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Brad Henry, Governor
M. Susan Savage,
Secretary of State
Peggy Coe, Editor-in-Chief

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Notices of Rulemaking Intent

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

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

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

TITLE 25. OKLAHOMA AERONAUTICS COMMISSION CHAPTER 25. AVIATION EDUCATION PROGRAM

[OAR Docket #10-1185]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

25:25-1-2. Requirements for receiving funding for an Aviation Education Program [AMENDED]

25:25-1-3. Criteria selection for applicants [AMENDED]

SUMMARY:

The proposed amended rules clarify the requirements and criteria selection for applicants for participation in the Aviation Education Program. Grant applicants must demonstrate that any programs that focus on science, technology, engineering and mathematics (STEM) education must have a direct application to aviation.

AUTHORITY:

3 O.S. Section 85 (L); Oklahoma Aeronautics Commission

COMMENT PERIOD:

Persons may submit written and oral comments to Treasure Tytenicz at the Oklahoma Aeronautics Commission at 120 N. Robinson, Suite 1244W, Oklahoma City, OK 73102 during the period from October 1, 2010 through November 1, 2010.

PUBLIC HEARING:

A public hearing will be held at 10:00 a.m. on Tuesday, November 2, 2010 at the Oklahoma Aeronautics Commission, 120 N. Robinson, Suite 1244W, Oklahoma City, OK.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained from the contact person on or after October 15, 2010.

CONTACT PERSON:

Treasure Tytenicz, Government Affairs Liaison and Aviation Education Coordinator, Oklahoma Aeronautics Commission, 120 N. Robinson, Suite 1244W, Oklahoma City, OK 73102, (405) 604-6901.

[OAR Docket #10-1185; filed 9-7-10]

TITLE 25. OKLAHOMA AERONAUTICS COMMISSION CHAPTER 30. AIRCRAFT PILOT AND PASSENGER PROTECTION ACT

[OAR Docket #10-1184]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions [NEW]

25:30-1-1. Purpose [NEW]

25:30-1-2. Definitions [NEW]

25:30-1-3. Who is required to file [NEW]

25:30-1-4. Who is not required to file [NEW]

25:30-1-5. Violations [NEW]

Subchapter 3. Application Requirements [NEW]

25:30-3-1. Application form and time of notice [NEW]

25:30-3-2. Acceptance of application and amendments [NEW]

25:30-3-3. Applications filed later than provided in Section 25:30-3-1 Subsection (c) [NEW]

25:30-3-4. Fees [NEW]

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25:30-5-2. Tall structures [NEW]

Subchapter 7. Notice, Determination and Commission Actions [NEW]

25:30-7-1. Commission review [NEW]

25:30-7-2. Review time period [NEW]

25:30-7-3. Commission's determination [NEW]

25:30-7-4. Actions required for approved applications [NEW]

25:30-7-5. Denial of permit

Subchapter 9. Permits [NEW]

25:30-9-1. Contents of permits [NEW]

25:30-9-2. Acceptance of permit by permittee [NEW]

25:30-9-3. Amendments to permit [NEW]

Subchapter 11. Miscellaneous Provisions [NEW]

25:30-11-1. Military airspace [NEW]

SUMMARY:

The proposed new rules regulate obstructions to air navigation that have the potential of endangering the lives and property of aircraft pilots and passengers and those that live or work in the vicinity of public-use airports. The new rules will also regulate the use of land in close proximity to a public-use airport to ensure compatibility with aircraft operations. Lastly, the new rules will provide specific powers

Notices of Rulemaking Intent

and duties to the Oklahoma Aeronautics Commission in the interest of the health, safety and welfare of the public so that the state may properly fulfill its duty to ensure that land use around a public-use airport is compatible with normal airport operations, including the landing and takeoff of aircraft.

AUTHORITY:

3 O.S. Section 120.1; Oklahoma Aeronautics Commission

COMMENT PERIOD:

Persons may submit written and oral comments to Treasure Tytenicz at the Oklahoma Aeronautics Commission at 120 N. Robinson, Suite 1244W, Oklahoma City, OK 73102 during the period from October 1, 2010 through November 1, 2010.

PUBLIC HEARING:

A public hearing will be held at 11:00 a.m. on Tuesday, November 2, 2010 at the Oklahoma Aeronautics Commission, 120 N. Robinson, Suite 1244W, Oklahoma City, OK.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained from the contact person on or after October 15, 2010.

CONTACT PERSON:

Treasure Tytenicz, Government Affairs Liaison and Aviation Education Coordinator, Oklahoma Aeronautics Commission, 120 N. Robinson, Suite 1244W, Oklahoma City, OK 73102, (405) 604-6901.

[OAR Docket #10-1184; filed 9-7-10]

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

[OAR Docket #10-1194]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review for permanent and emergency rulemaking

RULES:

Subchapter 7. Environmental Permit Process
Part 5. Land Protection Division Tiers and Time Lines
252:4-7-61. Brownfields applications - Tier I [REVOKED]
252:4-7-62. Brownfields applications - Tier II [REVOKED]
252:4-7-63. Brownfields applications - Tier III [REVOKED]

SUBMITTED TO GOVERNOR:

August 27, 2010 (EME) and August 31, 2010 (PERM)

SUBMITTED TO HOUSE:

August 27, 2010 (EME) and August 31, 2010 (PERM)

SUBMITTED TO SENATE:

August 27, 2010 (EME) and August 31, 2010 (PERM)

[OAR Docket #10-1194; filed 9-9-10]

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

[OAR Docket #10-1193]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review for permanent rulemaking

RULES:

Subchapter 17. Incinerators
Part 4. Biomedical Waste Incinerators [NEW]
252:100-17-8. Applicability [NEW]
252:100-17-9. Definitions [NEW]
252:100-17-10. Design and operation [NEW]
252:100-17-11. Emission limits [NEW]

SUBMITTED TO GOVERNOR:

August 31, 2010

SUBMITTED TO HOUSE:

August 31, 2010

SUBMITTED TO SENATE:

August 31, 2010

[OAR Docket #10-1193; filed 9-9-10]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 220. BROWNFIELDS [REVOKED]**

[OAR Docket #10-1195]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review for permanent and emergency rulemaking

RULES:

Chapter 220. Brownfields [REVOKED]

SUBMITTED TO GOVERNOR:

August 27, 2010 (EME) and August 31, 2010 (PERM)

SUBMITTED TO HOUSE:

August 27, 2010 (EME) and August 31, 2010 (PERM)

SUBMITTED TO SENATE:

August 27, 2010 (EME) and August 31, 2010 (PERM)

[OAR Docket #10-1195; filed 9-9-10]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 221. BROWNFIELDS

[OAR Docket #10-1192]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review for permanent and emergency rulemaking

RULES:

- Subchapter 1. General Provisions [NEW]
- Subchapter 3. The Brownfield Program [NEW]
- Subchapter 5. Verification of Brownfields Projects [NEW]
- Subchapter 7. Revolving Loan Funds (RLF) [NEW]

SUBMITTED TO GOVERNOR:

August 27, 2010 (EME) and August 31, 2010 (PERM)

SUBMITTED TO HOUSE:

August 27, 2010 (EME) and August 31, 2010 (PERM)

SUBMITTED TO SENATE:

August 27, 2010 (EME) and August 31, 2010 (PERM)

[OAR Docket #10-1192; filed 9-9-10]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 301. LABORATORY ACCREDITATION [REVOKED]

[OAR Docket #10-1190]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions [REVOKED]
- Subchapter 3. Laboratory Accreditation Process [REVOKED]
 - Part 1. Application [REVOKED]
 - Part 2. Conditions of Accreditation [REVOKED]
 - Part 3. Grounds to Suspend or Revoke [REVOKED]
- Subchapter 5. General Operations [REVOKED]
- Subchapter 7. Proficiency Testing [REVOKED]
- Subchapter 9. Quality Assurance/Quality Control [REVOKED]
 - Part 1. Quality Assurance/Quality Control General Criteria [REVOKED]
 - Part 2. Standard Operating Procedures and Methods Manual [REVOKED]
 - Part 3. Quality Assurance/Quality Control Program Requirements [REVOKED]

SUMMARY:

The current Laboratory Accreditation rules, Chapter 301, are being amended to be consistent with The NELAC Institute (TNI) standards. In doing so, two subchapters (Proficiency Testing and Quality Assurance/Quality Control) are proposed to be revoked in their entirety because TNI standards are being incorporated by reference. The other subchapters will be

amended in a new chapter to come into compliance with the TNI standards.

For readability and ease of reference for the regulated community, the DEQ proposes to revoke Chapter 301 altogether and adopt a new Chapter 303 to cover much of the same content but in a more streamlined context and format. Additionally, the new Chapter 303 contains subchapters on Management and Technical Requirements as well as Secondary Accreditation.

This rule revocation process is progressing in tandem with the rulemaking process of two new chapters, Chapter 302 Field Laboratory Accreditation and Chapter 303 TNI Laboratory Accreditation. For further information, refer to the Notice of Rulemaking Intent for those chapters.

AUTHORITY:

Environmental Quality Board; 27A O.S. §§ 2-2-101, 2-2-201 and Article IV., Laboratory Services and Certification, § 2-4-101 *et seq.*

COMMENT PERIOD:

Deliver or mail written comments on the proposed rules to the contact person from October 2, 2010 through November 2, 2010. Oral comments may be made at the Laboratory Certification Advisory Council meeting on November 3, 2010.

PUBLIC HEARINGS:

Before the Laboratory Certification Advisory Council at 1:30 p.m. on November 3, 2010, in the Multi-Purpose Room on the 1st floor of the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, OK 73102.

Before the Environmental Quality Board on February 25, 2011 at 9:30 am in the Multi-Purpose Room on the 1st floor of the Department of Environmental Quality, 707 North Robinson, Oklahoma City, OK 73102.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPY OF PROPOSED RULES:

A copy of the proposed rules may be obtained from the contact person or may viewed on the DEQ web site at www.deq.state.ok.us or may be reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

The Rule Impact Statement for the proposed rules will be on file at the Department of Environmental Quality and may be requested from the contact person.

CONTACT PERSON:

David Caldwell, Customer Services Division, Department of Environmental Quality, P.O. Box 1677, Oklahoma City,

Notices of Rulemaking Intent

OK 73101-1677, e-mail at david.caldwell@deq.ok.gov, phone 405-702-1000, or fax 405-702-1001.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the public hearing to be held before the Laboratory Certification Advisory Council and need assistance should notify the contact person three days in advance of the meeting during business hours at 405-702-1000 or by using TDD relay number 1-800-522-8506.

[OAR Docket #10-1190; filed 9-9-10]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 302. FIELD LABORATORY ACCREDITATION

[OAR Docket #10-1191]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions [NEW]

Subchapter 3. Field Laboratory Accreditation Process [NEW]

Part 1. Application [NEW]

Part 2. Conditions of Accreditation [NEW]

Part 3. Grounds to Suspend or Revoke [NEW]

Subchapter 5. General Operations [NEW]

Subchapter 7. Proficiency Testing [NEW]

Subchapter 9. Quality Assurance/Quality Control [NEW]

Part 1. Quality Assurance/Quality Control General Criteria [NEW]

Part 2. Standard Operating Procedures and Methods Manual [NEW]

Part 3. QA/QC Program Requirements [NEW]

SUMMARY:

The rules proposed in this new Chapter provide standards for accreditation of privately and publicly owned laboratories for performance of analysis of wastewater and apply to laboratories accredited or applying to be accredited by the Department of Environmental Quality as a field laboratory. A field laboratory is a small laboratory whose owner does not want to participate in The NELAC Institute accreditation standards in the proposed new chapter OAC 252:301 (TNI Laboratory Accreditation) and is limited to analysis for pH, residual chlorine (total residual chlorine, free chlorine, total oxidants or free oxidants), turbidity, temperature and dissolved oxygen.

AUTHORITY:

Environmental Quality Board; 27A O.S. §§ 2-2-101, 2-2-201 and Article IV., Laboratory Services and Certification, § 2-4-101 *et seq.*

COMMENT PERIOD:

Deliver or mail written comments on the proposed rules to the contact person from October 2, 2010 through November

2, 2010. Oral comments may be made at the Laboratory Certification Advisory Council meeting on November 3, 2010.

PUBLIC HEARINGS:

Before the Laboratory Certification Advisory Council at 1:30 p.m. on November 3, 2010, in the Multi-Purpose Room on the 1st floor of the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, OK 73102.

Before the Environmental Quality Board on February 25, 2011 at 9:30 am in the Multi-Purpose Room on the 1st floor of the Department of Environmental Quality, 707 North Robinson, Oklahoma City, OK 73102.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPY OF PROPOSED RULES:

A copy of the proposed rules may be obtained from the contact person or may viewed on the DEQ web site at www.deq.state.ok.us or may be reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

The Rule Impact Statement for the proposed rules will be on file at the Department of Environmental Quality and may be requested from the contact person.

CONTACT PERSON:

David Caldwell, Customer Services Division, Department of Environmental Quality, P.O. Box 1677, Oklahoma City, OK 73101-1677, e-mail at david.caldwell@deq.ok.gov, phone 405-702-1000, or fax 405-702-1001.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the public hearing to be held before the Laboratory Certification Advisory Council and need assistance should notify the contact person three days in advance of the meeting during business hours at 405-702-1000 or by using TDD relay number 1-800-522-8506.

[OAR Docket #10-1191; filed 9-9-10]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 303. TNI LABORATORY ACCREDITATION

[OAR Docket #10-1189]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions [NEW]
- Subchapter 3. Laboratory Accreditation Process [NEW]
- Part 1. Application [NEW]
- Part 2. Conditions of Accreditation [NEW]
- Part 3. Grounds to Suspend or Revoke [NEW]
- Subchapter 5. General Operations [NEW]
- Subchapter 7. Management and Technical Requirements [NEW]
- Subchapter 9. Secondary Accreditation [NEW]

SUMMARY:

The rules proposed in this new Chapter provide standards for accreditation of privately and publicly owned laboratories for performance of analyses of water and wastewater, solid and hazardous waste, soil, sludge and petroleum hydrocarbons and apply to laboratories accredited or applying to be accredited by the Department of Environmental Quality consistent with The NELAC Institute (TNI) standards.

AUTHORITY:

Environmental Quality Board; 27A O.S. §§ 2-2-101, 2-2-201 and Article IV., Laboratory Services and Certification, § 2-4-101 *et seq.*

COMMENT PERIOD:

Deliver or mail written comments on the proposed rules to the contact person from October 2, 2010 through November 2, 2010. Oral comments may be made at the Laboratory Certification Advisory Council meeting on November 3, 2010.

PUBLIC HEARINGS:

Before the Laboratory Certification Advisory Council at 1:30 p.m. on November 3, 2010, in the Multi-Purpose Room on the 1st floor of the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, OK 73102.

Before the Environmental Quality Board on February 25, 2011 at 9:30 am in the Multi-Purpose Room on the 1st floor of the Department of Environmental Quality, 707 North Robinson, Oklahoma City, OK 73102.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPY OF PROPOSED RULE CHANGES:

A copy of the proposed rules may be obtained from the contact person or may viewed on the DEQ web site at www.deq.state.ok.us or may be reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

The Rule Impact Statement for the proposed rules will be on file at the Department of Environmental Quality and may be requested from the contact person.

CONTACT PERSON:

David Caldwell, Customer Services Division, Department of Environmental Quality, P.O. Box 1677, Oklahoma City, OK 73101-1677, e-mail at david.caldwell@deq.ok.gov, phone 405-702-1000, or fax 405-702-1001.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the public hearing to be held before the Laboratory Certification Advisory Council and need assistance should notify the contact person three days in advance of the meeting during business hours at 405-702-1000 or by using TDD relay number 1-800-522-8506.

[OAR Docket #10-1189; filed 9-9-10]

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

[OAR Docket #10-1196]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 15. Consumer Rights [AMENDED]

SUMMARY:

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

AUTHORITY:

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

COMMENT PERIOD:

Persons wishing to submit written comments may do so from October 2, 2010 until 5:00 p.m., November 2, 2010, to the attention of Stephanie Kennedy, Administrative Rules Liaison. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, hand-delivered to the Department at 1200 N.E. 13th Street, Oklahoma City, OK, facsimile, at (405) 522-0401 or by email at skennedy@odmhsas.org.

PUBLIC HEARING:

The Department will conduct a public hearing on November 4, 2010 at 2:00 p.m. in Conference Room B of the Department at the address given above.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

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

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proposed rules. Business entities may submit this information in writing to Stephanie Kennedy, at the above address, before the close of the comment period on November 2, 2010.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Department's website at www.odmhsas.org or from Stephanie Kennedy, Administrative Rules Liaison, at the above address or email at skennedy@odmhsas.org.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning October 4, 2010. Copies may be obtained from the Department's website at www.odmhsas.org or from Stephanie Kennedy, Administrative Rules Liaison, at the above address or email at skennedy@odmhsas.org.

CONTACT PERSON:

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

[OAR Docket #10-1196; filed 9-9-10]

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TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES CHAPTER 53. STANDARDS AND CRITERIA FOR CERTIFIED PEER RECOVERY SUPPORT SPECIALISTS

[OAR Docket #10-1197]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 53. Standards and Criteria for Certified Peer Recovery Support Specialists [NEW]

SUMMARY:

In accordance with the Administrative Procedures Act the proposed rules implement 43A O.S. §3-326, which authorizes the Board of Mental Health and Substance Abuse Services, or the Commissioner upon delegation by the Board, to certify peer recovery support specialists. Section 3-326 becomes effective on November 1, 2010 and requires the Board to promulgate rules and standards for certification of peer recovery support specialists.

AUTHORITY:

Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 3-326.

COMMENT PERIOD:

Persons wishing to submit written comments may do so from October 2, 2010 until 5:00 p.m., November 2, 2010, to the attention of Stephanie Kennedy, Administrative Rules Liaison. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, hand-delivered to the Department at 1200 N.E. 13th Street, Oklahoma

City, OK, facsimile, at (405) 522-0401 or by email at skennedy@odmhsas.org.

PUBLIC HEARING:

The Department will conduct a public hearing on November 4, 2010 at 3:00 p.m. in Conference Room B of the Department at the address given above.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

ODMHSAS asks business entities affected by the proposed rules to provide written information to the Department, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Stephanie Kennedy, at the above address, before the close of the comment period on November 2, 2010.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Department's website at www.odmhsas.org or from Stephanie Kennedy, Administrative Rules Liaison, at the above address or email at skennedy@odmhsas.org.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning October 4, 2010. Copies may be obtained from the Department's website at www.odmhsas.org or from Stephanie Kennedy, Administrative Rules Liaison, at the above address or email at skennedy@odmhsas.org.

CONTACT PERSON:

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

[OAR Docket #10-1197; filed 9-9-10]

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TITLE 580. DEPARTMENT OF CENTRAL SERVICES CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #10-1187]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 1. Administrative Operations [AMENDED]

SUMMARY:

Proposed rules update information related to the Department of Central Services (DCS) organization; clarify information related to public requests for copies of DCS records; and, add a new section providing guidelines for public requests for DCS rules in compliance with 74 O.S. §302.

AUTHORITY:

74 O.S. §302; Department of Central Services

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on Tuesday, November 2, 2010, at

the following address: Gerry Smedley, Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218 or email gerry_smedley@dcs.state.ok.us.

PUBLIC HEARING:

A public hearing will be held at the Department of Central Services, Will Rogers Office Building, Suite 214, 2401 N. Lincoln Boulevard, Oklahoma City, OK, on Tuesday, November 2, 2010 at 10:00 a.m. Anyone who wishes to speak must sign in by 9:50 a.m. on that day.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained from the Department of Central Services, Administration Division, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218 or by emailing gerry_smedley@dcs.state.ok.us.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be available for review after October 15, 2010 at the Department of Central Services, Administration Division, 2401 N. Lincoln Boulevard, Suite 206, Oklahoma City, OK.

CONTACT PERSON:

Gerry Smedley, Administrative Programs Officer, (405) 522-8519

[OAR Docket #10-1187; filed 9-9-10]

**TITLE 580. DEPARTMENT OF CENTRAL SERVICES
CHAPTER 70. STATE INVENTORY**

[OAR Docket #10-1188]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions [AMENDED]

SUMMARY:

Proposed revisions clarify the designation of a state agency tangible assets reporting threshold by the Director of the Department of Central Services. Revisions better align the rules with the statute and eliminate redundant language.

AUTHORITY:

Department of Central Services; 74 O.S., Section 110.1.B.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on Tuesday, November 2, 2010, at the following address: Gerry Smedley, Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218 or email gerry_smedley@dcs.state.ok.us.

PUBLIC HEARING:

A public hearing will be held at the Department of Central Services, Will Rogers Office Building, Suite 214, 2401 N. Lincoln Boulevard, Oklahoma City, OK, on Tuesday, November 2, 2010 at 11:00 a.m. Anyone who wishes to speak must sign in by 10:50 a.m. on that day.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained from the Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be available for review after October 15, 2010 at the Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, Oklahoma City, OK.

CONTACT PERSON:

Gerry Smedley, Administrative Rules Liaison, (405) 522-8519.

[OAR Docket #10-1188; filed 9-9-10]

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 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 25. OKLAHOMA CHILD SUPPORT SERVICES

[OAR Docket #10-1183]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Operational Policies
Part 39. Accounting and Distribution
340:25-5-351 [AMENDED]
(Reference APA WF 10-10)

AUTHORITY:

Commission for Human Services, Article XXV, Section 2 and 4 of the Oklahoma Constitution; Section 6402(c) of Title 26 of the United States Code; Section 285.3 of Title 31 of the Code of Federal Regulations; Sections 654, 657, and 664 of Title 42 of the United States Code; Sections 302.33, 302.60, and 303.72 of Title 45 of the Code of Federal Regulations; Section 302.60 of Title 45 of the Code of Federal Regulations; Section 114 of Title 43 of the Oklahoma Statutes; and Section 237 of Title 56 of the Oklahoma Statutes.

DATES:

Adoption:

July 27, 2010

Approved by Governor:

August 13, 2010

Effective:

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:

Emergency approval is requested as Oklahoma Department of Human Services (OKDHS) finds compelling public interest to offset the budget shortfall by increasing state-retained interest collections as soon as possible, including those collections made from federal tax refund offset.

ANALYSIS:

The proposed revision to Subchapter 5 of Chapter 25 amends the rule to help offset the budget shortfall by retaining interest collections assigned to the state of Oklahoma that are currently passed through or paid to custodial parents.

CONTACT PERSON:

Dena Thayer at (405)521-4326

**PURSUANT TO THE ACTIONS DECLARED 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. OPERATIONAL POLICIES

PART 39. ACCOUNTING AND DISTRIBUTION

340:25-5-351. Allocation and distribution of collections

(a) **Basis for allocation and distribution of collections.** The Oklahoma Department of Human Services (OKDHS) distributes support collections received by the Centralized Support Registry for IV-D and non-IV-D cases. The collections are allocated and distributed according to Part A of Subchapter IV of Chapter 7 of Title 42 of the United States Code, and associated federal regulations and Oklahoma Statutes. This Section establishes allocation of collections across support orders involving multiple families and different types of support obligations. It also establishes high-level distribution policies. Actual distribution of money occurs under Section 657 of Title 42 of the United States Code after collections are allocated according to this Section. Oklahoma Child Support Services (OCSS) is also governed by Section 654 of Title 42 of the United States Code, Section 302.33 of Title 45 of the Code of Federal Regulations, and Section 237 of Title 56 of the Oklahoma Statutes in the collection of the annual fee.

(b) **Annual fee.** OCSS automatically collects an annual \$25.00 fee once \$500.00 support has been collected and issued to the custodial person. A case is exempt from this annual fee when the family is currently receiving or formerly received assistance under state or tribal Temporary Assistance for Needy Families (TANF) or Aid to Families with Dependent Children program. When there is more than one IV-D child support program involved, OCSS collects the annual fee on cases when Oklahoma is the initiating state.

(c) **Overall priority of allocation and distribution.** This subsection has priority over (d) through (i) of this Section.

(1) ~~Oklahoma Child Support (OCSS)~~ allocates payments from a collection action to satisfy amounts due under obligations included in the action. Income assignment orders, liens, administrative offsets, contempt actions, and license revocations are examples of collection actions. If OCSS receives a voluntary payment, OCSS

Emergency Adoptions

honors designated payments from noncustodial parents who have multiple family obligations if payments are reasonably consistent with this Section. Otherwise, OCSS allocates voluntary payments to cases with court-ordered obligations before cases without court-ordered obligations.

(2) In a non-IV-D case, OCSS allocates and distributes payments through the Centralized Support Registry directly to the obligee, without otherwise allocating or distributing payments under this Section, unless money was previously assigned to the State of Oklahoma.

(3) Except as provided for in (f) of this Section, OCSS applies arrearage collections owed to the custodial parent before paying conditionally or permanently assigned arrears owed to a state.

(4) OCSS applies payments to interest owed to a particular custodial person after current child support and the principal arrears balance is paid in full. ~~All interest debt is referred and distributed for Internal Revenue Service (IRS) offset as arrears owed to the custodial person and not as a state debt or as assigned cash medical support. When OCSS has been unable to locate the custodial person after reasonable efforts, OCSS applies interest collections from an IRS offset to state debt.~~

(d) **Initial allocation to monthly current support obligations.** Except as provided in (f) of this Section, OCSS initially allocates collections to current support obligations due each month.

(1) If collections are less than the amount of all current support due, OCSS allocates collections between the current child support and the cash medical support specified in the order in proportionate shares.

(2) After the current child support and cash medical support obligation is met, OCSS allocates collections to current spousal support due.

(e) **Allocation to monthly past-due support obligations under payment plans.** Except as provided in (f) of this Section, after all current support obligations are met, OCSS allocates collections under payment plans to fixed monthly past-due support obligations. Payment plans are defined in Section 237.7 of Title 56 of the Oklahoma Statutes.

(1) If collections are less than the amount due under the payment plan, OCSS first allocates collections to past-due current child support.

(2) After the past-due monthly child support obligation is met, OCSS allocates collections to monthly past-due spousal support.

(3) OCSS allocates collections to the total amount in arrears after fixed monthly past-due support obligations in the payment plan are met.

(f) **Allocation and distribution to total amount in arrears.**

(1) OCSS allocates federal income tax refund offset collections to the total amount in arrears and first applies these collections to any assigned arrearages, up to the

total amount of unreimbursed assistance. Any remainder is then paid to the custodial person(s).

(2) Except for collections under a payment plan, OCSS allocates collections above the current support obligation to total arrears.

(3) After all child support arrearages are satisfied, OCSS allocates remaining collections to spousal support arrearages.

(g) **Allocation and distribution of arrears to assigned cash medical support.** After the past-due current child support, cash medical support, and spousal support are met, OCSS allocates collections to assigned cash medical support.

(h) **Multiple family support orders.** This subsection explains the allocation of collections when a noncustodial parent has multiple family obligations. For purposes of this Section, a family is a mother and a father and the child(ren) of that relationship, and any custodial person(s) of the child(ren) who is not the mother or the father.

(1) **Current support.** OCSS prorates and applies support collections to each family based on the current child support obligation due each family. The collections are allocated within each family obligation under subsection (d) of this Section.

(2) **Past-due support under a payment plan.** OCSS prorates and allocates collections to payment plans for multiple families based on each family's fixed monthly payment plan obligations due.

(3) **Total arrears, including principal and interest balances.** OCSS prorates and allocates collections to arrears, including principal and interest balances, for multiple families based on each family's total arrears due.

(i) **Past-due support in interstate cases.** In cases where OCSS is collecting support for a custodial person who is receiving services from another state's child support agency, OCSS allocates arrearage payments based on information provided by the initiating state. After all current support obligations are met, OCSS allocates collections to past-due support for payment plans, total arrears, and interest as follows:

(1) **Non-public assistance balance.** If any portion of the past-due balance is owed to the custodial person or will be passed through to the custodial person under federal distribution regulations, OCSS allocates collections to that portion of the past-due balance and pays that amount to the other state's State Disbursement Unit.

(2) **Public assistance balances.** If no portion of the past-due balance is owed to the custodial person, OCSS allocates collections first to balances owed to Oklahoma and then pro rates between balances owed to the other state(s).

(j) **Interest.** OCSS distributes interest last in single family, multiple family, and interstate cases.

[OAR Docket #10-1183; filed 8-30-10]

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

[OAR Docket #10-1182]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 18. Licensing [NEW]

340:100-18-1 [NEW]

(Reference APA WF 10-09)

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2 and 4 of the Oklahoma Constitution; and Section 1928 of Title 59 of the Oklahoma Statutes.

DATES:

Adoption:

July 27, 2010

Approved by Governor:

August 13, 2010

Effective:

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:

Emergency rulemaking approval is requested as OKDHS finds compelling public interest to comply with Section 1928 of Title 59 of the Oklahoma Statutes to provide for licensing of board certified behavior analysts and certification of board certified assistant behavior analysts.

ANALYSIS:

The issuance of the proposed Subchapter 18 of Chapter 100 will: (1) provide for licensing and certification of behavior analysts in an effort to bring more practitioners to Oklahoma; and (2) extend licensing to human service professionals with specific masters level degrees and appropriate qualifications to provide behavior analytic services to Oklahoma citizens.

CONTACT PERSON:

Dena Thayer at (405)521-4326

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 18. LICENSING

340:100-18-1. Board Certified Behavior Analyst license and Board Certified Assistant Behavior Analyst certification

(a) **Authority.** Section 1928 of Title 59 of the Oklahoma Statutes (59 O.S. § 1928) directs the Oklahoma Department of Human Services (OKDHS) Developmental Disabilities Services Division (DDSD) to provide for licensing of Board Certified Behavior Analysts (BCBA) and certification of Board Certified Assistant Behavior Analysts (BCaBA.)

(b) **Definitions.** The following words and terms, when used in this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) **"Applied behavior analysis"** means the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior through skill acquisition and the reduction of problematic behavior.

(2) **"Behavior Analyst Certification Board (Board)"** means the nationally accredited Behavior Analyst Certification Board.

(3) **"Board Certified Behavior Analyst (BCBA)"** means an individual who is certified by the nationally accredited Board and is licensed by OKDHS DDSD to provide applied behavior analysis services in Oklahoma.

(4) **"Board Certified Assistant Behavior Analyst (BCaBA)"** means an individual who is certified by the nationally accredited Board and is certified by OKDHS DDSD to provide applied behavior analysis services in Oklahoma.

(5) **"Co-employed relationship"** means the BCBA and BCaBA are employed by the same employer.

(6) **"Employee-employer relationship"** means the BCBA is the employer of the BCaBA.

(7) **"Human services professional"** means an individual licensed or certified by Oklahoma as a licensed:

(A) physical therapist or physical therapist assistant;

(B) occupational therapist or occupational therapist assistant;

(C) clinical social worker;

(D) masters social worker;

(E) social work associate;

(F) psychologist or health service psychologist;

(G) speech pathologist;

(H) audiologist;

(I) professional counselor or professional counselor candidate;

(J) marital and family therapist or marital and family therapist candidate; or

(K) behavioral practitioner or behavioral practitioner candidate.

(8) **"Licensed behavior analyst"** means an individual who is certified by the nationally accredited Board as a BCBA and is licensed by DDSD to provide applied behavior analysis services in Oklahoma.

(9) **"Oklahoma Licensed Behavior Analyst Board (OLBAB)"** means the state board responsible for licensing behavior analysts and regulating the practice of applied behavior analysis.

(10) **"Real-Time supervision"** means the observation of the provision of service with all parties participating in or monitoring live interactions.

(11) **"Supervisee"** means a person who acts under the extended authority of a licensed behavior analyst to provide applied behavior analysis services or a person who is training to provide such services.

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- (12) **"Supervision"** means the direct observation and professional guidance during the provision of service by a BCBA of a BCaBA.
- (13) **"Two-way interactions"** means the observation of the provision of service using real-time visual and auditory contact through the use of technological devices.
- (c) **Qualifications.**
- (1) Each person wishing to practice as a licensed behavior analyst or a certified assistant behavior analyst in Oklahoma applies to DDSD using Form 06LC001E, Application for BCBA License and BCaBA Certification, and furnishes evidence that such person:
- (A) is at least 21 years old;
- (B) has passed the Board examination and is certified by the Board as a BCBA or a BCaBA, as applicable;
- (C) has not had a professional license or state certification refused, revoked, suspended, or restricted and does not have a complaint, allegation, or investigation pending in any regulatory jurisdiction in the United States or in another country for reasons that relate to unprofessional conduct unless DDSD finds that the conduct has been corrected or that mitigating circumstances exist that prevent resolution; and
- (D) has at least the minimum graduate or undergraduate degree, appropriate for the level of certification, from an institution of higher learning in a qualifying field of study determined by the Board.
- (2) No person can claim the title of licensed behavior analyst or certified assistant behavior analyst unless that person meets the applicable requirements and obtains a license or certification per this Section.
- (A) Supervisees provide applied behavior analysis under the supervision of a licensed behavior analyst.
- (B) This Section does not restrict the practice of applied behavior analysis by human services professionals, provided such individuals are working within the scope of their professions and the practice of applied behavior analysis is commensurate with their level of training and experience.
- (C) A violation of this subsection is punishable by a fine of not more than \$500, the suspension or revocation of a license or certification issued pursuant to this Section, or both fine and loss of licensure or certification.
- (d) **Application.** Oklahoma licenses and certificates are issued for two year terms following the initial certification period by the Board.
- (1) **Licensure.** A person requesting licensure provides:
- (A) for an initial request:
- (i) current certification from the Board;
- (ii) a photo copy of valid photo identification;
- (iii) Form 06LC001E;
- (iv) Form 06LC002E, Professional Reference for BCBA License and BCaBA Certification;
- (v) Form 06LC003E, Certification of Autism Internship/Practicum Designation for BCBA License, as applicable; and
- (vi) Form 06LC004E, Statement of Professional Disclosure for BCBA License and BCaBA Certification;
- (B) for a renewal:
- (i) current certification from the Board;
- (ii) a photo copy of valid photo identification;
- (iii) 06LC001E; and
- (iv) Form 06LC004E; and
- (C) for autism internship designation the respective institution of higher education completes Form 06LC003E, certifying the applicant has completed a 1000 hour BCBA supervised internship serving individuals with autism using evidence based applied behavior analysis approaches. A BCBA can petition OLBAB to consider professional hours of supervised autism internship outside of a institution of higher education program for consideration of alternative autism internship designation. All individuals licensed may provide applied behavior analytic service to persons with autism spectrum disorder, but only those completing the internship or approved by the OLBAB as specified in this paragraph may represent that they have the autism internship.
- (2) **Certification.** A person requesting certification must provide:
- (A) for an initial request:
- (i) current certification from the Board;
- (ii) a photo copy of a valid photo identification;
- (iii) Form 06LC001E;
- (iv) Form 06LC002E;
- (v) Form 06LC004E; and
- (vi) Form 06LC005E, BCaBA Professional Supervision;
- (B) for re-certification:
- (i) current certification from the Board;
- (ii) a photo copy of a valid photo identification;
- (iii) Form 06LC001E;
- (iv) Form 06LC004E; and
- (v) Form 06LC005E.
- (e) **Licensure and certification.** A person licensed or certified by DDSD:
- (1) maintains active status and fulfill all requirements of national certification or recertification with the Board;
- (2) conducts professional activities in accordance with standards found in the Guidelines for Responsible Conduct and Professional Disciplinary Standards established by the Board and available on their Web site at www.bacb.com; and
- (3) applies for license or certification renewal on or before April 30 of each odd numbered year to continue practicing in Oklahoma.
- (f) **Fees.**
- (1) **BCBA licensure fees:**

- (A) for initial licensing are pro-rated on a rounded average of \$50 for each full calendar year remaining on the national Board certification; and
- (B) \$100 for each two year license thereafter.
- (2) BCaBA certification fees:
- (A) for initial certification are pro-rated on a rounded average of \$25 for each full calendar year remaining on the national Board certification; and
- (B) \$50 for each two year certification thereafter.
- (g) **Requirements of supervision.** A certified BCaBA works under the supervision of a licensed BCBA. A BCBA provides supervision to a maximum of six BCaBAs at any time. Supervision by the BCBA occurs for a minimum of two hours for each 40 hours of services provided by a BCaBA.
- (1) Supervision requirements include:
- (A) real-time supervision:
- (i) a minimum of one of two supervision sessions are conducted using real-time supervision; and
- (ii) not more than half of the supervisory requirements are satisfied in a group setting; and
- (B) qualifying supervision beyond the requirements of real-time supervision includes the use of two-way interactions, review of materials submitted by the BCaBA, and observation of the BCaBA demonstrating professional skills.
- (2) A formal professional relationship must exist between a supervising BCBA and BCaBA that may include:
- (A) a co-employed relationship; or
- (B) an employee-employer relationship.
- (3) BCaBAs submit Form 06LC005E to OLBAB within ten business days of any change in supervision status.
- (h) **Oklahoma Licensed Behavior Analyst Board.**
- (1) OLBAB consists of five members:
- (A) three licensed BCBA's who may be employed by OKDHS appointed to the OLBAB by the OKDHS Director;
- (B) one BCaBA who may be employed by OKDHS appointed to the OLBAB by the OKDHS Director; and
- (C) one member designated by Oklahoma Health Care Authority (OHCA) who is a person with behavioral health expertise employed by OHCA.
- (2) The chair of OLBAB is appointed by the OKDHS Director.
- (3) Administrative support of the OLBAB is provided by DDS staff as designated by the DDS director.
- (4) OLBAB meets a minimum of four times per calendar year.
- (5) Travel expenses for members of OLBAB are reimbursed per 74 O.S. §.500.4.
- (6) OLBAB maintains a list of all persons licensed or certified to provide behavior analytic services in Oklahoma and provides a copy of the list to any interested person upon written request.
- (i) **Ethics.**
- (1) Any person licensed or certified by DDS as either a BCBA or a BCaBA reports within five business days any sanction, denial of initial or renewal certification, revocation, suspension or any other limitation of certification or combination of sanctions by the Board. If a person loses Board certification for any reason, he or she immediately forfeits the Oklahoma license or certification and must notify OLBAB within five business days of such notice from the Board and must immediately stop providing BCBA or BCaBA services in Oklahoma.
- (2) Grounds for forfeiture or non-renewal of a license or certification for practice in Oklahoma include:
- (A) obtaining or attempting to obtain a license or certification by making a false or misleading statement, failure to make a required statement, or fraud or deceit in any communication to OLBAB;
- (B) gross or repeated negligence, incompetence, misconduct, or malpractice in professional work, including, but not limited to:
- (i) any physical or mental condition that currently impairs competent professional performance or poses a substantial risk to the recipient of behavior analysis services;
- (ii) professional conduct that constitutes an extreme and unjustified deviation from the customary standard of practice accepted in the applied behavior analytic community and creates a serious risk of harm to or deception of service recipients;
- (iii) abandonment of a service recipient resulting in the termination of imminently needed care without adequate notice or provision for transition;
- (iv) professional record keeping or data collection that constitutes an extreme and unjustified deviation from the customary standard of practice for the field, or deceptively altering service recipient's records or data;
- (v) engaging in blatant fraud, deception, misrepresentation, false promise or pretense, intimidation in the practice of applied behavior analysis, or in solicitation of service recipients; and
- (vi) the unauthorized material disclosure of confidential service recipient information;
- (C) limitation, sanction, revocation, or suspension by a health care organization, professional organization, or other private or governmental body, relating to behavior analysis practice, public health or safety, or behavior analysis certification;
- (D) any conviction of a felony or misdemeanor directly relating to behavior analysis practice or public health or safety; or
- (E) failure to adequately supervise or be supervised in accordance with the BACB Standards for Supervision.
- (3) Applicants and persons holding a current license or certificate reports to the OLBAB within 30 days of occurrence:
- (A) a change in name, address, or other vital information;

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- (B) the filing of any criminal or civil charges;
- (C) the initiation of any disciplinary charges, investigations, or findings/sanctions by a health care organization, federal or state agency, or other professional association; and
- (D) any other change in information provided by the applicant or person holding a current license or certificate to the OLBAB.

(j) **Complaint investigation.** All complaints regarding unprofessional conduct of a BCBA or BCaBA are submitted to OLBAB in writing. The program administrator for the OKDHS DDS Quality Assurance Program assists OLBAB with investigations and reports any findings to the Board for action.

(k) **Sanctions.** Sanctions are determined by the Board.

[OAR Docket #10-1182; filed 8-30-10]

TITLE 775. OKLAHOMA BOARD OF VETERINARY MEDICAL EXAMINERS CHAPTER 10. LICENSURE OF VETERINARIANS, VETERINARY TECHNICIANS AND ANIMAL EUTHANASIA TECHNICIANS

[OAR Docket #10-1186]

RULEMAKING ACTION:

Emergency adoption

RULES:

Subchapter 12. Equine Teeth Floating [NEW]

775:10-12-2. Issuance of a certificate; renewal of certificate (voluntary); continuing education requirements [NEW]

775:10-12-3. Maintenance of records and administration of drugs [NEW]

AUTHORITY:

59 O.S. Supp.2009, §. 698.1 et seq.; Board of Veterinary Medical Examiners

DATES:

Adoption:

July 16, 2010

Approved by Governor:

August 30, 2010

Effective:

Immediately upon Governor's approval

Expiration:

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

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

With the passage of HB 3202 statutes were passed that allow lay people to float horse's teeth. New rules are required to explain the certification process along with the requirements. Unlicensed equine teeth floaters represent themselves to the public as "equine dentists" implying a professional designation, education and the authority to perform the services for which they've been hired. Many lay teeth floaters obtain education and achieve "certification", but this is a misleading term and creates confusion with the public. While veterinarians complete standardized training from recognized educational institutions, there is no such standardization or oversight for the lay teeth floater's certification process and they are not required to continually update their skills through continuing education. The public may be misled to believe the lay person they've hired is highly trained and legally qualified to perform their tasks as to the same level as the veterinarians. This new law,

HB 3202 will be effective August 27, 2010 and it is necessary to have rules in place.

ANALYSIS:

This emergency rule will help clarify and set out requirements for lay teeth floating.

CONTACT PERSON:

Cathy Kirkpatrick (405) 524-9006.

PURSUANT TO THE ACTIONS DECLARED 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 12. EQUINE TEETH FLOATING

775:10-12-2. Issuance of a certificate; renewal of certificate (voluntary); continuing education requirements

(a) The Board shall have the authority to issue the certificate to a non veterinary equine dental care provider for teeth floating after an applicant has completed all statutory requirements for certification (voluntary).

(b) The certificate holder shall, on or before the first day of July of each year beginning July 1, 2012, apply to the Board on forms furnished by the Board for a renewal of the certificate. A renewal fee in an amount fixed by the Board shall accompany each such application.

(c) Failure to renew a certificate on or before the first day of July shall cause the certificate to be considered suspended for failure to renew.

(d) Before any certificate (voluntary) is renewed, the holder shall certify on a form provided by the Board that they have obtained four (4) hours of continuing education in accordance with Section 698.30(C) of the Act.

775:10-12-3. Maintenance of records and administration of drugs

(a) The non veterinary equine dental care provider for teeth floating shall not administer any sedative, tranquilizer, analgesic, prescription medication or other drug under any circumstance in connection with performing teeth floating. All prescription drugs including controlled dangerous substances shall be dispensed only on the order of a licensed veterinarian who has an existing veterinary-client-patient relationship as defined by the Act and the rules of the Board and shall only be administered by the owner of the animal or a licensed veterinarian in connection with performing teeth floating services.

(b) The certificate (voluntary) issued by the Board to the non veterinary equine dental care provider for teeth floating shall be displayed conspicuously in public view when performing teeth floating services, which includes a statement of disclosure informing the public they are providing a non veterinary level of care.

[OAR Docket #10-1186; filed 9-7-10]

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

1:2010-42.

EXECUTIVE ORDER 2010-42

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the power vested in me by Section 2 of Article VI of the Oklahoma Constitution hereby declare the following:

1. Tornadoes, severe storms, straight line winds and flooding as a result of Tropical Storm Hermine beginning September 8, 2010, and continuing have caused extensive damage to public and private properties within the State of Oklahoma; and said damages have caused an undue hardship on the citizens of this state.
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 tornadoes, severe storms, straight line winds and flooding in the State of Oklahoma that threatens the lives and property of the people of this State and the public's peace, health and safety. The 13 counties included in this declaration are:

Adair, Bryan, Carter, Cherokee, Delaware, Haskell, LeFlore, McIntosh, Muskogee, Ottawa, Pittsburg, Sequoyah and Wagoner.

This declaration may be amended to add counties as conditions warrant.

4. The State Emergency Operations Plan was activated on September 9, 2010, 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.

5. 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.

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 set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, this 9th day of September 2010.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:

Michelle Waddell

Acting Assistant Secretary of State

[OAR Docket #10-1198; filed 9-10-10]

