~~\$40.00 per hour, one hour minimum.

[OAR Docket #10-391; filed 3-24-10]

Permanent Final Adoptions

TITLE 265. STATE FIRE MARSHAL COMMISSION CHAPTER 40. FIRE SAFETY STANDARDS FOR CIGARETTES

[OAR Docket #10-392]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- 265:40-1-1. Scope [NEW]
- 265:40-1-2. Definitions [NEW]
- 265:40-1-3. Test method [NEW]
- 265:40-1-4. Performance standard [NEW]
- 265:40-1-5. Test reports [NEW]
- 265:40-1-6. Certification [NEW]
- 265:40-1-7. Notification of certification [NEW]
- 265:40-1-8. Marking of cigarette packaging [NEW]
- 265:40-1-9. Penalties [NEW]
- 265:40-1-10. Federal fire safety standards [NEW]
- 265:40-1-11. Notification to the OSFM [NEW]

AUTHORITY:

Oklahoma State Fire Marshal Commission; 74 O.S. § 324.11.

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SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

265:40-1-1 through 265:40-1-11 define the scope, definitions, test method, performance standard, test reports, certification, notification of certification, marking of cigarette packaging, penalties, federal fire safety standards and notification of the State Fire Marshal's Office as set forth in the Fire Safety Standard and Firefighter Protection Act.

CONTACT PERSON:

Susie Cain, Executive Secretary to the State Fire Marshal, 2401 NW 23rd Street, Suite 4, Oklahoma City, OK 73107, 405-522-5009

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 APRIL 25, 2010:

265:40-1-1. Scope

(a) On and after January 1, 2009, no cigarettes subject to the provisions of the Fire Safety Standard and Firefighter Protection Act or this Chapter shall be sold or offered for sale in this State unless:

- (1) the cigarettes have been tested in accordance with the test method prescribed in OAC 265:40-1-3;
- (2) the cigarettes meet the performance standard specified in OAC 265:40-1-4;
- (3) a written certification has been filed by the manufacturer with the Office of the State Fire Marshal, 2401 N.W. 23rd Street, Suite 4, Oklahoma City, Oklahoma 73107 in accordance with OAC 265:40-1-6; and
- (4) the cigarettes have been marked in accordance with OAC 265:40-1-8.

(b) Nothing in this Chapter shall prohibit:

- (1) wholesale dealers or retail dealers from selling their inventory of cigarettes existing on January 1, 2009, provided that the wholesale dealer or retail dealer can establish that Oklahoma State tax stamps were affixed to these cigarettes prior to January 1, 2009, and provided further that the wholesale dealer or retail dealer can establish that the inventory was purchased prior to January 1, 2009 in comparable quantity to the inventory purchased during the same period in the prior year; provided that in no event may a wholesale dealer or retail dealer sell or offer to sale a cigarette in this State that does not comply with the Act or this Chapter after January 1, 2010;
- (2) wholesale dealers or retail dealers from selling, until July 1, 2009, cigarettes manufactured in this State as determined by the State Fire Marshal;
- (3) any person or entity from manufacturing or selling cigarettes that do not meet the requirements of this Chapter, if the cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States pursuant to 74 O.S. Supp. 2008 § 326.10 and that person or entity has taken reasonable steps to ensure that such cigarettes will not be sold or offered to sale to persons located in this State; and
- (4) the sale of cigarettes solely for the purpose of consumer testing. For purposes of this Chapter, the term "consumer testing" means an assessment of cigarettes that is conducted by a manufacturer or under the control and direction of a manufacturer, for the purpose of evaluating consumer acceptance of such cigarettes, utilizing only the quantity of cigarettes that is reasonably necessary for such assessment.

265:40-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning:

"Act" means the Fire Safety Standard and Firefighter Protection Act.

"Agent" means any person licensed by the Oklahoma Tax Commission to purchase and affix adhesive or meter stamps on packages of cigarettes.

"Cigarette" means any roll for smoking, whether made wholly or in part of tobacco or any other substance, irrespective

of size or shape, and whether or not such tobacco or substance is flavored, adulterated, or mixed with any other ingredient, if the wrapper or cover is in greater part made of paper or any other substance or material except tobacco.

"Manufacturer" means any entity that manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced anywhere that the manufacturer intends to be sold in this State, including cigarettes intended to be sold in the United States through an importer; the first purchaser anywhere that intends to resell in the United States cigarettes manufactured anywhere that the original manufacturer or maker does not intend to be sold in the United States; or any entity that becomes a successor of an entity described above.

"OSFM" means the Office of the Oklahoma State Fire Marshal.

"Quality Control and Quality Assurance Program" means the laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors, and equipment-related problems do not affect the results of the testing. This program ensures that the testing repeatability remains within the required repeatability values stated in Section 40-1-3(e) of this Part for all test trials used to certify cigarettes in accordance with the Act.

"Repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall 95% of the time.

"Retail Dealer" means any person, other than a manufacturer or wholesale dealer, engaged in selling cigarettes.

"Sale" means any transfer of title or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatever or any agreement therefore. In addition to cash and credit sales, the giving of cigarettes as samples, prizes, or gifts and the exchanging of cigarettes for any consideration other than money are considered sales.

"Sell" means to sell or to offer or agree to sell.

"Wholesale Dealer" means any person who sells cigarettes to retail dealers or other persons for purposes of resale, and any person who owns, operates or maintains one or more cigarette vending machines in, at or upon premises owned or occupied by any other person.

265:40-1-3. Test method

(a) Testing of cigarettes shall be conducted in accordance with the American Society of Testing and Materials (ASTM) Standard E2187-04 (2004) "Standard Test Method for Measuring the Ignition Strength of Cigarettes". This standard may be obtained from the publisher at ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken PA 19428-2959. This material is available for public inspection and distribution at the Office of the State Fire Marshal, 2401 NW 23rd Street, Suite 4, Oklahoma City, Oklahoma 73107.

(b) Testing shall be conducted on 10 layers of filter paper.

(c) Forty replicate tests shall comprise a complete test trial for each cigarette tested.

(d) The performance standard required by OAC 265:40-1-4 shall only be applied to a complete test trial.

(e) Written certifications shall be based upon testing conducted by a laboratory that has been accredited pursuant to

standard ISO/IEC 17025 of the International Organization for Standardization (ISO), or other comparable accreditation standard as determined by the State Fire Marshal.

(f) Laboratories conducting testing in accordance with this Chapter shall implement a quality control and quality assurance program that includes a procedure that will determine the repeatability of the testing results. The repeatability value shall be no greater than 0.19.

(g) This Section does not require additional testing, in accordance with this Chapter, if cigarettes are tested consistently with the Act for any other purpose. OSFM may, at its sole discretion, conduct random independent tests of certified brands to verify the accuracy of the information submitted to OSFM by the manufacturer. This testing shall be conducted in accordance with this Section.

265:40-1-4. Performance standard

(a) When tested in accordance with OAC 265:40-1-3, no more than 25 percent of the cigarettes tested in a test trial shall exhibit full length burns.

(b) Each cigarette listed in a certification submitted pursuant to OAC 265:40-1-6 that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard set forth in subsection (a) shall have at least two (2) nominally identical bands on the paper surrounding the tobacco column. At least one complete band shall be located at least 15 millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there shall be at least two (2) bands fully located at least fifteen (15) millimeters from the lighting end and ten (10) millimeters from the filter end of the tobacco column or ten (10) millimeters from the labeled end of the tobacco column for a non-filtered cigarette.

(c) The manufacturer of a cigarette that OSFM determines cannot be tested in accordance with the test method prescribed in OAC 265:40-1-3 shall propose a test method and performance standard for that cigarette to OSFM. Upon approval of the proposed test method and a determination by OSFM that the performance standard proposed by the manufacturer is equivalent to the performance standard prescribed in OAC 265:40-1-4(a), the manufacturer may employ that test method and performance standard to certify the cigarette pursuant to OAC 265:40-1-6. All other applicable requirements of this Chapter shall apply to the manufacturer.

(d) If OSFM determines that another state, with reduced cigarette ignition propensity standards that include a test method and performance standard that are the same as those contained in the Act, has adopted an alternative test method and performance standard for a particular cigarette proposed by a manufacturer as meeting the fire safety standards of that state's law or regulation under a legal provision comparable to this Section, then the State Fire Marshal shall authorize that manufacturer to employ the alternative test method and performance standard to certify that cigarette for sale in this State unless the State Fire Marshal demonstrates a reasonable basis for not accepting the alternative test method.

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265:40-1-5. Test reports

In order to ensure compliance with the performance standard specified in OAC 265:40-1-4, each manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes offered for sale for a period of 3 years and shall make copies of those reports available to OSFM upon its request, and to the Office of the Attorney General upon its request.

265:40-1-6. Certification

(a) Each manufacturer shall submit a written certification attesting that:

- (1) each cigarette listed in the certification has been tested in accordance with OAC 265:40-1-3; and
- (2) each cigarette listed in the certification meets the performance standard set forth in OAC 265:40-1-4 or meets the performance standard by any other state having equal or stricter performance standards.

(b) Each cigarette listed in the certification shall be described with the following information:

- (1) brand (i.e., the trade name on the package);
- (2) style (e.g., light, ultra light);
- (3) length in millimeters;
- (4) circumference in millimeters;
- (5) flavor (e.g., menthol, chocolate), if applicable;
- (6) filter or non-filter;
- (7) package description (e.g., soft pack, box);
- (8) marking approved in accordance with OAC 265:40-1-8;
- (9) the name, address and telephone number of the laboratory, if different than the manufacturer that conducted the test; and
- (10) the date the testing occurred.

(c) Each cigarette certified under this Section shall be re-certified every 3 years. Re-certification may be coordinated with re-certification required by other states with the same standard.

(d) At the time it submits a written certification under this Section, a manufacturer shall pay to the OSFM a fee for each brand family listed in the certification as established by the Act. The fee paid shall apply to all cigarettes within the brand family certified, and shall include any new cigarette certified within the brand family during the three-year certification period.

(e) The certifications shall be made available by OSFM to the Attorney General for purposes consistent with this Chapter and the Tax Commission for the purposes of ensuring compliance with this Section.

(f) If a manufacturer has certified a cigarette pursuant to this Section, and thereafter makes any change to such cigarette that is likely to alter its compliance with the reduced cigarette ignition propensity standards required by this Chapter, that cigarette shall not be sold or offered for sale in this State until the manufacturer retests the cigarette in accordance with the testing standards set forth in OAC 265:40-1-3 and maintains records of that retesting as required by OAC 265:40-1-5. Any altered cigarette which does not meet the performance standard set forth in OAC 265:40-1-4(a) may not be sold in this State.

265:40-1-7. Notification of certification

(a) After the acceptance of the manufacturer's certification by OSFM, manufacturers certifying cigarettes in accordance with OAC 265:40-1-6 shall provide a copy of the certifications to all wholesale dealers and agents to which they sell cigarettes.

(b) OSFM and the Office of the Attorney General will cooperate to produce a list of cigarette brands and styles that are legal for sale under any and all of the laws of the State of Oklahoma.

(c) If OSFM intends to remove a brand from the certified list, it will send a notice of intent to remove to the manufacturer. The notice of intent to remove shall include:

- (1) the factual and legal deficiencies upon which OSFM's intended action rests;
- (2) the actions that the manufacturer must undertake to cure the factual or legal deficiencies upon which the intended action is based; and
- (3) A notification that the manufacturer shall have 30 calendar days to cure deficiencies and submit documentation or other information of its attempt to cure to OSFM. OSFM may extend the time period for a manufacturer to cure its deficiencies.

265:40-1-8. Marking of cigarette packaging

(a) Cigarettes that have been certified by a manufacturer in accordance with OAC 265:40-1-6 shall be marked to indicate compliance with the requirements of this Chapter. Marking shall be in eight (8) point type or larger and consist of:

- (1) the letters "FSC" and be permanently stamped, engraved, embossed or printed on the package at or near the UPC; and
- (2) A manufacturer's marking shall meet all requirements set forth in § 326.5 of the Act.

(b) Wholesale dealers, agents and retail dealers shall permit OSFM, Oklahoma Tax Commission and Office of the Attorney General representatives to inspect cigarette packaging to ensure it is marked in accordance with this Section.

(c) Prior to the certification of any cigarette, a manufacturer shall present its proposed marking to OSFM for approval. Upon receipt of the request, OSFM will approve or disapprove the marking offered. Proposed markings shall be deemed approved if OSFM fails to act within ten (10) business days after receiving a request for approval.

(d) No manufacturer shall modify its approved marking unless the modification has been approved by OSFM in accordance with this Section.

265:40-1-9. Penalties

(a) Any manufacturer, wholesale dealer, agent, or other person or entity who knowingly sells or offers to sell cigarettes other than through retail sale in violation of OAC 265:40-1-1(a)(3) shall be subject to a civil penalty not to exceed \$500.00 for each pack of such cigarettes sold or offered for sale, provided that the penalty against any such person or entity shall not exceed \$100,000.00 for sales or offers to sell in any thirty (30) day period.

(b) Any retail dealer who knowingly sells or offers to sell cigarettes in violation of OAC 265:40-1-1(a)(3) shall be subject to a civil penalty not to exceed \$500.00 for each pack of cigarettes sold or offered for sale, provided that the penalty against any retailer shall not exceed \$25,000.00 for sales or offers to sell during any thirty (30) day period.

(c) In addition to any penalty prescribed by law, any corporation, partnership, sole proprietorship, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to Section 326.4 of the Act shall be subject to a civil penalty of at least \$75,000.00 and not to exceed \$250,000.00 for each false certification.

(d) Upon discovery by OSFM, the Oklahoma Tax Commission, the Office of the Attorney General, or a law enforcement agency that any person offers, possesses for sale, or has made a sale of cigarettes in violation of the Act, OSFM, the Oklahoma Tax Commission, the Office of the Attorney General, or the law enforcement agency may seize those cigarettes possessed in violation of the Act.

(e) To enforce the provisions of the Act, the State Fire Marshal or Attorney General may bring an action on behalf of the people of this State to enjoin acts in violation of the Act and to recover civil penalties authorized under Section 326.6 of the Act and this Chapter.

(f) Civil penalties under this Section shall be assessed by administrative citation issued by the OSFM according to the following provisions:

(1) the civil penalties for OAC 265:40-1-9(a) shall be \$100.00 per pack for the first violation, \$250.00 per pack for the second violation and \$500.00 per pack for each subsequent violation, all subject to the thirty (30) day period maximum per the Act;

(2) the civil penalties for OAC 265:40-1-9(b) shall be \$50.00 per pack for the first violation, \$150.00 per pack for the second violation, \$350.00 per pack for the third offense and \$500.00 per pack for each subsequent violation, all subject to the thirty (30) day period maximum per the Act; and

(3) the civil penalties for OAC 265:40-1-9(c) shall be \$75,000.00 for making a knowingly false certification of any brand style. Any subsequent making of a knowingly false certification of the same brand will be subject to a civil penalty of \$250,000.00.

(g) Administrative citations issued pursuant to this Section shall be scheduled for hearing before the State Fire Marshal within sixty (60) days of issuance pursuant to 75 O.S. § 309. Hearings before the State Fire Marshal under this Section shall comply with OAC Title 265, Chapter 1, Subchapter 5.

265:40-1-10. Federal fire safety standards

If federal fire safety standards for cigarettes preempt the Act or this Chapter, the OSFM will repeal this Chapter.

265:40-1-11. Notification to the OSFM

All required notices, test results and documents shall be sent to: Office of the State Fire Marshal, 2401 NW 23rd Street, Suite 4, Oklahoma City, Oklahoma 73107.

[OAR Docket #10-392; filed 3-24-10]

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

[OAR Docket #10-443]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

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

AUTHORITY:

75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

DATES:

Comment Period:

July 15, 2009 through August 17, 2009

Public Hearing:

August 17, 2009

Adoption:

October 15, 2009

Submitted to Governor:

October 21, 2009

Submitted to House:

October 21, 2009

Submitted to Senate:

October 21, 2009

Gubernatorial approval:

November 9, 2009

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2010

Final Adoption:

March 24, 2010

Effective:

April 25, 2010

SUPERSEDED EMERGENCY ACTIONS:

Not Applicable

INCORPORATED BY REFERENCE:

Not Applicable

ANALYSIS:

Amendment to Rule 325:75-1-15 was proposed by the Oklahoma Horse Racing Commission to reflect that the number of races per breed specified in the racetrack'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 racetrack. The rule amendment addresses an unintended gap in the Commission's present regulatory scheme with the rule amendment eliminating the need for such distribution decisions to be handled on a case-by-case basis.

CONTACT PERSON:

Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE IS CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF APRIL 25, 2010:

Permanent Final Adoptions

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

(a) The distribution of monies from the Oklahoma Breeding Development Fund Special Account for any race meeting except as provided in (b) and (c) of this Section shall be as follows:

(1) Fifty percent (50%) to purse supplements for owners of winning accredited Oklahoma-Bred horses in certain races, as established in 325:75-1-14;

(2) Thirty-four percent (34%) to the Breeders of winning accredited Oklahoma-Bred horses for Broodmare Awards, except for an accredited Thoroughbred classified as Oklahoma foaled, will receive one-half ($\frac{1}{2}$) of this designated award. The remaining or undistributed monies will be held in trust for Stallion Owners to be awarded in the following manner: At the conclusion of the calendar year the top ten accredited Thoroughbred stallions will be determined and ranked by the amount of the Oklahoma-Bred money earned, and those stallions will receive a Stallion Bonus Award from the undistributed trust based on the stallion's percentage of earnings of the top ten accredited Thoroughbred stallions' total earnings.

(3) Sixteen percent (16%) to the owners of the sires of winning accredited Oklahoma-Bred horses for Stallion Awards.

(b) At any mixed breed race meeting, no less than ten percent (10%) of the Oklahoma Breeding Development Fund Special Account generated at said race meeting shall be available for distribution as authorized in (a) or (b) of this Section for stakes races and/or feature races as authorized by the Commission in 325:75-1-14 at the track where such funds were generated. Any distribution contemplated herein shall be made available on a pro rata basis ~~per breed based on pari mutuel handle per breed at the preceding race meeting as it relates to total handle at the preceding race meeting at such track using a per breed ratio based upon the number of races per breed specified in the current Organization License for the race track.~~ The 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 each year shall be divided between race meetings and among participants in any Mixed Breed Race Meeting on the same basis, by using a per breed ratio based upon the number of races per breed specified in the race track's current Organization License Order.

(c) At any straight Thoroughbred race meeting, no less than ten percent (10%) of the Oklahoma Breeding Development Fund Special Account generated at said race meeting shall be made available for distribution as authorized in (c) of this Section for stakes races and/or feature races as authorized by the Commission in 325:75-1-14 at the track where such funds were generated.

(d) Excepting feature races as authorized by the Commission in 325:75-1-14, the official order-of-finish distribution amounts authorized in (a), (b), and (c) of this Section shall be as follows:

(1) Fifty percent (50%) total to the winning accredited Oklahoma-Bred horse and the accredited Oklahoma-Bred

broodmare and sire of such horse, if any as prescribed in subsections (a), (b), and (c) of this section;

(2) Thirty percent (30%) total to the place accredited Oklahoma-Bred horse and the accredited Oklahoma-Bred broodmare and sire of such horse, if any as prescribed in subsections (a), (b), and (c) of this section; and

(3) Twenty percent (20%) total to the show accredited Oklahoma-Bred horse and the accredited Oklahoma-Bred broodmare and sire of such horse, if any as prescribed in subsections (a), (b), and (c) of this section.

(e) The official order of finish distribution amounts authorized by the Commission for feature races, if any, as established in 325:75-1-14, shall be determined by the Commission.

(f) As approved by the Commission, five percent (5%) of the unclaimed ticket proceeds shall be available to the Commission for distribution for equine research.

[OAR Docket #10-443; filed 3-26-10]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 100. DEVELOPMENTAL DISABILITIES SERVICES DIVISION

[OAR Docket #10-417]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

340:100-1-2 [AMENDED]

Subchapter 3. Administration

Part 1. General Administration

340:100-3-4 [AMENDED]

Part 3. Administration

340:100-3-29 [AMENDED]

340:100-3-38.5 [AMENDED]

Subchapter 5. Client Services

Part 1. Admission and Safeguards

340:100-5-3 [AMENDED]

Part 3. Service Provisions

340:100-5-20 [NEW]

340:100-5-22 [AMENDED]

340:100-5-22.5 through 340:100-5-22.6 [AMENDED]

Part 5. Individual Planning

340:100-5-52 through 340:5-53 [AMENDED]

Subchapter 17. Employment Services

Part 5. Other State Funded Employment Services

340:100-17-30 [AMENDED]

(Reference APA WF 09-20)

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Section 1412 of Title 10 of the Oklahoma Statutes (10 O.S. § 1412); Section 1020 of Title 56 of the Oklahoma Statutes (56 O.S. § 1020); and Section 1175.6b of Title 22 of the Oklahoma Statutes (22 O.S. § 1175.6b).

DATES:

Comment period:

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Public hearing:

None requested

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Failure of the Legislature to disapprove the rule(s) resulted in approval on March 24, 2010.

Final adoption:

March 24, 2010

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July 1, 2010

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The proposed revisions to Subchapters 1, 3, 5, and 17 of Chapter 100 amend the rules to: (1) bring the terminology associated with programs and services offered by Developmental Disabilities Services Division (DDSD) to the current standard in the field of providing services to persons with developmental disabilities and certain other related conditions; (2) clarify the monitoring responsibilities of personal funds for different residential placements and allow the use of personal funds for minor repairs to a residence; (3) provide rules for operation of the Respite Voucher Program; (4) clarify the requirements of the Foster Grandparent Program; (5) remove the supervisory staff training requirement for service recipients or representatives who elect to self-direct services and require the approved self-directed training course; (6) clarify transition and discharge planning requirements; (7) remove eligibility criteria for services not provided by DDSD; (8) include room and personal searches within allowable restrictive procedures; (9) prohibit the use of cell phones in alternative group homes; (10) specify training requirements; (11) clarify Oklahoma Department of Human Services (OKDHS) provider payments and their approved use; (12) disallow the use of room and board funds to support a roommate who is not a recipient of DDSD services; (13) provide clarification about the responsibility of any roommate in paying his or her fair share in the cost of operating a household; (14) disallow the use of room and board payments for supporting more than one household except when a transition is occurring; (15) clarify the responsible party for paying for co-payments and over the counter medications; (16) provide clarification for the approval process for the use of property replacement funds; (17) specify information to be included in the monthly report of progress; (18) specify case management for recipients of state funded non-waiver services; (19) clarify planning requirements for the Individual Plan; and (20) limit therapeutic leave in state funded employment services to a maximum of 10% of the authorized units with a maximum of 150 hours per service recipient per fiscal year.

CONTACT PERSON:

Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 405-521-4326.

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 1, 2010:

SUBCHAPTER 1. GENERAL PROVISIONS

340:100-1-2. Definitions

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

"Active treatment" means aggressive and consistent implementation of a program of specialized and generic training, treatment, and health services directed toward the service

recipient's acquisition of skills necessary to function as independently as possible.

"Advisory Committee on Services to Persons with Developmental Disabilities" means the committee appointed by the Director of Oklahoma Department of Human Services (OKDHS) to review and make recommendations on rules and programs of Developmental Disabilities Services Division (DDSD) to the Director and Oklahoma Commission for Human Services.

"Advocate" means a person who speaks for or on behalf of a service recipient, especially when individual rights or interests are at risk.

"Age appropriate" means that aspect of normalization that reinforces recognition of an individual as a person of his or her chronological age.

"Alternative appropriate setting" means a setting, other than a nursing facility, in which needed habilitation services are provided, including an intermediate care facility for the mentally retarded (ICF/MR) or Home and Community-Based Services (HCBS).

"Assessment" means the process of identifying one or more processes that are used to obtain information about a service recipient, including his or her condition, personal goals and preferences, functional limitations, health status, or other factors relevant to the authorization or provision of services. Assessment information supports the determination that an individual requires services as well as the development of the Individual Plan.

- (A) ~~a service recipient's:~~
 - (i) ~~present developmental or functional level;~~
 - (ii) ~~health status;~~
 - (iii) ~~developmental strengths and needs; and~~
 - (iv) ~~environment; and~~
- (B) ~~other conditions that support or impede the service recipient's development.~~

"Back-up-plan" means provision for alternative arrangements for the delivery of services that are critical to the service recipient's well-being in the event the provider responsible for furnishing the service fails, is unable to deliver the services, or the home where the person lives is no longer available.

"Capacity to give informed consent" means the ability to make and express voluntary decisions, given correct and sufficient information about the nature, purpose, risks, and benefits of a proposed service or action, and has not been adjudicated incapacitated by a court for purposes of the decision.

"Case manager" means a an OKDHS DDSD professional who is responsible for ensuring services to assisting a service recipient are planned and provided in a coordinated fashion through independent advocacy, brokerage, and monitoring activities with, and on behalf of, service recipients gain access to needed medical, social, educational, or other services per OAC 317:30-5-1010.1. Case management activities may include assessment, plan development, plan implementation and monitoring, as well as assistance in accessing services and other resources.

"Challenging behavior" means a behavior that, by its frequency or degree of intensity:

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(A) places ~~at risk~~ a service recipient's physical safety, environment, relationships, or participation in the community at risk; or

(B) creates a risk of involvement in civil or criminal processes.

"Client Contact Manager (CCM)" means a computer software system used by DDS case managers to collect and monitor case management data for all service recipients.

"Community Integrated Employment (CIE)" means a service program that provides placement, job training, and short-term or long-term supports to assist service recipients in achieving and maintaining employment within the community.

"Confidential information" means:

(A) information related to a service recipient generated by OKDHS or contract providers; and

(B) observations of and discussions concerning service recipients, their families, guardians, or friends.

"Consumer" means a person who is a direct recipient or beneficiary of service planning and delivery and is synonymous with client, service recipient, ~~and individual, served and member in Oklahoma Health Care Authority (OHCA) policy.~~

"Contract provider or agency" means an agency or person rendering services to persons with developmental disabilities under a contractual agreement with OKDHS or ~~Oklahoma Health Care Authority (OHCA).~~

"Convalescent care" means nursing facility care:

(A) following a person's release from an acute care hospital that is part of a medically prescribed period of recovery; and

(B) that is not expected to exceed an established number of days.

"DDSD" means Developmental Disabilities Services Division, ~~an operating unit~~ of OKDHS.

"Developmental disability" means a severe chronic disability of a person that:

(A) is attributable to a mental or physical impairment or combination of mental and physical impairments;

(B) is manifested before the person attains age 22;

(C) is likely to continue indefinitely;

(D) results in substantial functional limitations in three or more of the areas of major life activity that are:

- (i) self-care;
- (ii) receptive and expressive language;
- (iii) learning;
- (iv) mobility;
- (v) self-direction;
- (vi) capacity for independent living; and
- (vii) economic self-sufficiency; and

(E) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.

"Family homes" means residences maintained by persons biologically related to a person receiving services.

"Family training" means activities designed to equip family members, significant others, and persons with developmental disabilities with knowledge and skills that allow a family member with developmental disabilities to remain in or return to his or her home.

"Goals" means long-term categorical statements that describe what the service recipient is expected to achieve in a given time frame and are used synonymously with outcomes.

"Guardian" means a person appointed by a court as general or limited guardian of the person, general or limited guardian of property, special guardian, or temporary guardian as provided by state statutes to ensure the essential requirements for the health and safety of the ward are met, to manage the estate or financial resources of the ward, or both.

"Guardian ad litem" means a person appointed by a court to represent the interests of a person in a legal action.

"Habilitation services" means goal-directed services and therapy activities:

(A) designed to assist a service recipient to ~~achieve greater mental, physical, and social development acquire a variety of skills including self-help, socialization, adaptive skills, and prevent loss of skills;~~ and

(B) based on the service recipient's capacity to ~~make progressively independent and responsible decisions about~~ increase the level of physical, mental, and social functioning:

(i) ~~social behavior;~~

(ii) ~~quality of life;~~

(iii) ~~job satisfaction; and~~

(iv) ~~personal relationships.~~

"Human Rights Committee" means the committee charged with the responsibility for external monitoring and advocacy to address protection of individual rights.

"ICF/MR" means an intermediate care facility for the mentally retarded that is:

(A) a residential facility licensed in accordance with Oklahoma law; and

(B) certified by the federal government as a provider of Medicaid services to persons who have mental retardation (MR) or related conditions.

"Incapacitated" means a determination made by the court that a person is unable to provide for and make decisions for the person's own needs and safety.

"Individual Plan (Plan)" means a ~~plan of intervention~~ written document developed by the Team based upon assessment of need. The Plan:

(A) specifies outcomes being pursued on behalf of the service recipient, steps being taken to achieve outcomes, and all services and supports necessary to achieve outcomes; and

(B) is a single, comprehensive plan that encompasses all relevant components of the service recipient's life. Various aspects of the Plan are assigned to those persons or agencies designated by the Team to provide services.

"Intake" means the process by which a person gains access to DDS services. Intake staff:

(A) provides answers to specific service inquiries;

- (B) assists in the identification of needs in times of crisis;
- (C) supplies information regarding the range and means of accessing available services;
- (D) provides assistance as necessary in service application; and
- (E) facilitates eligibility determination.

"Integrated employment site" means a location or activity that provides regular interaction for service recipients with persons without disabilities, excluding service providers, to the same extent that a worker without disabilities in a comparable position interacts with others.

"Intrusive procedure" means a procedure that impinges upon the bodily integrity of the service recipient, per OAC 340:100-5-57 and OAC 340:100-5-58. Intrusive procedures include, but are not limited to:

- (A) use of injections or oral medications administered for the sole purpose of controlling behavior;
- (B) physical management or physical restraint; and
- (C) mechanical restraints for medical reasons.

"Job coach" means a person who holds an OKDHS approved job coach certification and provides ongoing support services to service recipients in supported employment placements. Services directly support the service recipient's work activity, including:

- (A) marketing and job development;
- (B) job and work site assessment;
- (C) training and assessment;
- (D) job matching procedures;
- (E) developing co-worker supports; and
- (F) teaching job skills.

"Least restrictive alternative" means services and supports ~~maximize that cause the least disruption or change in the service recipient's circumstances and maximizes the service recipient's independence and freedom and are provided in a manner that is the least restrictive and intrusive possible to meet the service recipient's needs.~~

"Long-term resident" means any resident of a nursing facility with ~~MR~~ mental retardation (MR) or related conditions who has continuously resided in a nursing facility for at least 30 consecutive months prior to the date of the first preadmission screening and resident review (PASRR) disposition.

"Mental retardation (MR)" means a condition, per Diagnostic and Statistical Manual of Mental Disorders (DSM), that:

- (A) refers to substantial limitations in present functioning;
- (B) manifests before age 18; and
- (C) is characterized by significantly subaverage intellectual functioning, existing concurrently with related limitations in two or more of the applicable adaptive skill areas of:
 - (i) communication;
 - (ii) self-care;
 - (iii) home living;
 - (iv) social skills;
 - (v) use of community resources;
 - (vi) self-direction;

- (vii) health and safety;
- (viii) functional academics;
- (ix) leisure; and
- (x) work.

"Monitoring" means the ongoing observation and analysis of the provision of services to determine whether they are furnished according to the plan and effectively meet the service recipient's needs, including whether services adequately protect their health and welfare. Monitoring activities may include, but are not limited to telephone contact, observations and interviewing the service recipient, family, or service provider.

"Natural supports" means assistance provided by a person, such as a service recipient's family, friend, co-worker, or neighbor, or member of a service recipient's club, church, or interest group, or others in the service recipient's community, who:

- (A) is not paid specifically to provide assistance to the service recipient; and
- (B) provides assistance voluntarily.

"Non-prescription medication" means a pharmacological drug that is sold without a prescription, and prepackaged for use by the service recipient, and labeled in accordance with requirements of state and federal statutes and regulations.

"Nursing facility" means an Oklahoma Medicaid-certified institution providing skilled nursing and related services, excluding a facility certified as ICF/MR.

"Personal Support Team (Team)" means the ~~decision-making body for service planning, implementation, and monitoring participants in the service recipient's assessment and planning process of the service recipient's Plan~~ and includes:

- (A) the service recipient; and
- (B) service recipient's:
 - (i) case manager;
 - (ii) legal guardian; and
 - (iii) when applicable, advocate, who may be a parent, family member, friend, or another who knows the service recipient well; and
- (C) others, including service providers, whose participation is necessary to achieve the outcomes desired by the service recipient.

"Physical management" means an intrusive procedure involving any physical guidance of a service recipient to overcome resistance or brief upper body hold to ensure safety per OAC 340:100-5-57.

"Physical restraint" means an intrusive procedure in which the service recipient is physically held to restrict movement.

"Physical Status Review" means Form 06HM007E, Physical Status Review, that is a written assessment identifying a service recipient's ability to attend to activities of daily living based on past and present health history and current treatment modalities. Completed Form 06HM007E assists the service recipient and Team in identifying the:

- (A) service recipient's health care level;
- (B) staff training requirements;
- (C) health care coordination needs; and

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(D) in-depth assessment needs.

"Plan of Care (POC)" means a summary listing of services ~~prescribed~~ requested as a result of needs identified within the Plan that indicates the amount, duration, and cost of each service recommended for funding through DDS HCBS Waivers.

"Preadmission screening and resident review (PASRR)" means the process of evaluating, reviewing, and establishing the need for nursing facility services in contrast to other services for persons with MR and related conditions.

"Prescription medication" means any drug ordered by a practitioner of medicine, dentistry, osteopathy, optometry, or podiatry who is licensed by law to prescribe a drug intended to be filled, compounded, or dispensed by a pharmacist.

"p.r.n." means to take or administer a medication as needed.

"Program coordinator" means a person employed by a DDS residential or group home contract provider agency who is responsible for the supervision, coordination, and monitoring of services provided by the contract agency to a service recipient.

"Program manager" means a person employed by a DDS employment contract provider agency who is responsible for the supervision, coordination, and monitoring of services provided by the contract agency to a service recipient.

"Psychotropic medication" means a pharmacological drug used to treat a mental disorder, or any drug prescribed to stabilize or improve mood, mental status, or behavior.

"QMRP" means a qualified mental retardation professional who meets ICF/MR regulations specified in Section 483.420 of Title 42 of the Code of Federal Regulations (~~CFR~~) (42 CFR § 483.420). A QMRP must have a baccalaureate degree in a human services field, in addition to one year of experience serving persons with MR.

"Related condition" means a severe chronic disability, per 42 CFR § 435.1009, that:

- (A) is attributable to:
 - (i) cerebral palsy;
 - (ii) epilepsy; or
 - (iii) any other condition, including autism. Any other condition excludes mental illness (MI) that is closely related to MR as it results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with MR and requires treatment or services similar to those required for persons with MR;
- (B) is manifested before the person reaches age 21;
- (C) is likely to continue indefinitely; and
- (D) results in substantial functional limitations in three or more areas of major life activity, including:
 - (i) self-care;
 - (ii) understanding and use of language;
 - (iii) learning;
 - (iv) mobility;
 - (v) self-direction; and
 - (vi) independent living.

"Restrictive procedure" or "restriction" means a procedure ~~those that~~ results in the limitation of the service recipient's

rights, per OAC 340:100-5-57 and OAC 340:100-5-58, and includes:

- (A) limiting communication with others;
- (B) any limitation of access to:
 - (i) leisure activities;
 - (ii) the service recipient's own money or personal property; and
 - (iii) goods or services beyond normal budgetary considerations;
- (C) any limitation of movement at home or in the community; or
- (D) any direct observation procedures, specified as a result of challenging behavior, such as continuous one-to-one staffing during times or places that would otherwise be considered private.

"Sheltered employment" means a service that:

- (A) assists service recipients toward achieving their vocational potential through a controlled work environment;
- (B) provides worker reimbursement in accordance with individual production and Fair Labor Standards Act (FLSA); and
- (C) includes assessment, training, and transitional programming leading to community job placements.

"Sheltered workshop" means a facility that ~~provides~~ provides vocational contracts with DDS to provide employment training and sheltered employment services for workers with disabilities.

"Short-term resident" means any resident with MR or related conditions who has resided in a nursing facility for less than 30 months prior to the date of the first PASRR disposition.

"Specialized services" means individualized services specified in PASRR evaluations completed by DDS that, combined with services provided by the nursing facility or other service providers, results in a treatment regimen leading to the continued and ongoing enhancement of independence.

"Supplemental Security Income (SSI)" means a federal income subsidy program administered by Social Security Administration.

"Supported employment" means competitive work in an integrated work setting with ongoing support services for service recipients with severe disabilities for whom competitive employment has not traditionally occurred or has been interrupted or intermittent as a result of severe disabilities.

~~**"Supported living arrangements"** means a flexible array of habilitation and support services ranging from 24-hour in-home services to semi-independent living services that provides an opportunity for an adult with developmental disabilities to live in his or her own home.~~

"Terminal illness" means, as certified by a physician, a person has a medical prognosis of life expectancy of six months or less if the illness runs its natural course.

"Transition" means the planned movement of a service recipient from one service setting to another, occurring as a result of Team recommendation and informed consent of the service recipient.

"Treatment team for specialized services" means the team whose purpose is to develop a prescribed plan of specialized services for each service recipient. The team:

- (A) is composed of the service recipient, guardian or advocate, nursing home representative, and other professionals and para-professionals as needed to develop a comprehensive plan of services; and
- (B) may include a psychologist, physical therapist, speech pathologist, physician, and nurse's aide among others.

"Vocational assessment" means the employment service evaluation, whether standardized procedures are employed, that:

- (A) identifies unique preferences, strengths, and needs of the service recipient;
- (B) evaluates work skills and work behaviors;
- (C) is supplemented by personal interviews and behavioral observations; and
- (D) incorporates information that addresses the service recipient's:
 - (i) medical;
 - (ii) physical;
 - (iii) psychological;
 - (iv) social;
 - (v) cultural;
 - (vi) educational goals and objectives; and
 - (vii) present and future employment options.

"Volunteer guardian" means a person unrelated to the service recipient who:

- (A) serves as guardian for the service recipient and is trained and certified by the volunteer guardianship agency; and
- (B) is appointed by and responsible to the court to ensure essential requirements for the health and safety of the service recipient are met.

"Ward" means a person for whom a guardian is appointed by the court.

SUBCHAPTER 3. ADMINISTRATION

PART 1. GENERAL ADMINISTRATION

340:100-3-4. Service recipient personal funds

(a) **General information.** Each service recipient receiving services from Developmental Disabilities Services Division (DDSD) is ensured access to his or her personal funds.

- (1) Personal funds ~~means~~ include income from all sources, earned or unearned, and assets.
 - (A) Income is money received in the current month.
 - (B) Any income not used to meet the service recipient's needs during the current month is a resource or asset of the service recipient in the following month(s).
- (2) Services do not include the provision of room and board or personal spending. Each service recipient is responsible for meeting his or her room and board and

personal spending needs including, but not limited to; healthcare, medications and co-pays not provided by Medicare, Medicaid or other health insurance, legal fees, vacation costs, recreation and social expenses, educational expenses, clothing, furniture or household items. After the service recipient's day-to-day needs for food and shelter are met, personal funds may be used for the service recipient's needs such as recreation, clothing, and other expenses. The provider agency staff and Personal Support Team (Team) work with the service recipient, as needed, to ensure that all needs are met.

(b) **Prohibited transactions.** Provider agency and DDSD employees are prohibited from engaging in any financial transaction with a service recipient, including:

- (1) giving gifts to a service recipient with a cumulative annual value more than \$100;
- (2) accepting gifts from a service recipient with a cumulative annual value more than \$20;
- (3) selling, purchasing, leasing, or trading any item except:
 - (A) as part of an established business in which fair market value is received; or
 - (B) when approved in advance in writing by the Team;
- (4) borrowing personal funds or any item of value from the service recipient; and
- (5) loaning funds to a service recipient, except:
 - (A) loaning small amounts, such as money for a meal or a recreational activity, for periods of time less than 24 hours; or
 - (B) as part of a program authorized in advance in writing by the Team.

(c) **Living expenses.** The provider agency:

- (1) may lend funds to a service recipient to cover the service recipient's living expenses in expectation that funds will be available in the future that enable the service recipient to repay the loan; and
- (2) must submit ongoing written reports to the Team regarding the status of the service recipient's financial condition and the status of the loan ~~or~~ repayment.

(d) **Protection of personal funds.**

(1) Per OAC 340:100-3-1.2, each service recipient when not in conflict with a guardianship order or representative payee agreement, has the right to manage, be taught to manage, receive assistance in managing his or her financial affairs, and access all financial records regarding his or her personal funds.

(2) When a provider agency serves as representative payee, or when staff provide assistance in managing, or have access to personal funds for service recipients receiving community residential supports or group home services:

(+A) ~~The~~ the provider agency retains, safeguards, and accounts for the service recipient's personal funds when determined necessary by the service recipient's Team and as authorized by the service recipient, applicable guardian, or when the provider agency is the representative payee; and

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(2) ~~Per OAC 340:100-3-1.2, each service recipient has the right to manage, be taught to manage, receive assistance in managing his or her financial affairs, and access all financial records regarding his or her personal funds.~~

~~(B) regular allowances or spending programs may be implemented on an individual basis, provided they are requested by the service recipient, guardian, or parent of a minor service recipient and reviewed by the service recipient's Team. The specific amount of the allowance is documented in the service recipient's Individual Plan (Plan). An allowance consists of a fixed amount of money regularly given to the service recipient to spend as he or she wishes.~~

(3) Staff who have access to or assist the service recipient with personal funds, ensures:

(A) the service recipient's personal funds are not co-mingled with provider agency funds;

(B) a separate financial record is maintained for each service recipient that includes receipts for all expenditures that are:

- (i) more than \$5; and
- (ii) made with provider agency staff involvement;

(C) a written accounting of the service recipient's personal funds is maintained; and

(D) a summary of financial transactions is available to the service recipient, guardian, DDS case manager, and the Office of Client Advocacy (OCA) advocate, if involved:

- (i) monthly; and
- (ii) when the service recipient ceases receiving service from the provider agency;

(E) copies of the written accounting and summary of financial transactions are provided to the service recipient, guardian, case manager, and OCA advocate if involved, upon request.;

(F) service recipient's personal funds account is reconciled at least monthly by provider agency staff who does not have authority to disburse funds from or responsibility to deposit funds to, the account;

(G) documentation is maintained to support all transactions involving the service recipient's personal funds that are not independently controlled by the service recipient;

(H) service recipient's income is deposited to the service recipient's personal account within seven days of receipt;

(I) when the service recipient's income is held in an interest bearing account, the interest accrues to the service recipient;

(J) any personal cash not in the service recipient's possession is properly protected against theft;

(K) service recipient receives requested funds within one banking day of request;

(L) service recipient, parent of a minor service recipient, guardian, or representative payee, as applicable, and DDS case manager are advised of eligibility requirements when the service recipient's

account accumulates ~~\$1200~~—\$1100; unless the IP includes specific provisions to maintain Medicaid eligibility;

(M) service recipient's personal funds are not used to supplement service rates or to purchase items that are part of the services that the service recipient is currently authorized to receive;

(N) prior to receiving services from a provider agency, a written agreement is executed between the service recipient, or guardian as applicable, and provider agency. Copies of the agreement are provided to each party and filed in the service recipient's record. The agreement includes:

- (i) responsibilities of the provider agency to the service recipient in handling the service recipient's personal funds;
- (ii) service recipient's fiscal responsibilities; and
- (iii) services for which the service recipient's personal funds must be used;

(O) all requested financial information necessary for the maintenance of the service recipient's financial eligibility is provided to Oklahoma Department of Human Services (~~OKDHS~~) and the Social Security Administration in a timely manner;

(P) service recipient receives choices in the selection of stores for the purchase of food, clothing, and personal items; and

(Q) except for minor repairs service recipient's personal funds are not used to make permanent modifications to a home not owned by the service recipient.

(4) For service recipients not receiving community residential supports or group home services that do not meet the criteria established in paragraph (2) of this subsection; the Team discusses and documents the party responsible for maintaining and planning for continued participation in Medicaid and other benefit programs for which the service recipient is eligible.

(45) Allegations of exploitation must be reported in accordance with OAC 340:2-3-33. When a provider agency is a service recipient's representative payee, it must fulfill its duties in accordance with applicable federal regulations which that define those duties.

(e) **Team planning and assistance to manage personal funds.** The Team may limit, but not totally deny, a service recipient without a guardian access to or use of his or her personal funds only when a determination is made, per OAC 340:100-3-4, that the limitation is essential to prevent the service recipient from unreasonably or significantly dissipating his or her personal funds.

(1) The Team follows rules per OAC 340:100-3-1.2.

~~(2) Regular allowances or spending programs may be implemented on an individual basis, provided it is requested by the service recipient, guardian, or parent of a minor service recipient and reviewed by the service recipient's Team. The specific amount of the allowance is documented in the service recipient's Individual Plan (Plan). An allowance consists of a fixed amount of money~~

~~regularly given to the service recipient to spend as he or she wishes~~

(3) Justification for limiting access to and use of personal funds is documented in the service recipient's Plan. The Team develops a Plan to remove the restriction and includes specific dates to review the Plan.

(4) The Team ensures the service recipient is afforded due process prior to implementation of any financial restrictions.

(5) When determining whether to limit a service recipient's access to personal funds, the Team addresses whether the service recipient:

- (A) ~~is able to recognize~~ recognizes currency, coins, and value of such;
- (B) does not lose money regularly;
- (C) does not leave money ~~lying around~~ unattended;
- (D) does not give money away;
- (E) has the ability to make change or knows when to wait for change;
- (F) shows responsible behavior regarding his or her money, paying bills on time, writing checks only when he or she has sufficient funds, and saving or planning for special items;
- (G) understands his or her responsibility to pay room and board expenses; and
- (H) understands budgeting so money will last all month.

(f) **Payee responsibilities.** In addition to the requirements of OAC 340:100-3-4 persons and organizations serving as representative payee for a service recipient's personal funds are responsible for obtaining a copy of the dispersing agency's regulations regarding representative payee responsibilities and adhering to the dispersing agency's requirements.

- (1) The service recipient, guardian, or representative payee is responsible for paying for room and board from the service recipient's income.
- (2) A provider agency serving as payee uses direct deposit of benefits, ~~if~~ when available.

PART 3. ADMINISTRATION

340:100-3-29. Foster Grandparent Program

All foster grandparent volunteer activities and requests for ~~senior~~ 55 years of age or older are recorded and monitored through the Oklahoma Department of Human Services (OKDHS) Foster Grandparent Program Office, in accordance with the Domestic Volunteer Service Act (DVSA) of 1973, Public Law (P.L.) 93-113, as stated in the current Foster Grandparent Program Operations Handbook, ~~April 2000~~.

- (1) Foster Grandparent Program volunteers ~~work with children, chronologically 21 years of age or less~~ provide services to persons younger than age 22.
- (2) Volunteers receive an hourly stipend if total household income is within the National Senior Service Corps (NSSC) guideline.
- (3) Volunteers ~~work~~ provide services no more than 2,088 hours per year.

(4) Volunteers receive all benefits as stipulated in the Corporation for National and Community Service, NSSC CNCS Foster Grandparent Program Operations Handbook.

(5) A background check is completed prior to a potential foster grandparent serving as a volunteer and every three years thereafter. The background check includes ~~checks of:~~

- (A) ~~the sex-offender registry~~ Sex Offender Registry;
- (B) the Developmental Disabilities Services Division (DDSD) Community Services Worker Registry;
- (C) an Oklahoma State Bureau of Investigation name and criminal records history search background;
- (D) the Mary Rippy Violent Crime Offenders Registry; and
- (~~E~~) traffic a Department of Public Safety history.

(6) Prior to volunteering and annually thereafter, the foster grandparent must have an OKDHS vendor contract in force for the reimbursement of travel, meals, or stipends if applicable.

(7) ~~Foster Grandparent~~ DDSD staff ~~submit~~ submits monthly expenditure reports to the OKDHS Finance Division federal programs accountant.

340:100-3-38.5. Training requirements for staff providing supports in family's or service recipient's home through an In-Home Supports Waiver

(a) **Applicability.** OAC 340:100-3-38.5 sets forth training requirements for staff providing direct supports funded through an In-Home Supports Waiver (IHSW) in the family's or service recipient's home. Staff providing employment supports must complete training per OAC 340:100-3-38.2.

(b) **New employee training.** No later than 30 days following the date of hire, staff providing direct supports or supervising at any level the delivery of direct supports must complete the first available Developmental Disabilities Services Division (DDSD) approved foundation training course and effective teaching course. The supervisory staff training requirement does not apply to the service recipient or representative who is self-directing services per OAC 317:40-9-1. The person directing services per OAC 317:40-5-114 must complete the approved self-directed services training course. The first available class is the first unfilled class held within 60 miles of ~~the~~ staff's work location following ~~the~~ staff's date of hire.

(c) **First aid and cardio-pulmonary resuscitation (CPR).** All direct support staff must be certified in an approved course of first aid and CPR before providing services alone or with other untrained staff.

- (1) First aid and CPR certification of ~~each~~ staff must occur within 90 days following employment.
- (2) The service recipient's Personal Support Team (Team) may determine, based on the service recipient's needs, if staff must receive first aid and CPR certification in less than 90 days.

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(d) **Medication administration training.** Staff must be certified in an approved medication administration course, per OAC 340:100-3-38.10, before administering medication to a service recipient or assisting with a service recipient's medication support plan.

(e) **Individual-specific in-service training.** Individual-specific in-service training is identified for direct support staff in the service recipient's Individual Plan (Plan) for implementation and consistency of supports and programs and to ensure the service recipient's health and welfare.

(1) The service recipient's Team specifies required time frames for completion of individual-specific in-service training. If time frames are not identified in the Plan, required individual-specific in-service training must be completed before working with the service recipient.

(2) As the service recipient's needs require changes in supports or programs, the Team documents in the Plan, or in addenda to the Plan, any new or additional in-service training required, with time frames for completion.

(3) The Team identifies the person responsible for providing individual-specific training and verifies staff has knowledge and skills necessary to provide the identified services. Videos may be used when approved by the Team.

(f) **Job-specific training.** Staff must complete:

(1) within 90 days after date of assignment, Health course; and

(2) within six months after date of assignment:

(A) Communication course; and

(B) Skill Building course.

(g) **Specialized training.** Additional specialized training courses may be required for direct support staff working with service recipients who have significant health and physical support issues or behavior support issues.

(1) If specialized health and physical support training courses are identified in the Plan, staff must complete the courses before working alone or with other untrained staff, but no later than 60 days after starting work with the service recipient.

(2) Staff serving a service recipient with a protective intervention plan that includes non-restrictive intervention techniques must be trained on these techniques before use.

(3) Completion of an approved behavior support course is required for direct support staff serving a service recipient with a protective intervention plan that:

(A) addresses challenging behavior that places the service recipient's physical safety, environment, relationships, or community participation at serious risk; and

(B) contains one or more of these procedures: ~~in (i) through (iv).~~

(i) ~~Physical~~ physical guidance to overcome resistance;

(ii) ~~Physical~~ physical guidance to move to safety;

(iii) ~~Physical~~ physical hold to restrict movement; or

(iv) ~~Intensified~~ intensified staffing to ensure safety.

(4) The approved behavior support course is identified in the Plan and must be completed before working alone or with other untrained staff, but no later than 60 days after starting work with the service recipient.

(5) Staff must complete the approved physical management course before using any technique of physical management identified in a protective intervention plan. If an approved protective intervention plan includes physical management procedures, the chief executive officer or designee of each provider agency verifies conditions per OAC 340:100-3-38.5(g) are met before securing training on the procedures.

(A) All staff ~~to be trained~~ must complete foundation training with the approved effective teaching course and behavior support course.

(B) Staff working with the service recipient implements the positive components of the plan, as well as non-intrusive procedures to assist the service recipient during a crisis.

(C) The protective intervention plan must be reviewed by the provider agency, Human Rights Committee, and approved by the Statewide Behavior Review Committee.

(D) Training in physical management procedures occurs only within the requirements per OAC 340:100-3-38.5(g).

(E) Only staff and staff supervisors who provide support to the service recipient are trained on use of a physical management procedure.

(F) Staff formally trained to use physical management procedures do not use those techniques with other service recipients, except in emergencies per OAC 340:100-5-57.

(G) Training curricula regarding behavior support are approved by the DDS director of human resource development and DDS director of psychological and behavioral supports.

(6) If the DDS director of psychological and behavioral supports or positive support field specialist grants emergency authorization per OAC 340:100-5-57 of a protective intervention plan that includes physical management procedures, training is provided only to staff who complete or enroll in the courses per OAC 340:100-3-8.5(g).

(7) Training regarding physical management procedures must be obtained from certified DDS trainers.

(8) Staff must complete ~~an~~ annual retraining on the specific procedures in the protective intervention plan.

(h) **Ongoing training.** All direct support staff employed by contract agencies ~~who~~ that provide services funded through an IHSW complete 12 hours of annual training. Annual training may come from:

(1) required re-certification classes in first aid, CPR, and medication administration training;

(2) courses per OAC 340:100-3-38(b)(1);

- (3) courses, conferences, or workshops approved by the DDS director of human resource development;
- (4) individual-specific training; or
- (5) agency-specific in-services.
- (i) **Certification of competency.** If the service recipient, if applicable, legal guardian, or parent(s) of a minor service recipient determines the person chosen to provide services has demonstrated competency in providing care to the service recipient, the service recipient, legal guardian, or parent(s) may exempt the person from training requirements, per OAC 340:100-3-38.5, by signing Form 06IS037E, In-Home Supports Waiver - Certificate of Competency.
 - (1) The exemption from training is intended to allow services to be provided by a friend, neighbor, family member, or other person who has been trained and deemed competent by the service recipient, or if applicable, legal guardian or parent(s) of a minor service recipient.
 - (A) No person may coerce or in any way influence a service recipient, legal guardian, or family member to sign Form 06IS037E.
 - (B) Violation of this prohibition may result in sanctions per OAC 340:100-3-27.
 - (2) If a service recipient, if applicable, legal guardian, or parent(s) of a minor service recipient chooses to exempt staff from training, neither Oklahoma Department of Human Services (OKDHS) nor the employing contract agency is liable in the event of harm, attributable to lack of training, to the service recipient while in the care of contract agency staff.
 - (3) If an adult service recipient without a legal guardian chooses to exempt staff from training, training requirements are not waived without written concurrence, on Form 06IS038E, In-Home Supports Waiver - Family Member's Statement, from a parent(s) or family member closest to the service recipient.
 - (4) The provider agency employing the staff may require training not included in the exemption.
 - (5) All staff, regardless of signed Form 06IS037E, must successfully complete:
 - (A) certification in first aid and CPR before working alone or with untrained staff, but no later than 90 days after starting work with the service recipient;
 - (B) an approved medication administration course per OAC 340:100-3-38.10; and
 - (C) individual-specific in-service training per OAC 340:100-3-38.5(e).
 - (6) Form 06IS037E:
 - (A) is valid for no longer than one year; and
 - (B) may be withdrawn at any time by the service recipient, if applicable, legal guardian, or parent(s) of a minor service recipient by writing to the DDS case manager and provider agency.
 - (7) OKDHS may withdraw the exemption from training at any time.
- (j) **Exceptions.** Exceptions to training requirements per OAC 340:100-3-38.5 may be made by the DDS director or designee.

SUBCHAPTER 5. CLIENT SERVICES

PART 1. ADMISSION AND SAFEGUARDS

340:100-5-3. Emergency Services

- (a) **General information.** Emergency Services are support services ~~which that~~ provide short-term relief to individuals and their families or caregivers to prevent out-of-home placement, and to ensure the health and welfare of the individual.
 - (1) Emergency Services are provided to resolve an emergency situation and only after all other resources have been exhausted.
 - (2) The use of Emergency Services is intended to eliminate identified issues ~~which that~~ jeopardize health, safety, or continued home residence of the individual.
 - (3) The rules in this Section do not apply to individuals who receive services through a Home and Community-Based Waiver (HCBW).
- (b) **Services provided.** Emergency Services include:
 - (1) habilitation training specialist (HTS) services;
 - (2) homemaker services;
 - (3) respite services;
 - (4) transportation services;
 - (5) adaptive equipment;
 - (6) medical supplies, medications, or food supplements;
 - (7) utilities; and
 - (8) other services as requested and approved on an individual basis.
- (c) **Eligibility.** Emergency Services may be offered to an individual who:
 - (1) ~~is a resident of the State of an~~ Oklahoma resident;
 - (2) has been determined to have mental retardation or a related condition ~~as defined at per~~ OAC 340:100-1-2;
 - (3) is age six or older;
 - (4) is not receiving services funded through the ~~Home and Community Based Waivers HCBW~~;
 - (5) is not residing in a nursing facility, or intermediate care facility for persons with mental retardation (ICF/MR); and
 - (6) has no financial resources or other means of resolution to the emergency.
- (~~d~~) **Other eligibility considerations.** ~~Emergency Services may also be offered to a person who meets the criteria in subsection (c) and:~~
 - (~~1~~) ~~is receiving the Family Support Assistance Payment as defined in OAC 340:100-13-1. Special authorization from the DDS Division Administrator or designee is required and results in suspension of the Family Support Assistance Payment for the period during which Emergency Services are received; or~~
 - (~~2~~) ~~is hospitalized and has been determined in writing by DDS medical staff to require HTS services. Emergency HTS services in a hospital setting may not exceed eight hours per day.~~
- (~~ed~~) **Service requirements.** Emergency Services are:
 - (1) based on need;

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- (2) individualized; and
- (3) flexible in meeting the needs of the person.
- (fe) **Administration.** Emergency Services are:
 - (1) authorized in writing prior to service delivery by the Developmental Disabilities Services Division (DDSD) Programs—Administrator programs administrator for Community Services or designee;
 - (2) funded through the State of Oklahoma without federal subsidy;
 - (3) initiated by DDSD ~~Area Office~~ area office intake staff who identify persons who:
 - (A) meet the eligibility requirements in this Section; and
 - (B) have needs ~~which~~ that can be resolved through use of Emergency Services;
 - (4) evaluated individually by the DDSD ~~Division Administrator~~ division administrator or designee;
 - (5) not an entitlement to services from the Oklahoma Department of Human Services;
 - (6) provided contingent upon availability of resources; and
 - (7) authorized for up to a 90-day period for a total amount not ~~to exceed~~ exceeding \$750. Extension of services beyond 90 days or in excess of \$750 may be authorized by the DDSD ~~Division Administrator~~ division administrator or designee on an individual basis upon receipt of a written request ~~which~~ that includes justification for the extension as set forth in subsection (a) of this Section.

PART 3. SERVICE PROVISIONS

340:100-5-20. Respite Voucher Program

(a) **Applicability.** The rules in this Section apply to the respite voucher program operated by the Oklahoma Department of Human Services (OKDHS) Developmental Disabilities Services Division (DDSD). When funding resources are sufficient, DDSD may use funds for the provision of respite vouchers. For the purpose of this Section, respite is defined as temporary relief for caregivers and families who are caring for a family member with developmental disabilities.

(b) **Eligibility.**

- (1) Respite vouchers may be issued for caregivers of persons who:
 - (A) do not receive services through a Home and Community- Based Services (HCBS) Waiver; and
 - (B) do not receive the Family Support Assistance Payment.
- (2) The voucher applicant must:
 - (A) be an Oklahoma resident;
 - (B) care full-time for an eligible person with a developmental disability, demonstrated by any of the following:
 - (i) doctor's statement or diagnosis;
 - (ii) SoonerStart scores;
 - (iii) school test scores;
 - (iv) psychological evaluations; or

(v) statement from a licensed therapist; and

(C) have an adjusted gross income of \$60,000 or less.

(c) **Respite voucher application.**

- (1) Applications for respite vouchers are available through the Oklahoma Areawide Services and Information System (OASIS).
 - (2) Completed applications are submitted to OASIS. A completed application must include a copy of the most recent federal income tax return. When an applicant receives Supplemental Security Income, Temporary Assistance for Needy Families or SoonerCare, the federal income tax return is not required.
 - (3) Completed applications are sent by OASIS within seven working days to the DDSD respite programs manager for review and approval or denial within 30 days of receipt of the application.
 - (4) Incomplete applications are returned to the applicant for correction.
 - (5) The DDSD State Office considers respite voucher applications in chronological order of receipt.
- (d) **Issuance of respite voucher.** When an application for a respite voucher is approved, a respite voucher is issued to the caregiver applicant.

(1) A respite voucher is approved for use from the date of issuance and is valid for 90 days from the date issued.

(2) A caregiver may request up to four, \$400 vouchers per year, not to exceed \$1600, based on available funding.

(e) **Caregiver responsibilities.** Caregivers are responsible for:

- (1) interviewing and selecting the respite provider;
- (2) setting an hourly rate;
- (3) training the provider;
- (4) ensuring proper payment for services; and
- (5) tracking the number of respite hours used and total amount claimed against the voucher.

(f) **Submitting voucher for payment.** The caregiver and the respite care provider complete and sign the respite voucher and submit it to OKDHS Finance Division for payment.

(g) **Fair hearing.** Any person who has been denied a voucher; except for denials based on insufficient funding, may request a hearing per OAC 340:2-5.

340:100-5-22. Residential services

Residential services are provided contingent upon the availability of funding and resources. Provision of services may be determined by government regulations or the judiciary. Service recipients who require residential supports are provided services determined by the Personal Support Team (Team), per OAC 340:100-5-52, to represent the least restrictive appropriate setting possible.

(1) All referrals for residential services are processed per OAC 317:30 and OAC 317:40 or OAC 340:100.

(2) All service recipients must meet eligibility requirements per OAC 340:100 for residential services.

(3) The service recipient, family member, and, if applicable, guardian are included as part of the Team to identify residential service needs.

- (4) Residential services include:
 - (A) assisted living services per OAC 340:100-5-22.2;
 - (B) group home services per OAC 340:100-6;
 - (C) home- and community-based services options per OAC 340:100-5-22.1 and group home services per OAC 317:40-5-152;
 - (D) private intermediate care facility for the mentally retarded (ICF/MR);
 - (E) public ICF/MR programs at Northern Oklahoma Resource Center of Enid (NORCE) and Southern Oklahoma Resource Center (SORC) per OAC ~~317:30-3-43~~ 317:30-5-122. Service recipients who meet ICF/MR level of care requirements may be admitted to ~~the~~ public ICFs/MR for residential services when their individual circumstances indicate placement in a public ICF/MR is the least restrictive, most appropriate residential environment available.
 - (i) Service recipients who are able to receive services that meet their needs in less restrictive environments than a state-operated facility are not eligible for admission.
 - (ii) This does not preclude the provision of respite services or other emergency interventions that may require service recipients reside at NORCE or SORC for a time-limited period; and
 - (F) specialized public ICF/MR program at Robert M. Greer Center (Greer) per OAC 340:100-11.
- (5) No service recipient may move from NORCE or SORC without adequate supports in place as determined by the service recipient's Team.
- (6) Oklahoma Health Care Authority (OHCA) establishes eligibility and certifies level of care need for admission to private and public ICFs/MR per OHCA policy. Admission to public ICFs/MR must be approved by the Oklahoma Department of Human Services Director or designee.
- (7) Continued eligibility for appropriateness of services is addressed by the Team during annual development of the Individual Plan (Plan).
- (8) Specific residential support needs are determined through the Team process and documented in the service recipient's Plan. The services provided must be identified in the approved Plan.
- (9) The Developmental Disabilities Services Division (DDSD) case manager, agency program coordinator, or both ensure residential services are coordinated with all other services provided to the service recipient.
- (10) Contract providers are reimbursed for residential services at rates established by Oklahoma Commission for Human Services or OHCA.
- (11) Programs and facilities are monitored on a regular basis to ensure continued compliance with all applicable contract conditions, rules, and regulations. Monitoring reports documenting compliance with regulatory standards are maintained and used as a basis for contract renewal or termination.

- (12) Provider agencies are informed of, and provided an opportunity to correct deficiencies that may result in contract termination per OAC 340:100-3-27.1.

340:100-5-22.5. Supported living services

- (a) **Eligibility.** To assure that the daily living requirements of the class members are met, the Oklahoma Department of Human Services (OKDHS) provides a payment to the contract residential provider agency serving each person who:
 - (1) is a member of the class certified in Case Number 85-C-437-E, United States District Court for the Northern District of Oklahoma; and
 - (2) receives Daily Living Supports services ~~as described in OAC 317:40-5-150~~ per OAC 317:40-5-153.
- (b) **Service expectations.** The provider agency ensures that:
 - (1) all applicable rules of OKDHS and the Oklahoma Health Care Authority (OHCA) are met including:
 - (A) Community Residential Supports, OAC 340:100-5-22.1;
 - (B) Daily Living Supports, OAC 317:40-5-153;
 - (C) the Developmental Disabilities Services Division (DDSD) mission statement and guiding principles, OAC 340:100-1-3.1;
 - (D) community records rules, OAC 340:100-3-40;
 - (E) Individual Plan rules, OAC 340:100-5-50 through 100-5-58; and
 - (F) health services rules, OAC 340:100-5-26; and
 - (2) the class member's expenses for housing, food, clothing, recreation, utilities, medical services, property replacement, and transportation are met ~~in accordance with subsection (e) of this Section per OAC 340:100-5-22.5~~.
- (c) **Room and board payment.** The room and board payments support the class member's housing, food, clothing, recreation, and utility costs in accordance with this subsection.
 - (1) Each class member contributes an amount determined annually by DDSD, not to exceed 90% of his or her income, up to a maximum of 90% of the current Supplemental Security Income (SSI) payment for a single individual.
 - (A) The maximum may be exceeded by prior written agreement between the individual served or his or her guardian and the provider agency with the written approval of the director of DDSD or designee.
 - (B) OKDHS pays a supplement, equal to 90% of the SSI monthly payment for a single individual minus 90% of the class member's income, on behalf of each class member whose income and resources are insufficient for the person to contribute the maximum room and board payment explained in this paragraph.
 - (2) To supplement the individual's funds for meeting daily living requirements, OKDHS provides:
 - (A) a room and board provider payment at \$14 per day; and
 - (B) a residence size supplement provider payment to support the cost of a home, based on the number of individuals living in the home.

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- (i) For an individual with no roommate, the residence size supplement is \$10 per day.
- (ii) For an individual who has one roommate, the residence size supplement is \$6 per day.
- (iii) There is no residence size supplement for an individual living with more than one roommate.
- (iv) For the purposes of this subparagraph, an individual not listed in Case Number 85-C-437-E is not considered a roommate.
- (3) The provider agency completes a written financial agreement with the class member and chosen advocate(s) or the legal guardian ~~in accordance with~~ per OAC 340:100-5-22.1.
- (4) Room and board revenues must be accounted for separately from other provider agency funds.
- (A) Room and board revenues from OKDHS are managed by the provider to meet the needs of all individuals living in supported living arrangements.
- (B) Payments from OKDHS mentioned in paragraph (2) of this subsection are provider payments. They are not income to the class member and must not be deposited in the class member's bank account; nor is the provider required to account to the class member or Team regarding their use.
- ~~(B)C~~ Room and board payments from individuals served are used only to meet the needs of that individual.
- (5) Room and board revenues must be used, unless written approval is secured in advance from the DDS program administrator for community services, solely for:
- (A) housing costs and utilities;
- (B) groceries;
- (C) household maintenance;
- (D) recreation;
- (E) personal items and clothing;
- (F) household property insurance;
- (G) yard care; and
- (H) furnishings and appliances.
- (6) Room and board payments are authorized as long as the provider agency supports the individual to maintain a household.
- ~~(7) Payments from OKDHS mentioned in paragraph (2) of this subsection are not income to the class member and must not be deposited in the class member's bank account. Room and board payments cannot be used to support a roommate who does not receive DDS services, nor can the payment be used to modify or improve the home for the use or comfort of an existing or potential roommate that is not a recipient of DDS services. Any roommate must contribute a fair share to the cost of operating the household.~~
- (8) Room and board payments are used only to support a service recipient in one household and residence at any given time, except for a timeframe not to exceed 45 days for a transition.
- (d) **Medical supplement.** OKDHS reimburses the provider agency for the cost of necessary medical services that are not covered through Medicaid, Medicare, or other insurance; or for persons who are not Medicaid or Medicare eligible for any individual listed in Case Number 85-C-437-E. The medical supplement is not paid at a rate higher than allowed through the Oklahoma Medicaid Fee-for-Service Program unless approved by the DDS area manager in writing.
- (1) Co-payments for medical services are not covered by the medical supplement. Co-payments are the responsibility of the class member.
- (2) Non-prescription (over-the-counter) medications are not covered by the medical supplement. These are the responsibility of the class member.
- (e) **Property replacement supplement.** A maximum of \$850 per class member per fiscal year is reimbursed for replacement of unusable furnishings or necessary furnishings or appliances. Necessary furnishings and appliances include: refrigerators, stoves, washers, dryers, dining tables and chairs, sofas or love seats, recliners, lamps when there is no fixed lighting in the room, beds, dressers or chests of drawers, bookshelves, telephones, and safety items per OAC 340:100-5-22.1.
- (1) The provider agency submits a written property replacement request to the case manager that includes:
- (A) the furnishing or appliance to be purchased;
- (B) the reason the item is necessary; and
- (C) the age of the furnishing or appliance to be replaced.
- (2) The case manager reviews the written request, submits it to the area manager or designee within 14 days with a statement of their assessment of the need for the furnishing or appliance.
- (3) The area manager or designee reviews and responds to the request and assessment, within five days after considering:
- (A) whether the request includes necessary information;
- (B) whether the case manager assessment indicates need;
- (C) whether the household has or has disposed of usable items to meet the need; and
- (D) that items less than five years old are repaired whenever feasible; with the exception of lamps, telephones, or safety items.
- (4) Expenditures for property purchased with the property replacement supplement must not be reported as expenses against the room and board payment.
- (25) No reimbursement for replacement of worn out furnishings may occur during the first year of service.
- (36) The disposal of any furnishings purchased for class members under this supplement meets the requirements of this paragraph.
- (A) Any furnishings purchased through this supplement become the property of the class member.
- (B) Any funds received from the disposal of property belong to the class member.
- (C) The provider must document the disposal of furnishings in detail.

(D) When the provider believes that the disposal of property is not in the best interest of the class member, the issue is referred to the Personal Support Team for resolution.

(E) The replacement of usable appliances and furnishings that have been disposed of is the class member's responsibility.

(f) **Transportation supplement.** OKDHS pays a transportation supplement only when the provider agency supplies a vehicle for the exclusive use of each household and the combined mileage for all persons residing in the household totals less than 30 miles per day.

(1) To calculate the authorization for the transportation supplement:

(A) for a class member who does not require adapted transportation, subtract from 30 the number of authorized miles per day supplied to the individual, and multiply by \$0.25; or

(B) for an individual who requires adapted transportation, subtract from 30 the number of authorized miles per day supplied to the individual, and multiply by \$0.70.

(2) Waiver transportation ~~continues to be~~ is authorized ~~in accordance with~~ per OAC 317:40-5-103.

(g) **Fiscal accountability.** The provider agency follows fiscal accountability standards established in this subsection.

(1) The provider agency expends all payment supplied ~~in accordance with this Section per~~ OAC 340:100-5-22.5 on the specific activities for which the payment was provided.

(A) Any funds expended for purposes other than the authorized activities are repaid to OKDHS.

(B) The room and board fund balance at the end of the fiscal year cannot exceed five percent of the total supported living revenues. Any fund balance in excess of five percent is repaid to OKDHS.

(2) The provider agency maintains copies of all claims, substantiating documents, and records regarding provider agency fiscal status within corporate offices in Oklahoma.

(3) Supported living expenditures must:

(A) be documented;

(B) not include administrative costs of the provider agency; and

(C) be audited annually ~~in accordance with~~ per OAC 340:100-3-27.5.

340:100-5-22.6. Alternative group homes

(a) **Legal basis.** Authority to operate alternative group homes is found in Section 1020 of Title 56 of the Oklahoma Statutes (56 O.S. § 1020) and in Section 1175.6b of Title 22 of the Oklahoma Statutes (22 O.S. § 1175.6b). Administrative and program requirements for alternative group homes are described in OAC 317:40-5-152 and OAC 340:100-5-22.6 and 340:100-6.

(b) **General information.** Alternative group homes:

(1) serve up to four service recipients who have:

(A) serious behavioral or emotional challenges or community protection issues in addition to mental

retardation and require continuous supervision and assistance to remain in the community; or

(B) been charged with a felony, determined by the district court as incompetent to stand trial due to mental retardation and dangerous, and placed by the district court in the custody of the public guardian; and

(2) provide more restrictive measures than other community residential settings to ensure the safety of the service recipient and others.

(c) **Provider approval criteria.** In addition to requirements of OAC 340:100-6-12, prospective providers of alternative group home services must demonstrate a history of effective services and supports to persons with serious behavioral or emotional challenges or community protection issues. Provider approval requires review of historical information, if available, from Developmental Disabilities Services Division (DDSD) Quality Assurance Unit and ~~Area Office~~ area office. The location of the alternative group home must be approved in writing by the DDSD director or designee prior to the implementation of services. Each prospective provider submits written documentation of:

(1) history of services to persons who present serious behavioral or emotional challenges or community protection issues, including:

(A) past experience;

(B) number of persons served;

(C) provider's perspective on the greatest challenges in serving persons eligible for alternative group home services; and

(D) provider's philosophy for service provision;

(2) financial viability through fiscal information when requested, including the anticipated budget related to the rate for alternative group home services;

(3) service provision plans, including:

(A) anticipated number of homes;

(B) location;

(C) floor plans;

(D) gender to be served;

(E) population to be served; and

(F) availability of psychological, psychiatric, and vocational services in the proposed location;

(4) plans for staffing and program coordination; and

(5) staff qualifications, including any additional training to be provided.

(d) **Eligibility to receive services.** To be eligible for services in an alternative group home, the person must:

(1) be in ~~the custody of the public guardian~~ custody per Section 1175.6b or 1175.6b.A of Title 22 of the Oklahoma Statutes (22 O.S. § 1175.6b or 1175.6c); or

(2) meet the criteria for intermediate care facility for the mentally retarded (ICF/MR) level of care; and

(A) require 24-hour, on-site, awake staff supervision to ensure safety; and

(B) be found by the DDSD Community Services programs administrator or designee to have serious behavioral or emotional challenges or community protection issues, such as:

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- (i) evidence of commitment of a sexually violent offense, sexually predatory act, or crime of sexual violence including, but not limited to:
 - (I) rape;
 - (II) lewd or indecent acts or proposals made to a child, per Section 1123 of Title 21 of the Oklahoma Statutes (21 O.S. § 1123); or
 - (III) forcible sodomy, per Section 888 of Title 21 of the Oklahoma Statutes (21 O.S. § 888);
 - (ii) history of stalking or opportunistic behavior that demonstrates a likelihood to commit a sexually violent or predatory act;
 - (iii) documented pattern of acts of violence toward others;
 - (iv) experience ongoing, highly disruptive behavioral episodes that:
 - (I) are dangerous per Section 1175.1 of Title 22 of the Oklahoma Statutes (22 O.S. § 1175.1); and
 - (II) require close supervision and frequent intervention by staff;
 - (v) evidence of commitment of one or more violent offenses, such as:
 - (I) murder or manslaughter;
 - (II) attempted murder;
 - (III) arson;
 - (IV) assault;
 - (V) kidnapping; or
 - (VI) use of a weapon to commit a crime; or
 - (vi) severe ongoing self-injurious behavior.
- (e) **Services provided.** Services provided are designed to assist service recipients in acquiring, retaining, and improving self-help, socialization, and adaptive skills necessary to reside successfully in a home and community-based setting.
- (1) Services include supports to meet each service recipient's needs including, but not limited to:
 - (A) residential habilitation such as assistance with the acquisition, retention, or improvement of skills related to activities of daily living, such as:
 - (i) personal grooming and cleanliness;
 - (ii) bed making and household chores;
 - (iii) eating and food preparation; and
 - (iv) social and adaptive skills necessary to enable the service recipient to reside in a shared home;
 - (B) program supervision and oversight including 24-hour availability of response staff to meet schedules or unpredictable needs in a way that promotes maximum dignity and independence, while providing for supervision and safety. In addition to requirements in OAC 340:100-6-55, program coordination staff (PCS) must:
 - (i) serve no more than 12 service recipients;
 - (ii) ensure staffing levels meet the requirements of OAC 340:100-5-22.6(e)(1)(H); and
 - (iii) ensure records are maintained per OAC 340:100-3-40;
 - (C) implementation of community protection precautions and individual program plans per OAC 340:100-5-22.6(f);
 - (D) recreational and leisure activities, including individual and group activities;
 - (E) assistance in money management;
 - (F) health care services provided per OAC 340:100-5-26 and OAC 340:100-5-26.3;
 - (G) medication administration per OAC 340:100-5-32; and
 - (H) management of staffing levels that provides supervision to ensure the safety of the service recipient, community, staff, and other service recipients and implementation of each service recipient's Individual Plan (Plan).
 - (i) An average of 14 hours of staffing per service recipient must be provided per billable day prior to filing a claim for habilitation training staff authorized per OAC 317:40-5-152.
 - (I) At least two awake staff must be on duty during hours when service recipients are in the home.
 - (II) This requirement may be reduced to one awake staff, when there is only one service recipient in the home.
 - (ii) Sufficient daytime staffing must be provided to:
 - (I) ensure adequate supervision in the home and community; and
 - (II) implement the Plan, except during the time the service recipient is in an authorized employment, vocational, or day services program that provide the needed supervision, security, and support identified in the Plan. All staff are trained per OAC 340:100-3-38.
 - (iii) At least two awake staff must be on duty during hours when service recipients are asleep.
 - (I) The requirement for two awake staff may be reduced to one staff with the approval of the Team when there are only one or two service recipients in the home.
 - (II) Staff on duty must be physically able and mentally alert to carry out the duties of the job.
 - (iv) The provider must:
 - (I) have staff available to provide necessary support and supervision when the service recipient needs to return from employment or other day services;
 - (II) provide activity options and supervision during all times when the service recipient is not participating in authorized employment activities; and
 - (III) ensure effective transition and coordination of supervision between alternative group home and employment programs or other authorized absences from the alternative group home program.

(2) In addition to the services in OAC 340:100-5-22.6(e)(1), services for wards of the public guardian are designed to ensure the service recipient is not dangerous to self or others.

(f) **Alternative group home program requirements.** In addition to compliance with applicable Oklahoma Department of Human Services (OKDHS) and Oklahoma Health Care Authority (OHCA) rules, the provider ensures:

(1) staff implements security precautions protecting the service recipient, neighbors, children, adults who are vulnerable, animals, and others;

(2) staff implements outcomes and action steps detailed in the Plan to assist service recipients to function safely in the community and avoid criminal activity;

(3) collaboration and coordination occur with DDS staff, employment providers, therapists, and other entities and persons, such as law enforcement, corrections officers, schools, employers, mental health workers, and, when appropriate, the public guardian;

(5) written agency policies comply with OKDHS and OHCA rules;

(6) effective security and supervision of service recipients in the residence and community are provided;

(7) contingency plans are developed and implemented for:

(A) emergency relocation of a service recipient who has created a danger or who is in danger;

(B) emergency staffing in the event changes are required to protect staff or others;

(C) general emergencies requiring evacuation of the entire home, such as fire or weather emergencies, per OAC 340:100-6-45; and

(D) elopement;

(8) legal and court requirements are followed, including adherence to Oklahoma laws governing registered sexual offenders;

(9) the health care coordinator or other knowledgeable staff accompanies the service recipient to each medical or psychiatric appointment, taking current data summaries that indicate the rate of occurrence of medication-responsive symptoms or behaviors over the last one to three months. For visits to the physician prescribing psychotropic medication, the summary covers symptoms or behaviors listed on Form 06HM067E, Semi-annual Psychotropic Medication Review;

(10) specific offense patterns are considered and addressed when determining appropriate program locations;

(11) cabinets are locked if they contain any knives or other sharp objects that may be used as weapons or any items specifically identified by the Team as dangerous;

(12) staff provides arm's-length supervision to each service recipient when outside the home unless another supervision pattern is specifically described in the Plan approved by designated DDS State Office staff;

(13) door and window alarms are used;

(14) the yard is fenced with a locked gate, unless the requirement for a locked gate is waived in writing by the DDS director or designee; and

(15) other necessary restrictive procedures as detailed in the Plan are implemented, that may include:

(A) restricted views from or into windows, doors, and other openings;

(B) restricted access to certain areas; ~~and~~

(C) for wards of the public guardian, restrictions deemed necessary to maintain the safety of the service recipient and public; and

(D) room and personal searches.

(g) **Weapons.** Dangerous or deadly weapons are not permitted in the alternative group home or on the premises. Providers are prohibited from assisting any service recipient to obtain or possess dangerous or deadly weapons including, but not limited to:

(1) guns, BB guns, air rifles, or other firearms;

(2) crossbows;

(3) paint guns;

(4) arrows;

(5) explosives;

(6) stun guns; and

(7) knives, except cooking and eating utensils.

(h) **Prohibited substances. Substances and items prohibited in alternative group homes are:** ~~Illegal substances and alcohol are not permitted in the alternative group home.~~

(1) illegal substances;

(2) alcohol; and

(3) cell phones, except for staff who have written authorization from the program coordinator.

(i) **SoonerCare eligibility.** The service recipient and guardian, with necessary support from the provider, establish and maintain SoonerCare eligibility, if possible.

(j) **Natural supports.** Persons who agree to provide natural supports to a service recipient living in an alternative group home must:

(1) work with the Team to develop a schedule, support strategies, ~~or other~~ and agreement for support. Each Plan contains a description of any natural support to be provided that ensures the safety and welfare of the service recipient and community. No arrangement can be made for natural supports that violate existing court orders, security arrangements, or the Plan;

(2) keep commitments made regarding supports; and

(3) document or report to the program coordinator or DDS case manager regarding supports provided.

(k) **Refusal to participate.** If a service recipient or guardian refuses to participate in service delivery as described in the Plan:

(1) the provider:

(A) continues to implement the Plan as written; and
(B) immediately notifies the DDS case manager of the need for a Team meeting;

(2) the DDS case manager takes immediate action to convene the Team to address the situation; and

(3) steps in OAC 340:100-3-11 are followed.

(l) **Record keeping.** In addition to requirements of OAC 340:100-3-40, records of service recipients must include:

(1) documentation of the registration of the service recipient with appropriate law enforcement authorities, if

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required, and documentation of subsequent notification to DDS of registration;

(2) documentation of all agreements or plans with other agencies or persons who support the service recipient, including guardian and family members, that specifies requirements for supervision of the service recipient when staff is not present;

(3) documentation of any refusal by the service recipient to follow conditions of the Plan, Protective Intervention Plan, or treatment recommendations of treatment professionals; and

(4) Form 06CB055E, Monthly Summary of Restrictive/Intrusive Procedure Usage, per OAC 340:100-5-57.1.

(m) Training. Staff or volunteers and their supervisors providing direct supports for service recipients in an alternative group home are required to complete the necessary training requirements per OAC 340:100-3-38.13.

(n) Transportation. Providers of alternative group home services must ensure transportation is:

(1) available as needed for medical emergencies, appointments, day programs, and community activities per OAC 317:40-5-103; and

(2) supervised per OAC 340:100-5-22.6 in accordance with each service recipient's needs.

(o) Transition. Teams plan for transition of service recipients to appropriate services when it is determined the alternative group home program is no longer necessary.

(1) Within three months of the service recipient's admission to an alternative group home, the Team develops reasonable criteria for the service recipient's move to a less restrictive environment that are:

(A) included in a written plan submitted to designated DDS State Office staff; and

(B) reviewed at least annually by the Team.

(2) All transitions from alternative group homes must be approved by designated DDS State Office staff. State Office Residential Unit staff may adjust the transition date if necessary.

(p) DDS-initiated transition. DDS Community Services programs administrator or designee may initiate the transition process for a person receiving alternative group home services who can be effectively served in another residential environment.

PART 5. INDIVIDUAL PLANNING

340:100-5-52. The Personal Support Team (Team)

(a) The Personal Support Team (Team) is composed of people selected by the service recipient who know and work with the service recipient or whose participation is necessary to achieve the outcomes desired by the service recipient.

(1) To respect the dignity and privacy of the service recipient, the Team is no larger than is necessary to plan for and implement the services needed to achieve the service recipient's desired outcomes. The Team is large enough to possess the expertise and capacity necessary to address the service recipient's needs, but not so large as to intimidate

the service recipient or to stifle participation on the part of the service recipient or his or her representatives.

(2) At its core, the Team includes the service recipient, his or her case manager, the legal guardian, and advocate(s), if there is one, who may be a parent, a family member, a friend, or another ~~person~~ individual who knows the service recipient well. The service recipient is assured the opportunity to select an individual to serve as an advocate.

(3) Depending on the needs of the service recipient and the issues to be addressed, the Team may include others. The selection of these additional Team members reflects the choices of the service recipient.

(b) The role of the Team is explained in this subsection.

(1) Team members implement responsibilities identified in the Individual Plan (Plan) or in the Oklahoma Department of Human Services (OKDHS) or Oklahoma Health Care Authority (OHCA) rules. Implementation of the Plan may only be delegated to persons who are appropriately qualified and trained.

(2) The Team reviews and approves strategies, plans, and guidelines developed to implement services or supports.

(3) The Team implements the Plan upon approval of the Plan of Care.

(4) A copy of the Plan is maintained ~~in accordance with~~ per OAC 340:100-3-40. All staff implementing the Plan must be knowledgeable about its contents and have access to a copy of the Plan.

(5) Each Team member responsible for services identified in the Plan sends a monthly summary of progress on assigned outcomes and action steps to the case manager by the tenth of each month, unless an alternative schedule is specified in the Plan. The monthly summary of progress includes:

(A) whether services were provided as specified in the Plan, and if not why; and

(B) if the outcomes have been achieved; or

(C) the status of progress on the outcome if not achieved.

(c) The role of the case manager is detailed in this ~~paragraph~~ subsection.

(1) Prior to the initial and each annual Team meeting, the case manager meets with the service recipient and the service recipient's advocate or legal guardian, if there is one, to review the individual situation, including the service recipient's desired vision and progress in attaining the vision. Among the questions explored are whether the service recipient is satisfied with the results of the Plan and whether outcomes need to be revised based on the progress achieved or on changing circumstances in the service recipient's life. This review provides a clear agenda for the Team meeting and assures the service recipient's input and participation.

(2) The case manager identifies available service providers for selection by the service recipient or legal guardian.

(3) The case manager ensures that the size and composition of the Team support the person-centered planning process.

(A) The case manager plans for the participation of people whom the service recipient desires to have on the Team, people whose services are needed to achieve identified outcomes, and people who know the service recipient best. The case manager sends written notice of the annual meeting to all Team members at least two weeks in advance.

(B) Planning may occur in Team meetings or through individual or small group consultation according to the desires and needs of the service recipient.

(C) The case manager notifies a Team member by letter that his or her services on the Team are no longer required:

- (i) at the request of the service recipient or the legal guardian; or
- (ii) if the performance of the Team member reveals a course of action that:
 - (I) is not in the best interest of the service recipient;
 - (II) is destructive ~~towards~~ toward the collaborative process of the Team; or
 - (III) violates OKDHS or OHCA rules or accepted standards of professional practice.

(4) Unless the service recipient elects to chair his or her own meetings, the case manager serves as chair of the Team.

(5) The case manager empowers and supports the service recipient in setting the direction for the Team and in actively participating in Team meetings.

(6) The case manager writes or revises the Plan based on input from the Team.

(7) The case manager assists the Team in developing strategies, plans, and guidelines to achieve the outcomes desired or needed by the service recipient.

(8) The case manager monitors all aspects of the Plan's implementation. ~~Each month, contact notes reflect the case manager's review of the progress of each service recipient per OAC 340:100-3-27.~~

(9) The case manager routinely asks the service recipient and his or her family, guardian, or advocate about their satisfaction with services and supports, and initiates appropriate action to identify and resolve barriers to consumer satisfaction.

(10) The case manager convenes Team meetings as needed.

(A) The Team, as needed, evaluates whether the Plan and its components are meeting the objectives of the service recipient.

(B) The case manager convenes a Team meeting, when needed, at the request of any Team member.

(11) Case manager responsibilities are carried out by ~~service agency program coordination staff if when the service recipient does not receive Developmental Disabilities Services Division (DDSD) case management services~~

receives state funded employment, state funded group home, or assisted living services without waiver supports.

Each person filling this role in a provider agency must have a minimum of four years of any combination of college level education and full-time equivalent experience in serving persons with disabilities, unless this requirement is waived in writing by the DDSD director or designee.

340:100-5-53. Individual Plan

(a) The Individual Plan (Plan) is a written document that describes the services necessary for the health and welfare, the outcomes desired by the service recipient and the services and supports necessary to achieve those outcomes. Each Plan includes:

- (1) basic demographic information, including emergency information and health and safety concerns;
- (2) assessment information;
- (3) description of services and supports identified by the Personal Support Team;
- (4) outcomes to be achieved;
- (5) action steps or methods to achieve the outcomes, including:
 - (A) means to assess progress; and
 - (B) names of persons or agency positions responsible for implementing each part of the Plan;
- (6) ~~methods to address safety and health risks and needs, including those identified in Form 06HM007E, Physical Status Review, per OAC 340:100-5-26;~~
- (7) community participation strategies and activities;
- (8) identification of needed individual-specific staff training, with required time frames for completion, per OAC 340:100-3-38; and
- (9) medication support plan, per OAC 340:100-5-32.

(b) The Plan is updated as required by ongoing assessment of progress and needs.

(c) A copy of the service recipient's Plan is provided to the:

- (1) service recipient; and
- (2) service recipient's family, legal guardian, and designated advocate.

(d) Relevant portions of the Plan are provided to persons or agencies who provide support or services to the service recipient.

(e) The Developmental Disabilities Services Division case manager develops a Plan of Care that is consistent with the Plan to authorize payment for services.

SUBCHAPTER 17. EMPLOYMENT SERVICES

PART 5. OTHER STATE FUNDED EMPLOYMENT SERVICES

340:100-17-30. Other state funded employment services

State funded employment services may supplement employment services offered through the Community Waiver and Homeward Bound Waiver, per OAC 317:40-7.

- (1) State funded employment services include:

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(A) therapeutic leave, limited to 10% of authorized units with a maximum of 150 hours per service recipient each fiscal year.

(i) Each service recipient is eligible for up to 150 hours of therapeutic leave ~~absence~~ per fiscal year if the service recipient receives:

- (I) center-based prevocational services;
- (II) community-based prevocational services;
- (III) enhanced community-based prevocational services;
- (IV) individual placement in community-based services; or
- (V) supplemental supports.

(ii) Therapeutic leave may be used for:

- (I) legal holidays, maximum of 12 days per fiscal year;
- (II) service recipient or family initiated vacations;
- (III) service recipient medical appointment, concern, illness, or injury;
- (IV) severe weather conditions; or
- (V) service recipient refusal to attend the employment program.

(iii) When a service recipient is absent for more than five consecutive days due to illness, the service recipient's Team meets to discuss possible:

- (I) program interventions; and
- (II) suspension of the service recipient's employment program to avoid exhausting all available therapeutic leave.

(iv) When a service recipient refuses to attend his or her employment program for three consecutive days, the Team, including residential staff, meets to discuss possible program changes. The employment provider cannot claim for therapeutic leave beyond the three consecutive days until the Team has met.

(v) Claims for therapeutic leave require supporting documentation that includes the date and length of absence and specific reason for absence.

(vi) The provider can claim for therapeutic leave only for the number of scheduled work hours the service recipient missed.

(vii) The provider cannot claim for therapeutic leave when the:

- (I) provider agency is closed for reasons other than severe weather conditions;
- (II) provider staff is absent, other than on legal holidays; or
- (III) service recipient's absence is caused by the provider's inability to supply trained back-up staff.

(viii) The provider pays the direct support staff member the salary that the staff member would have earned if the:

- (I) provider bills for therapeutic leave; and

(II) direct support staff member is unable to work due to the absence of the service recipient.

- (B) center-based prevocational services;
- (C) individual placement in community-based services;
- (D) community-based prevocational services;
- (E) enhanced community-based services;
- (F) individual placement in job coaching services;
- (G) job coaching services;
- (H) enhanced job_coaching services;
- (I) stabilization and extended services; and
- (J) employment training specialist services.

(2) State funded employment services are available to members of the Homeward Bound class who are not eligible for ~~DDSD~~ Developmental Disabilities Services Division waiver services.

[OAR Docket #10-417; filed 3-25-10]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 10. PHYSICIANS AND SURGEONS

[OAR Docket #10-438]

RULEMAKING ACTION:

PERMANENT final adoption.

RULES:

Subchapter 1. General Provisions

435:10-1-4. Definitions [AMENDED]

Subchapter 7. Regulation of Physician and Surgeon Practice

435:10-7-4. Unprofessional conduct [AMENDED]

AUTHORITY:

Title 59 O.S., Section 489, Board of Medical Licensure and Supervision

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n/a

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n/a

ANALYSIS:

The proposed rule amendments clarify the meaning of a physician/patient relationship and add to the rules of unprofessional conduct for failure of a doctor to establish an appropriate relationship when treating a patient. 59 O.S. §§ 492, 503, 509.

CONTACT PERSON:

Kathy Plant, Executive Secretary, 405-962-1400, #122

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 APRIL 25, 2010:

(D) other individuals involved in the care of and/or decision-making for the patient.

SUBCHAPTER 7. REGULATION OF PHYSICIAN AND SURGEON PRACTICE

SUBCHAPTER 1. GENERAL PROVISIONS

435:10-1-4. Definitions

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

"Act" means the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, 59 O.S. §§ 480 et seq.

"APA" means either or both Article I and Article II, as applicable of the Administrative Procedures Act, 75 O.S.1991, §§ 250 et seq., as amended.

"Applicant" means a person who applies for licensure from the Board.

"Board" means the Oklahoma Board of Medical Licensure and Supervision.

~~"Doctor-patient relationship" means a person has a medical complaint/issue, which has been addressed by the doctor and there is a correlation between the complaint/issue and the treatment/procedure performed or drug given/prescribed/dispensed.~~

"Foreign applicant" means an applicant who is a graduate of a foreign medical school.

"Foreign medical school" means a medical school located outside of the United States.

"Patient" means the patient and/or patient surrogate.

"Physician/patient relationship" means a relationship established when a physician agrees by direct or indirect contact with a patient to diagnose or treat any condition, illness or disability presented by a patient to that physician, whether or not such a presenting complaint is considered a disease by the general medical community. The physician/patient relationship shall include a medically appropriate, timely-scheduled, actual face-to-face encounter with the patient, subject to any supervisory responsibilities established elsewhere in these rules. The act of scheduling an appointment, whether by a physician or by a physician's agent, for a future evaluation will not in and of itself be considered to establish a physician/patient relationship.

"Secretary" means the Secretary of the Board.

"Supervision and Control" means the physical presence of the supervising physician in the office or operating suite before, during and after the treatment or procedure and includes diagnosis, authorization and evaluation of the treatment or procedure with the physician/patient relationship remaining intact.

"Surrogate" means individuals closely involved in patients' medical decision-making and care and include:

- (A) spouses or partners;
- (B) parents;
- (C) guardian; and

435:10-7-4. Unprofessional conduct

The Board has the authority to revoke or take other disciplinary action against a licensee or certificate holder for unprofessional conduct. Pursuant to 59 O.S., 1991, Section 509, "Unprofessional Conduct" shall be considered to include:

- (1) Indiscriminate or excessive prescribing, dispensing or administering of Controlled or Narcotic drugs.
- (2) Prescribing, dispensing or administering of Controlled substances or Narcotic drugs in excess of the amount considered good medical practice or prescribing, dispensing or administering controlled substances or narcotic drugs without medical need in accordance with published standard.
- (3) The habitual or excessive use of any drug which impairs the ability to practice medicine with reasonable skill and safety to the patient.
- (4) Issuing prescriptions for Narcotic or Controlled drugs to minors in violation of 63 O.S. 1978 Supp., Sections 2601 through 2606, as amended.
- (5) Purchasing or prescribing any regulated substance in Schedule I through V, as defined by the Uniform Controlled Dangerous Substances Act, for the physician's personal use.
- (6) Dispensing, prescribing or administering a Controlled substance or Narcotic drug without medical need.
- (7) The delegation of authority to another person for the signing of prescriptions for either controlled or non-controlled drugs, except as provided for in 59 O.S., 519.6D.
- (8) Fraud or misrepresentation in applying for or procuring a medical license or in connection with applying for or procuring periodic reregistration of a medical license.
- (9) Cheating on or attempting to subvert the medical licensing examination(s).
- (10) The conviction of a felony or any offense involving moral turpitude whether or not related to the practice of medicine and surgery.
- (11) Conduct likely to deceive, defraud, or harm the public.
- (12) Making a false or misleading statement regarding skill or the efficacy or value of the medicine, treatment, or remedy prescribed by a physician or at a physician's direction in the treatment of any disease or other condition of the body or mind.
- (13) Representing to a patient that an incurable condition, sickness, disease, or injury can be cured.
- (14) Willfully or negligently violating the confidentiality between physician and patient to the detriment of a patient except as required by law.

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- (15) Gross or repeated negligence in the practice of medicine and surgery.
- (16) Being found mentally incompetent or insane by any court of competent jurisdiction; commitment to an institution for the insane shall be considered prima facie evidence of insanity of any physician or surgeon.
- (17) Being physically or mentally unable to practice medicine and surgery with reasonable skill and safety.
- (18) Practice or other behavior that demonstrates an incapacity or incompetence to practice medicine and surgery.
- (19) The use of any false, fraudulent, or deceptive statement in any document connected with the practice of medicine and surgery.
- (20) Practicing medicine and surgery under a false or assumed name.
- (21) Aiding or abetting the practice of medicine and surgery by an unlicensed, incompetent, or impaired person.
- (22) Allowing another person or organization to use a physician's license to practice medicine and surgery.
- (23) Commission of any act of sexual abuse, misconduct, or exploitation related or unrelated to the licensee's practice of medicine and surgery.
- (24) Prescribing, selling, administering, distributing, ordering, or giving any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug for other than medically accepted therapeutic purposes.
- (25) Except as otherwise permitted by law, prescribing, selling, administering, distributing, ordering, or giving to a habitue or addict or any person previously drug dependent, any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug.
- (26) Prescribing, selling, administering, distributing, ordering, or giving any drug legally classified as a controlled substance or recognized as an addictive dangerous drug to a family member or to himself or herself. Provided that this paragraph shall not apply to family members outside the second degree of consanguinity or affinity. Provided further that this paragraph shall not apply to medical emergencies when no other medical doctor is available to respond to the emergency.
- (27) Violating any state or federal law or regulation relating to controlled substances.
- (28) Obtaining any fee by fraud, deceit, or misrepresentation, including fees from Medicare, Medicaid, or insurance.
- (29) Employing abusive billing practices.
- (30) Directly or indirectly giving or receiving any fee, commission, rebate, or other compensation for professional services not actually and personally rendered, though this prohibition shall not prohibit the legal function of lawful professional partnerships, corporations, or associations.
- (31) Disciplinary action of another state or jurisdiction against a license or other authorization to practice medicine and surgery based upon acts of conduct by the licensee similar to acts or conduct that would constitute

grounds for action as defined in this section, a certified copy of the record of the action taken by the other state or jurisdiction being conclusive evidence thereof.

- (32) Failure to report to the Board any adverse action taken against him or her by another licensing jurisdiction (United States or foreign), by any governmental agency, by any law enforcement agency, or by any court for acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this section.
- (33) Failure to report to the Board surrender of a license or other authorization to practice medicine and surgery in an other state or jurisdiction, or surrender of membership on any medical staff or in any medical or professional association or society while under disciplinary investigation by any of those authorities or bodies for acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this section.
- (34) Any adverse judgment, award, or settlement, or award arising from a medical liability claim related to acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this section.
- (35) Failure to transfer pertinent and necessary medical records to another physician in a timely fashion when legally requested to do so by the subject patient or by a legally designated representative of the subject patient.
- (36) Improper management of medical records.
- (37) Failure to furnish the Board, its investigators or representatives, information lawfully requested by the Board.
- (38) Failure to cooperate with a lawful investigation conducted by the Board.
- (39) Violation of any provision(s) of the medical practice act or the rules and regulations of the Board or of an action, stipulation, or agreement of the Board.
- (40) The inability to practice medicine and surgery with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. To enforce this paragraph, the Board may, upon probable cause, request a physician to submit to a mental or physical examination by physicians designated by it. If the physician refuses to submit to the examination, the Board shall issue an order requiring the physician to show cause why he will not submit to the examination and shall schedule a hearing on the order within thirty (30) days after notice is served on the physician. The physician shall be notified by either personal service or by certified mail with return receipt requested. At the hearing, the physician and his attorney are entitled to present any testimony and other evidence to show why the physician should not be required to submit to the examination. After a complete hearing, the Board shall issue an order either requiring the physician to submit to the examination or withdrawing the request for examination. The medical license of a physician ordered to submit for examination may be suspended until the results of such examination are received and reviewed by the Board.

- (41) Failure to provide a proper setting and assistive personnel for medical act, including but not limited to examination, surgery, or other treatment. Adequate medical records to support treatment or prescribed medications must be produced and maintained.
- (42) Failure to inform the Board of a state of physical or mental health of the licensee or of any other health professional which constitutes or which the licensee suspects constitutes a threat to the public.
- (43) Failure to report to the Board unprofessional conduct committed by another physician.
- (44) Abuse of physician's position of trust by coercion, manipulation or fraudulent representation in the doctor-patient relationship.
- (45) Engaging in predatory sexual behavior.
- (46) Any doctor licensed in Oklahoma using that license for practice in another state, territory, district or federal facility who violates any laws in the state in which he/she is practicing or any federal, territorial or district laws that are in effect in the location in which he/she is using his/her Oklahoma license to practice.
- (47) Causing, or assisting in causing, the suicide, euthanasia or mercy killing of any individual; provided that it is not causing, or assisting in causing, the suicide, euthanasia or mercy killing of any individual to prescribe, dispense or administer medical treatment for the purpose of alleviating pain or discomfort in accordance with Oklahoma Administrative Code 435:10-7-11, even if such use may increase the risk of death, so long as it is not also furnished for the purpose of causing, or the purpose of assisting in causing, death for any reason.
- (48) Failing to obtain informed consent, based on full and accurate disclosure of risks, before prescribing, dispensing, or administering medical treatment for the therapeutic purpose of relieving pain in accordance with Oklahoma Administrative Code 435:10-7-11 where use may substantially increase the risk of death.
- (49) Failure to establish a physician/patient relationship prior to providing patient-specific medical services, care or treatment, except in a clearly emergent, life threatening situation.

[OAR Docket #10-438; filed 3-26-10]

**TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION
CHAPTER 65. ANESTHESIOLOGIST ASSISTANTS**

[OAR Docket #10-439]

RULEMAKING ACTION:
PERMANENT final adoption.

- RULES:**
- Subchapter 1. Administration and organization [NEW]
 - 435:65-1-3. License required [RENUMBERED TO 435:65-3-1]
 - 435:65-1-3.1. Definitions [NEW]
 - 435:65-1-4. Application for initial licensure/renewal of license [RENUMBERED TO 435:65-3-2]

- 435:65-1-5. Supervision [RENUMBERED TO 435:65-7-1]
- 435:65-1-8. Fees [REVOKED]
- Subchapter 3. Application for licensure [NEW]
- 435:65-3-1. License required [NEW]
- 435:65-3-2. Application for initial licensure/renewal of license - procedures [NEW]
- 435:65-3-3. Required documentation [NEW]
- 435:65-3-5. Licensure by endorsement [NEW]
- Subchapter 5. Biennial renewal [NEW]
- 435:65-5-1. Requirements for renewal of license [NEW]
- 435:65-5-2. Renewal procedure [NEW]
- 435:65-5-3. Late renewal [NEW]
- Subchapter 7. Regulation of practice [NEW]
- 435:65-7-1. Supervision [NEW]
- 435:65-7-2. Supervision; physician responsibility; independent care prohibited [NEW]

AUTHORITY:

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n/a

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n/a

ANALYSIS:

HB 1577 created the Anesthesiologist Assistant Act effective November 1, 2008 [59 O.S. §§ 3201 - 3208]. The proposed amended and new rules will enhance the ability of the Board of Medical Licensure and Supervision to regulate this new profession.

CONTACT PERSON:

Kathy Plant, Executive Secretary, 405-962-1400, #122

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 APRIL 25, 2010:

SUBCHAPTER 1. ADMINISTRATION AND ORGANIZATION

435:65-1-3. License required [RENUMBERED TO 435:65-3-1]

~~Any person who practices as an anesthesiologist assistant or holds himself/herself out to be a Licensed Anesthesiologist~~

Permanent Final Adoptions

Assistant or uses the title Anesthesiologist Assistant or common variants of that title must possess a valid license issued by the Board.

435:65-1-3.1. Definitions

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

"Board" means the State Board of Medical Licensure and Supervision.

"Anesthesiologist assistant" means a graduate of an approved program who is licensed to perform medical services delegated and directly supervised by a supervising anesthesiologist.

"Approved program" means a program for the education and training of anesthesiologist assistants approved by the State Board of Medical Licensure and Supervision.

"Direct supervision" means the on-site, personal supervision by an anesthesiologist who is present in the office when the procedure is being performed in that office, or is present in the surgical or obstetrical suite when the procedure is being performed in that surgical or obstetrical suite and who is in all instances immediately available to provide assistance and direction to the anesthesiologist assistant while anesthesia services are being performed.

"NCCAA" means the National Commission for Certification of Anesthesiologist Assistants;

"Supervising anesthesiologist" means a physician licensed by the State Board of Medical Licensure and Supervision or by the State Board of Osteopathic Examiners and certified or eligible for certification by the American Board of Anesthesiology or the American Osteopathic Board of Anesthesiology.

"Surgical or obstetrical suite" means the grouping of operating rooms and/or areas where patients are prepared for surgery, undergo surgery, and recover from surgery, and where equipment and supplies for surgery or delivery are stored. The surgical or obstetrical suite is not limited to the sterile area of the operating rooms.

435:65-1-4. Application for initial licensure/renewal of license [RENUMBERED TO 435:65-3-2]

(a) ~~The Board directs staff to prepare and create new forms or modify existing forms to be used in the application process for licensure and renewal of license. Application forms shall require applicants to submit all information required by the Oklahoma Anesthesiologist Assistant Act.~~

(b) ~~The application and forms shall be submitted to the Board accompanied by fees as set by the Board. Any incomplete or missing information, documentation or fees shall render the application incomplete. No license shall be issued unless all application requirements have been met. Incomplete applications will be considered abandoned after one year. Any applicable fees paid shall not be refunded.~~

(c) ~~The applicant shall be forthright and open in the provision of information to the Board in the application process. No~~

~~applicant shall be awarded a license who does not provide the Board with complete, open and honest responses to all requests for information.~~

(d) ~~Any Board member, based on any response to any question or request for information on the application form, may request an applicant to provide any additional information that the Board member feels is necessary or useful to determine the applicant's ability to practice as an anesthesiologist assistant.~~

(e) ~~The Board may require a criminal background check on all applicants for licensure. The fee shall be paid by the applicant.~~

(f) ~~Fraud or misrepresentation in applying for or procuring a license or in connection with applying for or procuring renewal of a license may be grounds for denial or revocation by the Board.~~

(g) ~~No person shall be licensed by the Board unless and until that person first fully complies with all licensure provisions of the Act and has satisfied the Board of the ability of that person to practice as an anesthesiologist assistant with reasonable skill and safety.~~

435:65-1-5. Supervision [RENUMBERED TO 435:65-7-1]

(a) ~~An anesthesiologist assistant may only perform medical services under the direct supervision of a licensed anesthesiologist.~~

(b) ~~Direct supervision requires the on-site, personal supervision by the supervising anesthesiologist who is at all instances immediately available to provide assistance and direction to the anesthesiologist assistant while anesthesia services are being performed.~~

(c) ~~A licensed anesthesiologist may supervise up to four (4) anesthesiologist assistants concurrently. The limitation on the number of anesthesiologist assistants that an anesthesiologist may supervise in no way restricts the number of other qualified anesthesia providers that an anesthesiologist may concurrently supervise.~~

435:65-1-8. Fees [REVOKED]

(a) ~~**Fee schedule.**~~

- (1) ~~Application for initial licensure — \$150.00~~
- (2) ~~Biennial renewal fee — \$150.00~~

(b) ~~**Submission of fees.**~~

- (1) ~~All fees assessed by the Board shall be received prior to processing an application for licensure or renewal of licensure.~~
- (2) ~~All fees are non-refundable.~~

SUBCHAPTER 3. APPLICATION FOR LICENSURE

435:65-3-1. License required

Any person who practices as an anesthesiologist assistant or holds himself/herself out to be a Licensed Anesthesiologist

Assistant or uses the title Anesthesiologist Assistant or common variants of that title must possess a valid license issued by the Board.

435:65-3-2. Application for initial licensure/renewal of license - procedures

(a) The Board directs staff to prepare and create new forms or modify existing forms to be used in the application process for licensure and renewal of license. Application forms shall require applicants to submit all information required by the Oklahoma Anesthesiologist Assistant Act.

(b) The application and forms shall be submitted to the Board accompanied by fees as set by the Board. Any incomplete or missing information, documentation or fees shall render the application incomplete. No license shall be issued unless all application requirements have been met. Incomplete applications will be considered abandoned after one year. Any applicable fees paid shall not be refunded.

(c) The applicant shall be forthright and open in the provision of information to the Board in the application process. No applicant shall be awarded a license who does not provide the Board with complete, open and honest responses to all requests for information.

(d) Any Board member, based on any response to any question or request for information on the application form, may request an applicant to provide any additional information that the Board member feels is necessary or useful to determine the applicant's ability to practice as an anesthesiologist assistant.

(e) The Board may require a criminal background check on all applicants for licensure. The fee shall be paid by the applicant.

(f) Fraud or misrepresentation in applying for or procuring a license or in connection with applying for or procuring renewal of a license may be grounds for denial or revocation by the Board.

(g) No person shall be licensed by the Board unless and until that person first fully complies with all licensure provisions of the Act and has satisfied the Board of the ability of that person to practice as an anesthesiologist assistant with reasonable skill and safety.

435:65-3-3. Required documentation

(a) Applicants must submit the following:

- (1) Application form and appropriate fee(s);
- (2) Two personalized and individualized letters of recommendations from anesthesiologists as set out in Title 59 O.S., § 3206 (A).
- (3) Passing scores on the examination administered through the NCCAA.
- (4) Notarized statements containing the following information of :

- (A) Proof of completion of three (3) hours of Category I continuing education on the topics of Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome as set out in Title 59 O.S., § 3206 (D) (1);

(B) Proof of completion of one (1) hour of continuing medical education on domestic violence as set out in Title 59 O.S., § 3206 (D) (2); and

(C) Proof of completion of two (2) hours of continuing medical education relating to prevention of medical errors as set out in Title 59 O.S., § 3206 (D) (3).

(5) Verification of licensure from each state from which a license is currently or has been held to practice in a medically related field.

(6) Background check.

(7) Written Protocol as set out in Title 59 O.S., ss. 3207.

(8) Proof of current ACLS certification

(9) Proof of malpractice insurance or proof of financial responsibility.

(b) Applicants who have never held an Oklahoma license and who have not practiced as an Anesthesiologist Assistant within the previous twelve (12) months wishing to obtain a license shall be required to make a personal appearance before the Committee and practice under the personal supervision of a licensed anesthesiologist for up to ninety (90) days with an evaluation provided to the Committee at the end of the supervised period. The Committee also may require additional continuing education units.

435:65-3-5. Licensure by endorsement

The Board may issue a license to practice as an anesthesiologist assistant by endorsement to:

(1) Applicants for licensure by endorsement who are currently licensed to practice as a anesthesiologist assistant under the laws of another state, territory, or country if the qualifications of the applicant are deemed by the Board to be equivalent to those required in this state;

(2) Applicants applying for licensure by endorsement must provide a complete application as set out in OAC 435:60-3-3 and OAC 435:60-3-4. In addition, applicants must certify under oath that their credentials have not been suspended or revoked.

SUBCHAPTER 5. BIENNIAL RENEWAL

435:65-5-1. Requirements for renewal of license

(a) Licensees must renew their licenses biennially on or before October 31st.

(b) The application and fee for the renewal of the license shall be submitted, postmarked or hand delivered to the Board office no later than the expiration date. Licenses not renewed will be considered expired and the licensee may not practice.

(c) Each licensee is responsible for renewing the license on or before the required date and shall not be excused from paying additional fees or penalties.

435:65-5-2. Renewal procedure

(a) Each licensee will be required to renew in a form required by the Board. Licensees will be notified at least thirty

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(30) days prior to the expiration date of the process to renew and required fee.

(b) The license renewal application for all licensees shall require in addition to other information, the preferred mailing address and primary practice address.

(c) The board shall not consider a license to be renewed until it receives the completed license renewal application, the required fees set by the Board, the protocol and proof of malpractice insurance or proof of financial responsibility

(d) The Board shall issue a renewal of license identification card to a licensee who has met all requirements for renewal.

435:65-5-3. Late renewal

(a) The Board shall notify a person who has not renewed a license after a period of more than thirty (30) days that their license is expired.

(b) A person whose license is expired for not more than thirty (30) days may renew the license by paying a reinstatement fee of \$100 in addition to the required renewal fee, if received within thirty (30) days of the end of the renewal period.

(c) A person whose license has been lapsed more than thirty (30) days shall meet all application requirements in effect at the time reinstatement is requested. In addition, the applicant may be required to meet one or more of the following:

(1) Personal appearance before the Committee;

(2) Additional continuing education units;

(3) Practice under the direct, personal supervision of a licensed anesthesiologist for up to ninety (90) days with an evaluation provided to the Committee at the end of the supervised period.

(4) After a period of 12 months of continuous inactivity as an anesthesiologist assistant, an applicant for reinstatement may be required to retake the test for initial licensure.

(e) A licensed anesthesiologist assistant who does not intend to engage in the practice must notify the Board of intent not to practice.

(f) The Board will replace a lost, damaged or destroyed license certificate or license identification card upon application by the licensee and payment of fees established by the Board. Applications must include an affidavit detailing the loss or destruction of the licensee's original license or license identification card, or be accompanied by the damaged certificate or card.

435:65-7-1. Supervision

(a) An anesthesiologist assistant may only perform medical services under the direct supervision of a licensed anesthesiologist.

(1) Direct supervision requires at all times a continuing and close supervisory relationship between the anesthesiology assistant and the supervising anesthesiologist.

(2) Direct supervision and being immediately available does not necessarily require the continuous physical presence of the supervising anesthesiologist in the procedural room. The supervising anesthesiologist may cover cases in more than one procedural room, provided that the anesthesiologist remains readily available in the facility for immediate diagnosis and treatment of emergencies.

(3) Direct supervision does not prohibit the supervising anesthesiologist from addressing a life-threatening emergency in another location in the facility or office.

(b) Direct supervision requires the on-site, personal supervision by the supervising anesthesiologist who is at all instances immediately available to provide assistance and direction to the anesthesiologist assistant while anesthesia services are being performed.

(c) A licensed anesthesiologist may supervise up to four (4) anesthesiologist assistants concurrently. The limitation on the number of anesthesiologist assistants that an anesthesiologist may supervise in no way restricts the number of other qualified anesthesia providers that an anesthesiologist may concurrently supervise.

435:65-7-2. Supervision; physician responsibility; independent care prohibited

(a) The health care services performed by a anesthesiologist assistant shall be done under the direct supervision of an anesthesiologist who retains responsibility for patient care.

(b) An anesthesiologist assistant must function only under the direct supervision of a licensed anesthesiologist. Nothing in the Anesthesiologist Assistant Act shall be construed to permit anesthesiologist assistants to provide health care services independent of anesthesiologist supervision.

[OAR Docket #10-439; filed 3-26-10]

SUBCHAPTER 7. REGULATION OF PRACTICE

Executive Orders

As required by 75 O.S., Sections 255 and 256, Executive Orders issued by the Governor of Oklahoma are published in both the *Oklahoma Register* and the *Oklahoma Administrative Code*. Executive Orders are codified in Title 1 of the *Oklahoma Administrative Code*.

Pursuant to 75 O.S., Section 256(B)(3), "Executive Orders of previous gubernatorial administrations shall terminate ninety (90) calendar days following the inauguration of the next Governor unless otherwise terminated or continued during that time by Executive Order."

TITLE 1. EXECUTIVE ORDERS

1:2010-12.

EXECUTIVE ORDER 2010-12

I, Jari Askins, Governor of the State of Oklahoma, pursuant to the power vested in me by Section 2 of Article VI of the Oklahoma Constitution and 63 O.S. §§683.1 et seq., hereby declare the following:

1. All of the 77 counties in Oklahoma are currently under a severe winter weather warning or a possible severe winter weather advisory in accordance with the National Weather Service for freezing rain, ice, snow, and possible flooding due to ice clogged waterways effective today, March 19, 2010, and continuing. The entire State is being affected.
2. It may be necessary to provide for the rendering of mutual assistance among the State and political subdivisions of the State with respect to carrying out disaster emergency functions during the continuance of the State emergency pursuant to the provisions of the Oklahoma Emergency Management Act of 2003.
3. There is hereby declared a disaster emergency caused by the snow and ice storms in the entire State of Oklahoma that threatens the lives and property of the people of this State and the public's peace, health and safety.
4. State agencies, in responding to this disaster emergency, may make necessary emergency acquisitions to fulfill the purposes of this proclamation without regard to limitations or bidding requirements on such acquisitions.
5. The State Emergency Operations Plan has been activated and resources of all State departments and agencies available to meet this emergency are hereby committed to the reasonable extent necessary to protect lives and to prevent, minimize, and repair injury and damage. These efforts shall be coordinated by the Director of the Department of Emergency Management with comparable functions of the federal government and political subdivisions of the State.
6. This Executive Order shall terminate at the end of thirty (30) days.

Copies of this Executive Order shall be distributed to the Director of Emergency Management who shall cause the

provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, this 19th day of March, 2010.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Jari Askins

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #10-374; filed 3-22-10]

1:2010-13.

EXECUTIVE ORDER 2010-13

I, Brad Henry, Governor of the State of Oklahoma, by virtue of the Oklahoma Constitution and the laws of the State of Oklahoma, hereby grant a stay of execution of Richard Tandy Smith of the scheduled execution, April 8, 2010, until May 3, 2010. This stay is granted in order for this office to thoroughly evaluate the recommendation of clemency by the Oklahoma Pardon and Parole Board.

On March 25, 2010, the Oklahoma Pardon and Parole Board voted 3-2 to recommend to the Governor that clemency be granted to Richard Tandy Smith and that his sentence of death be commuted to life without the possibility of parole.

In accordance with 22 O.S. Section 1001.1(G), I hereby direct that, in the event clemency is not granted, the sentence of death be carried out on Tuesday, May 4, 2010.

This Executive Order shall be forwarded to the Director of the Oklahoma Department of Corrections and the Oklahoma Attorney General who shall cause the provisions of this Order to be implemented by all appropriate agencies of state government.

Executive Orders

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City this 26th day of March, 2010.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:

M. Susan Savage
Secretary of State

[OAR Docket #10-448; filed 3-29-10]
